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256 I. If a partial action of the started but not finished private justice – beyond violence and threat – is the deprivation of freedom from the violated party, due to the same motive of private justice, the latter shall not be qualified as an aggravated crime.

II. If the perpetrator cuts down or breaks off pieces from the tubes of the milking plant, then it is an improper physical effect on the thing to be stolen, and not a natural possession, but violence against the thing, enhancing the social risk of the act of theft.

III. Precious metal shall also mean the alloy of precious metals and also materials subject to metal trading licence, and because copper is subject to metal trading licence under a separate law, the takeaway of the same with the intent of theft shall be qualified as theft of precious metal. 1176

257 I. Wilfulness and ignorance shall contribute to the legal concept of culpability; thus the relevant decision is a legal matter. For this determination, the perpetrator's consciousness is to be clarified – subjective causality – the relevant consequences of which can be provided by the examination of the factors of the subject matter (commission behaviour, result, etc.).

II. Causing several bruises on somebody else's face, head and upper body with punches, stomps, kicks give grounds to the establishment of the attempt of grievous bodily harm even, if the caused injuries do heal within 8 days.

The type and intensity of this abuse and the anatomical importance of the attacked body parts are capable of causing more severe injuries healing in more than 8 days, the occurrence of which is necessarily accepted by the perpetrator. 1181

258 The establishment of criminal liability due to slander is in compliance with the rules of substantive criminal law, if the act is factual, unlawful and if reality needs proof, it leads to no result. The failure to prove reality – if it needs to be performed – is a legal violation giving grounds to review. Nevertheless, the proof of reality shall not be ordered, if the clarification of the reality of facts is undoubtedly and factually given during the evidence proceeding. However, the further contest of the reality of the facts contests the court's activity weighing the evidence, which is prohibited in review proceedings. 1183

259 The culpability of the following driver can be established: in front of the same, there is a tractor emitting a cloud of mist, due to which the conditions of overtake cannot fully be seen,

yet the driver starts the overtake, causing an accident, by running over a pedestrian walking on the side of the road. 1187

260 Unlawful takeaway of a thing from the close vicinity of a sleeping person is considered as the crime of robbery 1190

261 The commission subject of counterfeiting may only be existing money in circulation or withdrawn from circulation. Attorney deposit of the security as a guarantee for loan agreement shall not be considered as release. 1192

262 I. The Curia shall be obliged to make a decision on the designation of the court, if the petition related to exclusion due to bias was submitted against all judges of the Curia – besides those of the court with competence and jurisdiction in the case.

II. If there is no such a court, which could pass a decision on the designation, the Curia is obliged to make a decision. Besides the Curia, there is no other judicial organisation, which has the right of making decisions in the matter of the designation of courts. From the comparison of the Constitution and the law on criminal proceedings, it is clear that outside of the judicial organisation, there is no other organisation, or authority with such scope of authority, as the Curia is the highest judicial organ. 1195

263 The decision may be announced by a council of different persons. The council making the announcement, however shall only be entitled to announce the made decision, and not to actually make the decision. Consequently, the decision shall be signed by the council making – and not announcing – the same. 1196

264 I. The decision made in the matter of the possibility of renewed proceedings (decision ordering renewed proceedings, decision declining petitions related to renewed proceedings) is not a definitive decision, thus review is not a legal possibility. 1199

265 Evidence proceedings shall not be a part of proceedings of third instance. Thus, in the event so-called relative procedural violation related to the evidence and the related partial unfoundedness, the decision of second instance – and if necessary of first instance – may be repealed, if the procedural violation and thus the unfoundedness may not be remedied only by way of evidence proceedings. 1200

266 For the renewed proceedings to be approved, it is not the evidence means but the evidence is what needs to be new. The same evidence from a different source, by way of another evidence means is not a new evidence.

The labour contract not even introduced in the main proceedings related to the crime of embezzlement, and thus not taken into account by the court, and thus attached by the defence attorney for the purpose of renewed proceedings is formally a new method of proof, but is unsuitable to start renewed proceedings, because the fact for the proof of which it was submitted (specifying that the use of the company's funds was not the accused person's, but the co-owner's liability) – as the defence of the accused person – was already known and examined by the court and judged as having been disproven. 1204

CIVIL CASES

267 From the aspect of implicit choice of law relevant for the justification of a need arising from an agreement, the pure fact of the location and language of the agreement made by the parties is not decisive, just as the use of legal expressions, which can be interpreted by the civil law of several countries the same way. 1206

268 I. The basis of the lawsuit related to the entry into the land registry, if a right was entered into the land registry, which then later was not granted, or another right-holder was entered while ownership rights or other marketable rights were not transferred to the same. The most likely reason for this is that the document used for the entry is invalid. In such a case, the registered right-holder, or the person entitled to the same by the law may request the deletion of the subsequent entry, as a result of which the content of the land registry will show the actual circumstances.

