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CRIMINAL CASES RULINGS IN PRINCIPLE

- B.5** Those, who commit the below acts are qualified as the accomplices of the attempted murder: severely assaulting the victim (beating up, breaking leg), binding the same up, who as a result becomes unable to escape, locking the same in his/her trunk, then leaving the same in this condition by a forest road in autumn, in the cold, when the temperature is 12 degrees Celsius.
The victim was tormented and vulnerable for five hours before he/she was accidentally found and set free, and in consideration of the weather conditions and his/her clothes, and injuries, he/she could have died of freezing in about 10-12 hours.
The accused persons realized this possibility, and they even talked about it, but they were indifferent to it. The lethal result of their action was not realized due to pure chance. When the culprits leave it to faith whether their assaulting actions will result in death, and they are indifferent towards the lethal result or the lack of the lethal result, then they are rightfully convicted for the crime of murder with possible intent 167
- B.6** I. The reason for review was not realized, thus it is not legally possible to release substantive force, or amend the effective decision, and it is justified to keep the contested verdict in effect, if the European Court of Human Rights (ECHR) considered unlawful the lack of the option of review – in the execution stage – , which would de facto decrease the reducibility of the punishment of the person imprisoned for life after the lapse of the period specified by the ECHR, guaranteeing the clemency procedure and decision by the President of the Republic, and not the infliction of the actual imprisonment for life, or the exclusion of the option of conditional release by way of court with jurisdiction.
II. The organ of human rights established by an international agreement based the violation of Article 3 of the Convention on the incompleteness of the legal provisions – assumed by the same – of Act CXL of 2013 amended by Act LXXII of 2014 on the execution of certain coercive measures and misdemeanour custody, which is not related to the proceeding of the court passing the verdict (in compliance with the case law of the ECHR) and the conclusive, effective decision, thus it does not fall within the scope of Article 427, Paragraph (3) of the Be.
What ECHR criticized was not the fact whether the given imprisonment (imprisonment for life) could be imposed, but the rules of the obligatory clemency procedure of execution, the amendment of which is to be performed by le-gislation and not law enforcement. And if legislation is needed, then there shall be no reasons for review and decision authority for review, as the missing rule was not made by the Curia, and cannot be substituted by the direct application of the Convention 171

DECISION IN PRINCIPLE

- B.7** The act of the thieves, who were caught in the act of theft committing the following actions shall be considered as the crime of robbery committed as accomplices: application of violence for not only the escape, but also the keeping of the stolen thing..... 176

RULINGS

- 37** If someone repeatedly contributes, with accomplices, to illegal immigrants leaving the country, knowing that the transfer of these illegal immigrants to the border was the result of the organized cooperation of several people, he/she realizes the crime of trafficking in a criminal organization even, if his/her contribution to this activity lasts for a relatively short period of time 178
- 38** I. AB decision 34/2013. (XI. 22.) of the Constitutional Court has no retrospective effect, thus the judge, proceeding as the judge ordinary of the court during the investigation, prior to the making of this decision is not expelled from the further proceedings of the court.
II. The judge proceeding as a member of the court council reviewing the decision of the investigatory judge in the matter of custody pending trial, home arrest and temporary coercive medical treatment is qualified as expelled from criminal cases started after 30 November 2016.
III. If, due to the change of the composition of the council, the court of first instance restarted the hearing, the fact whether the assignment of a member of the council at the previous hearing was valid or not has no significance
IV. If the applicable facts of the case do not include the fact that the accused person, who committed the crime of the promotion of prostitution was aware of the victim's age, and this is in line with the weighed

evidence, however, the court qualifies the act as one violating a minor, it does not violate its obligation to provide justification, and the dispositional part is not entirely against the justification, but the qualification of the act is unlawful

V. There shall be no review, if the violation of the law can be remedied by special proceedings. As, if the court did not pass a decision on the confiscation of property, or did, but not in accordance with the law, the violation of the law can be remedied by conducting special proceedings, thus in this regard, confiscation of property cannot be contested.

