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### CRIMINAL CASES RULINGS

- 206** I. The following shall be qualified as grievous bodily harm excusably caused by the two perpetrators, instead of unlawful wilful commission: the two perpetrators held the victim's body, held down his/her hands, twisting his/her hands with a medium force – as a result of which the victim suffered a fracture of bone without dislocation, the healing of which took more than 8 days, about 5-6 weeks.  
II. If the qualification is unlawful, and the proposer contests the imposed penalty, then its lawfulness shall also be examined. If along with the right qualification, it is not the imposed imprisonment, but the suspension of its enforcement for probation is unlawful as it violates Article 86, Paragraph (1) of the Criminal Code, then this shall be a reason for review in accordance with Article 416, Paragraph (1), Point b) of the Be.  
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- 209** If the conditional release is made from an imprisonment, the remaining part of which is shorter than a year, the length of conditional release is a year, but the length of time basing the (special, multiple) relapse shall be calculated from the last day of the remainder of the imprisonment, if the conditional release is not terminated  
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- 210** Placing someone on probation is a form of conditional imprisonment. When applying this, the court shall take a stand so that it is not necessary to impose punishment in order to retain the offender from the commission of further crimes, thus the imposition of the punishment is postponed for probation. Thus in the decision applying the measure of probation, prohibition from driving shall be against the law.  
In the event of probation, the court postpones and not applies the punishment. If the term of probation passes successfully, the culpability of the perpetrator shall lapse, while otherwise the punishment shall be imposed by the court. The legal consequence shall only threaten the offender, if probation is not successfully completed. Thus putting the offender on probation does not exclude, but postpones the imposition of the punishment, but the imposition of the punishment shall exclude the application of probation ..... 890
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- 213** I. Central offices are qualified as central public administration bodies, National Transportation Office (NKH) is a central office operating under the management of the minister responsible for transport. The person, who has executive power, or performs public service at an autonomous public administration body, government office, central office, whose such activity belongs to the proper operation of the body shall be considered as an official; every activity, which fall under the scope of the proper operation of the bodies, for the performance of which the given body is authorized or obliged by law.  
II. With regard to official bribe, the following person shall be regarded as official person: leading a unit, group or department, leading others, participates in the performance of the tasks of the central office.  
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- 214** I. Entrust necessary for the factual nature of embezzlement shall not mean the transfer of the ownership rights of the thing; the lawful transferor trusts another person with the partial rights related to the exercise of the proprietary rights of the thing. Thus, by providing the thing, the related proprietary rights are also provided, furthermore – arising from its own right of disposal and not exceeding its extent – if decided, the rights of use and disposal can also be transferred. The scope and frames of transferred partial rights however – that is what the

transferee can do with the transferred things – shall always be determined by the transferor, as the upon entrusting the thing onto someone else, such person shall be the lawful exerciser of the disposal rights over the thing.

II. The employee of the private entrepreneur employed as a driver commits the crime of embezzlement, if he/she takes the freight serving for the coverage of costs related to the transport, provided to the same by the private entrepreneur, and uses the same for his/her own purposes.

III. The determination of culpability in the crime of embezzlement is not affected by the circumstance that that accused person – in connection with his/her employment – had material claims against the damaged person. The settlement dispute between the accused and the damaged person – irrespective of whether the claim of the accused person is grounded or not – does not make the appropriation, by the damaged person, of the thing given to the accused person with a purpose.

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217 I. In the historic facts made the subject of the accusation, not the legal concepts of special legal facts of the case shall be listed, but the facts, which are capable of the specification of the unlawful act. The following cannot be evaluated as the lack of lawful accusation and the expansion beyond accusation: in connection with a commission behaviour constituting legal facts of the case of the crime, the court establishes a fact, which is not included in the bill of indictment within the frames of identity of actions.

II. The crime of unlawful financial service activity is performed, if the private person perpetrator regularly borrowed money for the purpose of gaining benefits without having the necessary licences needed for the same ..... 903

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219 I. The guardian of the accused person is not listed in the list of persons who are obliged to participate at the hearing, thus holding the hearing in the absence of the same shall not violate any procedural regulation, if the accused person is under guardianship of limited disposing power.

II. If the qualification is lawful and the punishment did not violate other material law rules, the amount of penalty imposed lawfully cannot be contested in the review procedure, thus the evaluation of mitigation circumstances cannot either be a reason for review 907

220 I. Review petitions can be submitted by those entitled to only once – except for the reason specified in Section 416, Paragraph (1), Points e) and g) of the Be. -, and the objections can only be enforced one time; no repetitions are allowed as a main rule. The following however shall not mean repetition: if the accused person, subsequent to the rejection of his/her previous petition, submits a new petition, based on the content of which there would be no rejection and another entitled person – thus his/her defence attorney – keeps the same as his/her own petition. Because content related repetition – which excludes other entitlements – can only be based on an objection, which was materially enforced in the review procedure.