II. If the purchase offer is not communicated to the party entitled to the right of pre-emption – if the agreement was already signed by the seller – the buyer may also call the party entitled to the right of pre-emption to make a statement by qualifying the agreement sent to the same as a sale offer. 1212

269 When agricultural and forest areas are sold, for the efficient enforcement of the plaintiff's claim arising from the invalidity of the agreement made by way of the violation of the plaintiff's right of pre-emption, in the order of those entitled to pre-emption set in the land traffic act, the order proceeding the contractual auction buyer and other parties entitled to the right of pre-emption shall be verified. 1214

270 Unfair influence – amongst others – is performed, if somebody behaves in an unethical manner for the sake of the same or another person receiving inheritance, which is capable of influencing the final will of the testator. Such behaviour is especially, if the person in question abuses the testator's vulnerable condition due to old age, worsening physical condition and intellectual condition – partially by way of formal gestures and untrue statements – gaining the testator's trust; making untrue statements depicting false picture of the previously named testator. 1217

271 The simple document has no power of proof specified by the law, and its material power of proof is dependent on the court's deliberation. If the previous document is destroyed in the scope of interest of the party obliged to attach the same, such missing document shall be evaluated at the expense of the proving party. 1224

272 Upon the separation of condition specification included in the matrimonial property agreement and the contractual provision, the starting point is whether the sub-property character (joint or separate asset) of the legal condition of the asset (land registry entry) and the given contractual statement are the same. 1226

ECONOMIC CASES

273 I. The obligation related to the right of pre-emption upon the entry into effect of Act number V of 2013 on the Civil Code, the legal statement and enforcement of the party

exercising his/her right of pre-emption shall be governed by the general laws in effect prior to the entry into effect of Act number V of 2013 on the Civil Code.

II. The designation of the right to be enforced may be performed not only by the designation of the actual legal provision referred to in the application, but by the clear description of the content of the legal provision. 1233

274 If the right-holder terminates the loan agreement contractually with an immediate effect, the agreement is terminated by the communication of the termination. The lawfulness of the termination is not affected by the pure fact that the right-holder mistakenly specifies a time prior to the communication as the effective date of termination. This circumstance does not affect the legal effects related to resignation, thus the time of the termination of the agreement. 1236

275 I. The proceeding related to the review of the company decision is a property proceeding.

II. The review shall not be approved in accordance with section 409, paragraph (2), point a) of the Code of Civil Procedure, if the party does not specify the decisions, due to which the legal practice is considered as divergent, and in accordance with section 409, paragraph (2), point b), if the relevant legal matter does not go beyond the limits of the individual case. 1238

LABOUR CASES

276 I. In accordance with section 25/A, paragraph (2) of the Public Sector Employees Act, the transferor and the recipient shall have information and consultation initiation obligation, which prior to the nomination of the new employer, may be exercised by the founder, and the founder's obligations are related to the recipient employer.

II. The employee shall be entitled to days off for the time of the notice period, during which the employer expects the same from work in accordance with section 70, paragraph (1) of the Labour Code. 1241

277 If the damage is not generated by way of "shortage", but the employee's behaviour was the reason for the damage, the employee's liability for damages shall be judged based not on safekeeping (cashier's) liability, but culpability liability. 1245

278 Section 18/D, paragraph (1) of the Road Traffic Act provides for the obligation of the employer related to the passenger and freight transport activity of the same. In accordance with the correct interpretation, this is not related to certain transportation duties after the beginning of the activity, but the beginning of the freight activity. 1249

279 If legal conditions are met, the person of the employer will be changed even, if the new employer does not meet its notification obligation. 1252

PUBLIC ADMINISTRATION CASES

280 The person taking out money from the account of the business organisation shall be obliged to prove that the amount was accounted towards the company, or used on behalf of the company. Section 206, paragraph (1) of Act number III of 1952 on the Code of Civil Procedure is not violated, if the court evaluates when the taxpayer refers to a certain evidence in the course of the evidence proceedings. 1256

281 Section 43/H, paragraph (10) of the Unfair Market Practices Act does not prohibit appeal against the verdict. Verdicts made in accordance with section 43/H, paragraph (7), point b) of the Unfair Market Practices Act are not collateral actions. 1259

282 In the proceedings related to the approval of the research technical operational plan, the property authority acting on behalf of the enforcement of the protection of croplands, examines the quality of cropland in the entire research area, and not only the quality of the area affected by the research facilities (for example drilling). 1263

283 Proceedings related to the establishment of legal violation over the lapse period specified in section 94/A, paragraph (2) of the Code of Administrative Proceedings may not be performed. For the lack of the determination of legal violations, no sanctions can be applied.