VI. There shall be no review only for the reason of the wrong qualification of the crime, just as the punishment specified in the effective decision cannot itself be contested; there shall be a review, if the unlawful punishment was imposed or unlawful measure was taken due to the unlawful qualification of the act or the violation of another substantive law 181

39 I. Shortened justification of the conclusive decision is only made possible by the law, if the present district attorney, the accused person and the defence attorney are informed about the same by the court, and no appeal is lodged against the verdict. If the accused person is not present upon the announcement of the decision, and the court informs the accused person about the same by way of a deliver, the decision should include its detailed justification.

II. In a separate proceeding against an absent accused person, the court shall inform the accused person about the conclusive decision by way of an announcement delivery, thus there shall be no shortened justification. Besides accusation, the personal circumstances of the accused person and the facts of the case, as well as the indication of applied laws and regulations, the justification of the conclusive decision shall include the consideration and evaluation of the evidence, the legal qualification of the action established for the accused person, the justification thereof, the factors taken into account during the imposition of penalty, including aggravating and extenuating circumstances, as well as the reasons of other provisions of the decisions and the rejection of possible motions 192

40 Holding a council session instead of a public session in the proceeding of second instance realizes an absolute procedural violation contradicting the request submitted by the right holder, thus results in a reason for review even in the case, when it was due to an administrative mistake 193

41 The repeated submission of the rejected evidence motion is not a reason for a new trial 194

42 The pure mention of a reason for a new trial, the repeat of the words of the law shall not give grounds to the performance of a review proceeding on the merits, and such motion is excluded by the law 195

43 The district court competent in the place of commission shall proceed in the case of legal violation, which can be punished by contravention custody. If, from the data of the proceeding, no alternative jurisdiction reason can be specified, there is no data related to a more efficient and faster conduct of the proceeding by the court competent in the place of residential address, the court competent in the place of commission shall proceed 196

CIVIL CASES RULINGS

44 I. Acquisition by way of the rent of a partially owned share shall not be qualified as a legal fact suitable for the suspension of usucaption, as it cannot be regarded as the exercise of the right of disposal by the owner.

II. The adverse possessor cannot request its ownership right to be recorded in the land registry against the new owner, who could not have known, even by proper care, that the ownership status was different from the one recorded in the land registry

III. The party referring to its right of ownership acquired by way of usucaption can represent that the same did not have a subjective knowledge of the ownership by the same due to its purchase offer sent to the registered owner after the lapse of the usucaption period, except, if it is undoubted that it is only related to the out-of-court settlement of ownership rights 198

45 Guarantee is given “regarding each other”, if the guarantors give their guarantees supposing the other’s contribution, proceeding for the interest of the joint risk taken considering each other’s person. A different motivation – even from only one of them – disables the establishment of this turn 200

46 No gift can be reclaimed, if the livelihood of the giver is not maintained, because the disadvantageous situation was caused by the same through no fault of the same 204

47 With regards to international transportation agreements referring to INCOTERMS usances, the specified parity shall also be examined, when specifying the contractual obligations of the parties. If it is not the transporter, which performs the transportation activities, liability shall be governed by the rules related to the obligation of due diligence..... 207

48 Product liability can be applied with regard to so called consequence damages, caused to other things by the faulty products, but not with regard to the fault of the product itself. 210

49 The company tax allowance for so-called show sports (show sport allowance) shall be considered as public funds, as if the businesses do not offer it for the specified purpose, it would be considered as tax income in the budget. As it is about the use of public funds, the relevant data shall be qualified as public data – including the contracts made during the use of the same..... 212

50 I. The effect of competence specified in property law matters shall also cover legal successors, irrespective of the fact that the change of the persons of the contracting parties was due to transfer or the assignment of contract.

