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CRIMINAL CASES RULINGS IN PRINCIPLE

- B.17** I. The regularity necessary for the factual nature of the crime of relationship violence is a concept, which excludes the casual nature of the actions. Its meaning implies that the actions were carried out more than repeatedly, as it also includes the consciousness of the perpetrator in between certain occasions, and means that the perpetrator had a system of the behaviour, his/her behaviour is not extraordinary, thus it can be established in at least two cases
II. Regular commission of the crime is based on the repeated commission of the bodily injury and assault and battery, because in accordance with Section 227, Paragraph (2) of the Criminal Code, slander melts into bodily injury specified in Section 164, Paragraph (2) of the Criminal Code, as the actions suitable for the defamation are all gestures and insulting moves, hands lifted for hitting, pushing, which expresses the perpetrator's despising, degrading evaluation with regard to the injured person
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- 250** I. With regard to the crime of the acceptance of a bribe, the person, who has the authority to make decisions in material issues related to the operation of the body or the rights and interests of the people, who are in connection with the body. The executive of the body, as well as the people, who are entitled to represent the given body the ones shall also be regarded as people entitled to act independently, who may significantly influence a given decision. The person making or preparing the decision shall be judged taking into consideration the rights of the same: whether the person is one with independent right of decision or not.
II. The person, who is not in connection with the active briber, but is the helper of the passive briber, cannot be the culprit/accomplice of the perpetrator. If the accused person is not in connection with the active briber, but – according to their previous agreement – he/she provides help to the activity of the passive briber and benefits from the unlawful pecuniary benefit accepted by the same, he/she is the accomplice of the passive briber. Nevertheless, if he/she does not abet the accomplice, but the person bribed by the accomplice, who not a passive accomplice in this relationship, but an active briber, who commits the bribe and not the acceptance of the bribe, who as a passive briber is liable for the acceptance of the bribe.
III. If the perpetrator requests/accepts the benefit or the promise of a benefit in different cases from the same or different persons, the acts form an aggregate of crimes related to the number of cases. If the action of the person committing the crime of corruption is abet related to the perpetrator's crime, with regard to the collateral nature of the accomplice's criminal act, the qualification and nature of the accomplice's act are the same as those of the actions of the perpetrator (except for the facts, based on which the conceptually accomplice's action is a sui generis crime) 1044
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- 252** The fraud performed by the application of the information system can be performed by way of data entry, data change, data deletion, making the data inaccessible, as well as the performance of any other operation, which influences the information system, thus causes damage.
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- 253** I. There is conspiracy to commit unlawful acts made by the accused persons, who deciding to rob tobacco stores, commit the crime of armed robbery of three shops even, if the selection of certain location was in an ad hoc manner and not based on previous preparations.
For the conspiracy to commit unlawful acts it is not necessary that the perpetrators agree on all acts and details of the actions, but for this qualifying circumstance to be determined it is enough to have the behaviour related to tacit, but undoubted repeated crime
II. The perpetrator of the crime committed in a conspiracy to commit unlawful acts can be the one, who knowing the existence of the conspiracy partially or wholly realizes the lawful facts of a crime. He/she is the accessory and not the accomplice of the crime of armed robbery, who enters the tobaccos store with his/her mates with the purpose of a previously decided robbery after another of his/her mates has already threatened the storekeeper to hand over the money. With his/her appearance directly after the threat, the accused person did not enforce his/her mate's intent of robbery, but ensuring their superior strength, further intimidated the victim, with which he/she directly participated in the direct threat against life, thus realized an element of fact 1052
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proceedings have to be terminated during the preparation of the hearing, if in accordance with the criminal code in effect upon the judgement is no longer a crime, and even during the preparation of the hearing or the postponing of the hearing, if by way of the amendment of the rules related to lapse in accordance with the law in effect upon judgement the culpability related to the crime has lapsed, and it has to draw all material, legal and procedural consequences with regard to the continuation of the proceeding.

II. If the court of first instance lawfully qualified the crime, which was made the subject of the accusation, as a crime punishable with an imprisonment of less than five years according to the effective criminal act, due to the participation of the defence attorney, the verdict shall not be repealed. In the event of the amendment of the qualification of the court of second instance – even if the crime was qualified as one punishable with an imprisonment of five years or more –, the verdict of the court of first instance shall only be repealed, if the prosecution brought the charge for a crime for which the law specifies an imprisonment of five or more years, or the court, during the proceedings for first instance, specified the possibility of more severe qualification.

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II. Request for legal help can be performed or submitted, if the action is punishable both according to Hungarian law and that of the foreign state; the lawful verdict of the foreign court has the same force as that of the Hungarian court, if there were legal proceedings against the perpetrator abroad, and the ordered punishment and the applied measure is not against the Hungarian order of law. The validity of the foreign verdict cannot be acknowledged, if according to the facts of the foreign verdict, the act of the theft remained in the phase of preparation, thus it is not punishable according to Hungarian law 1063

CIVIL CASES RULINGS

258 Conscientious and religious beliefs are part of the human existence, thus only humans, as natural persons can have them. Thus a religious community providing organized frames for people with the same beliefs and convictions for their practice or an organization performing religious activities cannot have a conscience or belief, as their nature is not human. Thus the plaintiff, which is the church, shall not be entitled the right of enforcement of claims due to the violation of personal rights related to religious freedom 1066

