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CRIMINAL CASES RULING IN PRINCIPLE

- B.1** With regard to the below case, the crime of accepting official bribe cannot be determined due to the fact that it is not dangerous to society. The ensign was instigated by the officer of the National Defence Service in the scope of the reliability examination performed with the preliminary permit from the prosecutor, then, the same is give a hundred thousand Forints by confronting the accused person with a fait accompli – overriding the scope of the preliminarily developed and approved implementation plan, and violating the requirement of progressivity, and when he does not refuse the same, he is taken into custody. The law enforcement ensign under the reliability examination did not act based on his own free will (discretion), but the defence officer confronted the ensign with a fait accompli so that the ensign did not practically have any other option. The behaviour of the accused person was monitored by the authority throughout the entire time, thus by way of the overfulfillment of the preliminary scenario, the integrity of public life and the order of data management of law enforcement was not violated, thus in the actual case (individual case), the danger of the act on the objective society was lacking 24

DECISION IN PRINCIPLE

- B.2** The freedom of defence is necessary and unlimited against unlawful attack committed against a person at night time even, if the unlawful attack realizing assault and battery aims at persons, who are in a room, which is not qualified as an apartment, and the attacker tries to enter such room, used for the placement of artwork, at 1:40 AM with force, and for this purpose, hits those situated in this room 29
- B.3** In the event of the crime of robbing, the person of the violated and passive subject can be differentiated. Thus taking away the wallet, including money, from a minor, can be suitable for the establishment of the qualified case of a crime even in the case, when the wallet and the money was not owned by the child, but by the mother of the child..... 30
- B.4** In the event of a crime against a condominium, the joint representative is entitled to act as a substitute private prosecutor, but the co-owners are not 31

RULINGS

- 1** In the separate procedure, which can be conducted without a hearing specified in Chapter XXVII of the Be, a single judge is entitled to make a definitive order, however – if the hearing was omitted due to the request of the prosecutor -, the order can also be made by the court secretary. In accordance with the rule specified in Chapter XXI, the provisions of the act shall be applied with the differences specified in the procedure conducted against a minor. This provision shall also be applicable during the separate procedure conducted without a hearing, thus only the judge appointed by the chairperson of the National Judicial Office can act in the case of a minor. That is the court secretary cannot act instead of the assigned judge in a case involving a minor, thus he/she shall not be entitled to impose penalty without a hearing even, if the hearing was omitted due to the request of the prosecutor..... 33
- 2** The change of communal work to imprisonment shall be decided by the penal judge, who is competent in the jurisdiction of the place of execution of the imprisonment in accordance with the general rules on jurisdiction related to the procedure of the penal judge, if the change from communal work to imprisonment is made, because the convicted person is sentenced to executable imprisonment due to a crime committed after the order of the communal work. A different jurisdiction rule shall be applicable, if communal work is changed to imprisonment because communal work was refused, or not performed, when the procedure related to such change shall be performed by the judge competent in the jurisdiction of the residential address, or place of residence of the convicted person..... 34
- 3** The below shall not be considered as the act of causing an accident in a negligent manner: a biker, who suddenly turns in front of the driver is then hit by the driver; even if the accident could have been avoided by keeping a larger space on the side – required for overtaking 35