- II. In order lawsuits to be finished in a reasonable time, the court acts correctly, if when the dispute is related to consumer agreements, in which in spite of the exclusive jurisdiction specified in the general contractual terms, the plaintiff submitted a case at the court having general jurisdiction in the place of residence of the consumer, by way of the unfairness of the jurisdiction provision, in the scope of the examination of its own jurisdiction, shall inform the consumer about the right that depending on his/her statement, the hearing may be held at the court competent in the place of the residential address of the consumer – prior to the resubmission of the motion to the specified court, which has exclusive jurisdiction 216
- 51 During the decision-making related to a certificate request, the requirement of the equitable judgement of the request does not allow the disregard of the verification and objective evaluation of the existence of circumstances, which make possible innocence. A precondition of excuse is that the party establishes that the deadline was missed due to non of his/her fault, and he/she is not guilty with regard to the negligence 217
- 52 The conditions of the establishment motion shall be examined in a decision on the merits, and for the lack of conditions, the legal action shall be refused and not the complaint without the issue of summons 218
- 53 The closely related content element of the review request, the violation of the law and the specification of the violated law, as well as the explanation of the reason why the party wishes the amendment of the decision. The lack of any of these shall result in the ex officio refusal of the review request 219

ECONOMIC CASES RULINGS

- 54 I. It is not against the law, if the court refers, in its verdict, to legal arguments detailed in a repealed decision ensuring the unity of the law, which was not repealed due to the amended judgement of the legal issue.
II. The bidder disqualified due to public procurement violation can demand the compensation of its unrealized profit from the contracting authority, if the same can prove that in the event of a lawful procedure, it would have been the winning bidder, and the contract would have been made with the same 221
- 55 I. The agreement on the assignment of business shares can only be terminated with a future date, if the assignment already has company law consequences.
II. In the lawsuit related to the repeal of the warrant of registry, the special provisions of Ctv. lex shall be applicable
III. If the warrant of registry violated the law, but it was eliminated by the legal proceeding, besides the establishment of the violation of law, the effect of the verdict shall also be maintained 224
- 56 The different legal justification related to the party, which did not submit the review request, shall not make the review request of the litigious parties open to judgement, with related to which, review is impossible 227
- 57 Article 271, Paragraph (4), Point a) of the Pp shall exclude the judgement of the review request on the merits, if the courts of first and se-cond instance make their decisions at different times, but based on the same legal provisions..... 228

LABOUR CASES RULINGS IN PRINCIPLE

- M.2 Well-founded conclusion can be drawn related to the obligatory exemption reason due to one becoming undeserving of his/her office, if the employer proves not only the violation of the obligation displayed by the public servant, but also that the behaviour realizing the violation of the obligation severely damages the prestige of the position held by the public servant, or the reputation of the employer, or trust in good public administration, due to which the employer is no longer expected to further maintain the employment 230
- M.3 The official member of the law enforcement authority cannot be deprived from his/her constitutional right to turn to court and fair procedure due to the fact that the law enforcement authority does not pass a judgement on the service complaint with reference to it being prohibited 233
- M.4 The reason to give notice based on the downfall of traffic is not in compliance with the legal requirements of actual, clear and rational justification. As, from this, it is not clear to the employee whether the termination of the employment is due to the employee's work not being up to standards, or reasons related to the operation of the employer 234

RULINGS

- 58 The circumstance that a given court has already proceeded in a case of the party, for the lack of any other circumstance shall not give grounds to the judges being the biased 237
- 59 The application of the norm related to the decision of the case may be disregarded based on the decision of the Constitutional Court specifying violation of the fundamental laws eliminating actual application, or the application in all cases 237
- 60 Those requesting social insurance depending in the existence of insurance are generally expected to be careful and keep track of the circumstances – which may occur at a later point of time – influencing the actuality of their statement related to the non-existence of their insurance, stated upon the filing of the request, and not

make any legal declarations (sign appointments with the content), which results in the change of a significant fact from the aspect of entitlement. The petitioner, who fails to check upon signing the legal declaration (appointment document) influencing the condition, which affects his/her entitlement to receive care, whether the statement specified in the filing of the request – on top of his/her actual contractual will –, cannot refer to the fact that he/she acted as it was expected from the same in the given situation 239