259 In the lawsuit against the defendant recorded as the owner in the land registry due to expropriation, the complaint cannot be declined without the issue of summons due to the legal capacity of the defendant because of the fact that the land registry does not include any other data but the name, which no other authority can provide, except, if during the proceedings no data arises, which would doubt legal capacity 1067

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261 The right of retention is not an independent guarantee right, and when choosing primary guarantee rights providing reparation in kind, the entitled person is authorized to hold aloof from the payment of the proportional part of the counter-service until the performance of his/her guarantee claim. Its exercise is only not homogenous with the financial claim of the obligor, and can only be valid in case of claims not appropriate for inclusion. It is different, if the defendant refers to another guarantee objection or inclusion for the aversion of his/her payment obligation, which in the event of a well-founded reference terminates material entitlement 1071

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264 Own mistake can only be a behaviour, which can be attributable to the person, which shall be in a rational relationship with the caused damage. The extent to which the damaged person caused the damage can be specified in relation with the behaviour of the person causing the damage 1079

265 Should the law provide for the order of those entitled the right of pre-emption, the one listed as the first in the order cannot nominate a person instead of the same, who is not listed by the law for the exercise of the right of pre-emption, because this would violate the rights of those placed lower in the list. 1082

266 I. The reasons for exclusion related to Section 580, Paragraph (1) of the Be. cannot be taken into consideration for the claim for damages based on Section 581, Paragraph (1) of the Be. The interpretation of the provision applicable to the judgement of the case shall be performed by the judge.

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ECONOMIC CASES RULING IN PRINCIPLE

- K.20** Section 339/B of the Pp. is only related to legal consideration, and the court shall evaluate the evidence based on Section 206 of the Pp. The principle of comprehensive review does not mean that the re-evaluation of evidence is to be performed by the judge ignoring the decision of the defendant. The court shall be obliged to choose the explanation from several acceptable explanations, which it can justify, which it can perform based on rational reasons, which shall be included in the verdict. However the extent of the evidence requires undoubted proof, the necessary depth of proof is not uniform in different public administration cases for the exclusion of doubt, because it is dependent on the type of the given procedural guarantees in the public administration proceeding, and whether these guarantees actually are applied. Furthermore, the extent of the undoubted evidence does not exclude proof by way of the chain of indirect evidence, nor does it exclude the application of legal opinions, as long as these opinions remain within reasonable frames. While the acting court of first – and second – instance regards the evaluation made by the public administration body based on Section 50, Paragraph (6) of the Ket as unlawful based on Section 206 of the Pp, if the evidences are not suitable either one by one or all together for the verification of the stated and established facts, or the scope of the same is so lacking that no well-grounded conclusion can be drawn from the same, the Curia can only regard the evaluation of the court based on Section 206 of the Pp, if it has an obvious logical error, is logically irrational, or due to a proper reasoning is obviously autocratic 1115

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**RULINGS OF THE COURT OF THE
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- I.** 1. Article 7, Point 1 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters shall be interpreted so that the counteraction between the joint and several co-debtors of the loan agreement shall fall within the scope of “matters related to the agreement” as specified in this provision
2. Article 7, Point 1, Subpoint b), indent 2 of Regulation No 1215/2012 shall be interpreted so that the loan agreement made between the credit institution and two joint and several co-debtors, as the one specified in the base case shall be considered as an “agreement related to the provision of service” specified in the same provision.
3. Article 7, Point 1, Subpoint b), indent 2 of Regulation No 1215/2012 shall be interpreted so that if the credit institute provided loans to two joint and several co-debtors, in accordance with the provision, the “place on the territory of the member state, where the service was or should have been provided”, shall be considered, unless otherwise provided, as the registered office of the credit institute, from, amongst others, the aspect of the determination of the jurisdiction of the court judging the counteraction between such co-debtors..... 1166
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- However, the abovementioned directive shall be interpreted so that the national legislation, which is similar to the one included in the base case is in violation of the same, which says that within the scope of such a mediation process, consumers shall use the attorney’s assistance and that consumers can only withdraw from the mediation procedure, if they prove that their decision is based on an appropriate reason 1168
- III.** 1. Article 4 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products shall be interpreted so that the national evidence rules, just like the ones in the base case, are not in violation of the same, according to which the court acting based on the motion related to the responsibility of the manufacturer of the vaccine with regard to the error of the vaccine can declare, in its own scope of authority, that certain factual circumstances referred to by party submitting the review motion form severe, exact and concordant establishing circumstances, which are suitable for the proof of the mistake of the vaccine as well as the causal connection between the mistake and the disease – irrespective of the fact that the doctor’s research did not find any connection between the vaccination and the disease of the damaged person, but also did not deny the same. However, national courts shall ensure that the application of the mentioned evidence rules does not result in the violation of the actual enforcement of the burden of proof, or the responsibility system made by such directive.
2. Article 4 of Directive 85/374 shall be interpreted so that the evidence rules based on defence is in violation of the same, in accordance with which, if the doctor’s research does not find any connection between the injection and the disease of the damaged person, but also does not deny the same, the causal connection between the error attributable to the vaccine and the damage of the damaged person shall be regarded as proven, if certain, predetermined factual circumstances making the cause and effect probable are met..... 1172

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