II. Arising from the legal nature of the instigator (accomplice), the subject, aspect of the review of exclusively instigator behaviour – obviously – cannot be the review of the performance of the (perpetrator's) behaviour within the legal standing of the case of the give crime; its perpetrator is not the subject of the review. The review entitlement is related to an actual accused person, to which the review is related just as the scope of decision-making.

III. Putting someone into an unconscious state in accordance with the legal standing of the case of the robbery is an unilateral behaviour, and as such shall mean the conquer of the resistance of the injured person by way of brute force equivalent to violence, threat.

On the contrary making someone drunk according to the robbery (or the maintenance of drunkenness since 2013) shall mean the motivation of the injured person to consume alcoholic drinks, and as such taking advantage of the giddiness of the injured person 908

## CIVIL CASES RULINGS

221 In the event of the expropriation of the real estate, if the piece of expropriated land cannot be divided, only the remaining joint share can be expropriated. With regard to a real estate owned by exclusive ownership related to a part expressed in kind, no ownership share can be established by expropriation even, if otherwise the legal conditions of expropriation are met..... 913

222 In the lawsuit related to the termination of joint property, due to the special rules of being bound to the petition, the court shall be obliged to examine all termination methods, and inform the parties, for which however – especially with regard to the party acting without a legal representative – the possible termination methods shall be communicated, including the options of restructuring into a condominium. The party can

- only exercise its procedural rights knowing the appropriate information, thus such obligation shall be met by the court in spite of the fact that the termination methods are material law claims 914
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- 224 If the managing director or owner of the company undertook joint and several liability for the debts of the company, he/she shall not be entitled to refer to the procedure of the creditor, which he/she initiated, or which he/she approved in order to keep the company existent and avoid the termination of the loan ..... 919
- 225 I. The purpose of the guarantee claim related to proper price discount is to ensure parity and balance of value which became broken during the faulty performance between the service and counter-service of the parties. This is not the same as the compensation of correction costs.  
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 III. When terminating the extent (“suitability”) of price discount, all of the circumstances of the case shall be taken into consideration; the type and extent of the error as well as the effects, which decrease value just as usability and life expectancy and aesthetic effects shall be taken into account 922
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- 227 I. The entitlement to receive child support of the following person shall not be terminated: who is not yet of 20 years of age, still pursuing secondary school studies, having a life partner of a younger age, who is the father of her child, and the life partner is in high school, not making any income.  
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 II. The authority related to the amendment of the promotion of the government official shall not be affected by the fact that after such unilateral measure, the person exercising employer rights changes with regard to the new position of the government official.  
 III. In the legal relationship of the government official, the determination of the extent and the obligee of the exercise of employer rights is not a question related to the content of the promotion, but it is specified by the law, specifically Section 12, Paragraph (3), Section 20/B of the Khtv. The change in the person exercising employer rights is the consequence of a unilateral amendment of the promotion in accordance with Section 48, Paragraph (2), Points c) and d) of the Kttv, thus it is not included in the list specified in Section 48, Paragraph (2) of the Kttv. .... 955
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**RULINGS OF THE COURT OF THE EUROPEAN UNION**

- I. Article 12, Paragraph (4) Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions shall be interpreted so that late payments during the performance of lease agreements made prior to 16 March 2013 can be excluded by the Member States from the effect of this directive, if the late payments are made after such date. 987
- II. Article 45 of the Treaty on the Functioning of the European Union shall be interpreted so that the law of a Member State similar to the one in the base case, in which the employer having a residence in such Member

State is obliged to register his/her own vehicle, which had already been registered in another Member State, which is predominantly for use in the latter Member State shall be in violation of the same 988

**III.** 1. Article 20 of the Treaty on the Functioning of the European Union shall be interpreted so that from the aspect of its interpretation, whether the EU citizen minor is forced to leave the entire area of the European Union, thus losing the actual enforcement of the rights provided for in this article, if the parent, who is a citizen of a third country is prohibited from residing in the given Member State, and the circumstance that the other parent, who is a citizen of a Member State is actually able to take care of the child on a daily basis is a relevant factor, but in itself is not sufficient to support that there is no dependence between the parent, who is a citizen of a third country and the child, due to which the latter would be subjected to such force in the event of such prohibition of residence. Such evaluation – for the utmost interest of the child – shall be based on the entirety of the circumstances of the given case, amongst others the age, as well as the physical and mental development of the child and the emotional relationship with the parent in the EU Member State and the parent in the third country, as well as the consideration of the risk related to the se-paration of the child from the latter parent.

2. Article 20 of the Treaty on the Functioning of the European Union shall be interpreted so that the following is not in violation of the same: a Member State makes the right of residence of a parent, who is a citizen of a third country, who actually takes care of his/her minor child – a citizen of such Member State – on a daily basis dependant on the obligation of such citizen to submit evidence related to the fact that the decision prohibiting the residence in the Member State of the parent, who is a ci-tizen of a third country, deprives the child from the actual enforcement of his/her rights as an EU citizen by obliging the child to leave the entire area of the Union. The task of the competent authority of the Member State in question is however to perform the necessary examination based on the information provided by the citizen of the third country in order to find out whether the refusing decision can have such consequences with regard to the entirety of the circumstances of the case ..... 990

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