- 61** The amount of minimum wage shall be specified, when determining the lowest and highest amount of disability allowance in accordance with Section 12, Paragraph (2) of Act CXCI of 2011 243

**PUBLIC ADMINISTRATION CASES
RULINGS IN PRINCIPLE**

- K.1** For the lack of legal authorization, the public administration court is not entitled to review the legality of evidence acquired during a sec-retive collection of information. Accordingly, as the contradictory proceeding specified in the decision of the EUB cannot be realized in the public administration proceeding, for as long as the criminal court decides in the matter of the lawfulness of their acquisition, they cannot be used as evidence. Resulting from the system of free evidence, the facts of the case are to be specified based on the weighing of all circumstances uncovered during the proceeding. The verdict of EUB does not result in any circumstance having exclusive significance. In the new proceeding, the tax authority is obliged to evaluate and weigh the uncovered evidence in accordance with Section 50, Paragraph (6) of the Ket 249
- K.2** The following shall not violate the prohibition of retrospective effect and shall not justify the expansive interpretation of the legal provision: upon the introduction of a legal institute, the legislator specifies the conditions, amongst which there is an exclusion of a previously specified land protection fine 258

DECISION IN PRINCIPLE

- K.3** The tax base of business tax cannot be lessened by all types of costs, which can be accountable upon the calculation of the profit/loss of the company, thus the factors related to the lessening of corporate tax are not the same as the factors lessening the tax base of business tax 261

RULINGS

- 62** If the authority, which issued the official certi-ficate, finds that the content of the official certificate is untrue, the certificate shall be withdrawn, and the acquired and exercised rights cannot be affected by the withdrawal of the official certificate 264
- 63** With regard to an EMVA subsidy requested for the maintenance of an office, when several offices are operated in the planned area, all offices shall comply with the relevant laws and regulations, if the subsidy is to be used for them 266
- 64** If the local government specifies the recipients and scope of clients to which its own business operating its own sport facility provides discounted services, for which it also provides subsidies, the subsidy shall directly affect the price of the sold products and provided services 268
- 65** For the reason that the tax determination related to the deceased person is not a tax audit, but an official procedure, estimates can be applied, if it is necessary for the determination of real tax. In these procedures, the obligation related to the specification of real tax and the principle of fair proceedings shall be jointly taken into consideration..... 270
- 66** When approving way leave, the authority shall examine whether the wire significantly hinders the use of the property, and the track can be developed without touching the property with regard to the fact that the wire is to be run primarily in public domains 272
- 67** During the receipt of the legal declaration related to the exercise of the right of pre-emption in the land trade case, the proceeding of the notary is to be governed by the rules of the Ket. In the event of violation of the law, with regard to these procedural actions, the right holder of the right of pre-emption may receive protection in the scope of the legal remedy against the decision of the agricultural body. The special regulation – different from Ket – of the land trade act, the acquisition of the ownership of the land, or the right to use the land, in the procedure related to the official approval, shall not mean the violation of the general and fundamental rules of Ket. 274

RULINGS OF THE COURT OF THE EUROPEAN UNION

- I.** Article 32, Paragraph (3) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas interpreted in connection with Article 47 of the Charter of Fundamental Rights of the European Union shall be interpreted so that it obliges member states to provide remedy related to the rulings, which decline visa applications, the partial rules of which are made by the member states in accordance with their law and order, respecting parity and the principle of actual effectiveness. Judicial remedy shall be provided as an option in a part of the proceeding 278
- II.** Article 4, Paragraph (1) and Article 7 of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims shall be interpreted so that the executive decision related to the amount of costs of the court proceeding specified in the verdict,

which was made not in the matter of a contested claim, cannot be certified as a European executable deed
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FORUM

The judgement practice of the prohibition of the abuse of right

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