- 4 The crime of false charge cannot only be committed by a formal report, but also by a testimony 37
- 5 The extent of tax decrease is a question of facts even, if the legal interpretation specified in the decision of the constitutional court affects its amount, thus in the review process, usually only by way of repeal and new proceedings, can the lawful decision be made, as in this proceeding, it is not possible to establish or supplement, or correct different facts 38
- 6 The summoning is lawful, if the delivery fails, because the accused person does not want to receive the delivery based on the note placed in his/her post box.
However, if the accused person is actually not in the provided address, and complying with his/her obligation, he/she registered the new place of residence, which the court recorded in the minutes during the proceedings of first instance, the summoning letter related to the public hearing of second instance sent to the previous place of residence of the accused person cannot be regarded as lawful
As the summoning of the accused person to the public hearing was not lawful, by having the public hearing in the absence of the accused person, the court of second instance committed a procedural violation resulting in unconditional repeal in accordance with Section 373, Paragraph (1), Point II. d) of the Be. 41
- 7 In the review proceeding, the review of the definitive binding decision and the release of force can only be performed with regard to the accused person, to which the reason of review is related. The Curia cannot extend the review to the other accused persons of the base case, to whom no review proceeding was requested. Consequently, if there are several accused persons in a criminal case, the review request cannot be based on the fact that the defence of the other two accused persons of the case is provided by the same defence attorney, in spite of the fact that there is conflict of interest between the same 43
- 8 I. If the sentencing of the repeat offender is unlawful, but with regard to the group of crimes and the special repeated nature of crimes, the imposed imprisonment is lawful, Curia can only be confined to the establishment of legal violation.
II. The procedural law makes possible shortened justification, if the definitive decision made by way of announcement is not contested by either the prosecutor or the defendant, or the defence attorney. However, it shall include the applied laws, thus the legal grounds of the establishment of repeat offence as well as the imprisonment as special or repeated offender 44
- 9 A case can be reopened based on the doctor's certificate about the health condition of the accused person related to the period prior to the sentencing of the accused person 45
- 10 The defence attorney is entitled to submit a review request only with regard to his/her own client, thus no reference can be made to procedural violations related to any other accused persons in the case 47
- 11 I. The commission value of the crime cannot be specified within limits. As the fact, which is undoubtedly unproven cannot be evaluated with regard to the accused person, the commission value can only amount to the amount, with regard to which the accused person committed the crime, and also the qualification can only be specified as funding fact with regard to the crime committed by the accused person. This shall also be applicable when specifying the amount of damages.
II. The mistaken interpretation of the temporal scope of the Criminal Code shall not result in an unlawful fine, if the fine imposed by way of the application of the Criminal Code in effect upon the commission of the crime is qualified as a lawful fine also in accordance with the act in effect upon judgement, and its amount is also in compliance with the relevant rules..... 48
- 12 During the acknowledgement of the validity of a foreign order and the adaptation of the implementation of the imprisonment imposed by a foreign court, the Hungarian court is not entitled to aggravate the situation of the convicted person from a criminal law aspect. Thus, the provision of the court decision, which disallows the convicted person from the benefit of conditional release is unlawful, if the foreign court did not exclude the suspension of execution after the completion of a specified part of imprisonment, and in accordance with the foreign criminal code, the execution of imprisonment can be suspended after two-thirds of the imprisonment is completed. Consequently, the convicted person can be released conditionally after two-thirds of the imprisonment period was completed 50

CIVIL CASES RULINGS

- 13 A person, whose personality rights are violated, may claim tort for the non-material violation caused to the same. Based on the rule related to the liability for the damage caused outside of the agreement applicable to the conditions related to the obligation to pay tort however, the offender is exempt from liability, if he/she proves that his/her behaviour was not reproachable 54
- 14 The agreements, in which for the purpose of the evasion of the right of pre-emption of the plaintiff and other persons, the defendants make a barter agreement firstly for the ownership share of the property, then the seller sells the remaining shares to the buyer, who became owner this way 56
- 15 I. If the condition of the conclusion of the sale and purchase agreement related to a vehicle is the result of the authenticity check, the issue of a false official certificate is the relevant reason of the buyer's damage, if the vehicle was seized from him/her and returned to the original owner.
II. Besides the liability for damages related to the seller, arising from the agreement (based on warranty of title), the general liability for damages of the intermediary performing the preliminary authenticity check and the authority shall also be examined 59

- 16 The right of usufruct related to the separate assets of the plaintiff and the rights representing assets cannot be governed by the rules of the Csjt. related to the division of joint property, but only the rules of the Civil Code 64
- 17 The validity of the agreement cannot be specified by an interim order, if in the lawsuit, the non-contractual party has a claim arising from other than the invalidity of the agreement, which cannot be performed based on the submitted motion 67
- 18 For the lack of the information by the court of first instance related to an actual fact, the party may refer to new evidence in the proceeding of second instance, if it is related to proving that the decision of first instance was unlawful 70

**ECONOMIC CASES
RULINGS**

- 19 If the legal violation realized with regard to the company decision is not significant, it does not endanger the legal operation of the legal entity, and the court shall specify the fact of the legal violation in its verdict 74
- 20 The provisions of Act CCXIV of 2015 on certain damage compensation measures taken in order to strengthen the stability of the capital market do not prevent the damaged persons from making creditor claims in the liquidation proceeding made against the distributor of the bonds, due to the payments made for the purpose of the purchase of fictional or non-existing bonds. In order to judge whether the creditor's claim can be enforced against the distributor, it is not necessary for other persons, thus the tied agent of the distributor to participate in the procedure as a party 76
- 21 The starting date of the 90-day lapse period specified in Article 40, Paragraph (1) of the Cstv, shall be the date, when the liquidator, based on the agreement or service in question, and other relevant circumstances, is in the situation, where he/she could realize that the agreement can be contested and the service can be reclaimed, and was informed about the reasons justifying the contest or the reclamation. When calculating the period, it is not the information of the liquidator, but the liquidator organization, which has legal significance 79