The first day of the one-year lapse period is independent from the type of violation being single or continuous. 1265

284 Act number XLV of 1994 on Assistance to War Veterans does not include work duty, but military service in the scope of military service as specified in section 2, point a). 1267

The provision included in section 119, paragraph (2) of the Electronic Communications Act – amongst others – requires the authority to nominate the legal entity obliged to provide universal services in a given district besides the evaluation of market conditions and the enforcement of efficiency factors. 1270

286 The formal analysis of the structure of the regulations of local governments is not sufficient, but the content of these norms, the relation of certain parts, and the legal circumstances in effect upon their passing shall also be substantially examined.

The regulation of the local government may be amended or supplemented by a regulation of the local government. The decision made by the local government is not a law, the decision of the local government may not have a legal effect, which leads to the amendment or supplement of the regulation of the local government. 1272

DECISIONS OF THE COURT OF THE EUROPEAN UNION

I. Judgement of the court in Case C-81/19, NG and OH versus SC Banca Transilvania SA, passed on 9 July 2020

Article 1, paragraph (2) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that a contractual term which has not

been individually negotiated but which reflects a rule that, under national law, applies between contracting parties provided that no other arrangements have been established in that respect falls outside the scope of that directive. 1277

II. Judgement of the court in Case C-81/19, Verein für Konsumenteninformation versus Volkswagen AG, passed on 9 July 2020

Point 2 of Article 7 of Regulation (EU) number 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 must be interpreted as meaning that, where a manufacturer in a Member State has unlawfully equipped its vehicles with software that manipulates data relating to exhaust gas emissions before those vehicles are purchased from a third party in another Member State, the place where the damage occurs is in that latter Member State. 1280

III. Judgement of the court in Case C-754/18, Ryanair Designated Activity Company versus Országos Rendőr-főkapitányság, passed on 18 June 2020

1. Article 5, paragraph (2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) number 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts a person who is not a national of a Member State, but who is a family member of a Union citizen and who holds such a card, from the requirement to obtain a visa in order to enter the territory of the Member States.

2. Article 5, paragraph (2) of Directive 2004/38 must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts the family member of a Union citizen who holds it from the obligation to obtain a visa where that card was issued by a Member State which is not part of the Schengen area.

3. Article 20 of Directive 2004/38 must be interpreted as meaning that possession of the residence card referred to in that article constitutes sufficient proof that the holder of that card is a family member of a Union citizen, so that the person concerned is entitled, without further verification or justification being necessary, to enter the territory of a Member State exempt from the requirement to obtain a visa under Article 5, paragraph (2) of that directive.

1283

IV. Judgment of the Court in Case C-276/18, KrakVet Marek Batko sp. K. versus Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága, passed on 18 June 2020

1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Articles 7, 13 and 28 to 30 of Council Regulation (EU) number 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax must be interpreted as not precluding the tax authorities of a Member State from

being able, unilaterally, to subject transactions to value added tax treatment different from that under which they have already been taxed in another Member State.

2. Article 33 of Directive 2006/112 must be interpreted as meaning that, when goods sold by a supplier established in one Member State to purchasers residing in another Member State are delivered to those purchasers by a company recommended by that supplier, but with which the purchasers are free to enter into a contract for the purpose of that delivery, those goods must be regarded as dispatched or transported ‘by or on behalf of the supplier’ where the role of that supplier is predominant in terms of initiating and organising the essential stages of the dispatch or transport of those goods, which it is for the referring court to ascertain, taking account of all the facts of the dispute in the main proceedings.

3. EU law and, in particular, Directive 2006/112 must be interpreted as meaning that it is not necessary to find that transactions by which goods sold by a supplier are delivered to purchasers by a company recommended by that supplier constitute an infringement of the law when, on the one hand, there is a connection between the supplier and that company, in the sense that, irrespective of that delivery, the company takes charge of some of the supplier’s logistical needs, but, on the other hand, the purchasers remain free to make use of another company or personally collect the goods, since those circumstances are not liable to affect the finding that the supplier and the transport company recommended by it are independent companies which engage, on their own behalf, in genuine economic activities and, consequently, those transactions cannot be classified as abusive. 1287

FORUM

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