**LABOUR CASES
RULING IN PRINCIPLE**

- M.1. If the plaintiff does not submit a request related to the care of persons with reduced capacity to work on the form issued by the defendant, then based on the expert's opinion made in another procedure (in general), it is not possible to make a decision with regard to the care of persons with reduced capacity to work by way of the procedure specified in Act CXVI of 2011 83

RULINGS

- 22 The provision of appropriate working conditions is the employer's obligation. Thus, if the postal delivery employee is to deliver in 14 different zones within a short period of time – for the lack of appropriate information of local knowledge – three minor mistakes (which are partly administrative in nature) cannot lawfully result in immediate dismissal 85
- 23 Sending the letter requesting agreement to the termination of the employment of the person fulfilling an office in the selected trade union by way of notice not only to the registered office of the trade union, but also to the residential address of the vice president of the same, who refers to the time of receipt of the same in the reply sent to the trade union, is not considered to be unlawful. In such a case, the eight-day deadline for response shall be calculated from such delivery date 89
- 24 The patrol, who is the member of the official squad patrolling as a designated leader can give grounds to fee difference or claim for assignment fee, if the leader of the patrol pair actually performs the duties of leading the patrol activity 92
- 25 Should the employer exempt a public servant from the obligation to perform work based on Section 33, Paragraph (3) of the Kjt – as it is a rule related to employment -, the public servant is exempt from the performance of work in accordance with Section 55, Paragraph (1), Point k) of the Mt. Consequently, in the application of Section 115, Paragraph (2), Point g) of the Mt, from the aspect of the right to take days off, the total period of exemption shall be considered as time spent at work 93
- 26 In order to accurately determine whether a person can be rehabilitated, an opinion is necessary about the questions, which require special expertise based on the facts at the time of the passing of the social insurance regulation 94

**PUBLIC ADMINISTRATION CASES
RULINGS**

- 27 For the lack of the possibility to repeat the probate, the value on which the inheritance fee is based shall be specified ex officio, or at request, during the assessment of charges. The heir can be obliged to pay inheritance fee for the objects and their parts only one time 97

28	The tax payer cannot avert the obligation of providing evidence upon the settlement of financial assets received from a business organization by referring to the fact that as a private person, he/she is not obliged to retain receipts	99
29	The purpose of finding work cannot only be pretence for a citizen of a third country to stay in Hungary, as in such a case, the performance of work shall be real	102
30	A citizen of a third country can only submit a request related to the approval of the residence in Hungary in exceptional cases. The major rule in this case is that the request related to residence permit shall be submitted to the officer of the consulate or any other place authorized to receive such request, which operates in the country of the permanent place of residence or citizenship of the requester	105
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RULINGS OF THE COURT OF THE EUROPEAN UNION

I.	Article 5 of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time, and Article 5 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time shall be interpreted so that they do not require that the at least 24-hour, uninterrupted weekly resting time due to the employee is provided at latest, after six consecutive working days, but within every 7-day period.	121
II.	1. The principle of the prohibition of abusive behaviour shall be interpreted so that this principle is directly applicable in the internal order of law irrespective of the international measures enforcing the same for the purpose of the prohibition of value added tax exemption on real estate sales performed prior to the judgement made in the Halifax and co (C-255/02, EU:C:2006:121) of 21 February 2006, similar to the base case, without violation of legal security and the principle of trust protection. 2. Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment shall be interpreted so that, if the transactions, which are the subjects of the base case, are to be requalified by the application of the prohibition of abusive behaviour, with regard to the cases, where there is no such behaviour, there may be an obligation to pay value added tax in accordance with the relevant provisions of national law, which provide for such obligation. 3. The principle of the prohibition of abusive behaviour shall be interpreted, in the scope of the definition of the same based on Point 75 of the judgement made in the Halifax and co (C-255/02, EU:C:2006:121) of 21 February 2006, in order to reveal whether the fundamental purpose of transactions, which are the subjects of the base case, is the acquisition of tax advances, and the purpose of the lease agreements made prior to the sale of the real estate, which is the subject of the base case, shall separately be taken into consideration. 4. The principle of the prohibition of abusive behaviour shall be interpreted so that the sale of real estate, such as the ones, which are the subjects of the base case, may result in the acquisition of tax advances, which are in contrast with the purpose of the relevant provisions of Sixth Directive 77/388/EEC, if such real estates were not actually put to use by the owner or the lessee prior to the evaluation of the same provided to third persons. The court submitting the case shall be obliged to examine whether this was the case in the base case. 5. The principle of the prohibition of abusive behaviour shall be interpreted so that it is applicable in cases, which are similar to the base case, which is related to the possible exemption of value added tax payment of a certain real estate sale.	124
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