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### CRIMINAL CASES

**287** I. Probation is unlawful, if based on the legal qualification, the crime can be punished with more than three years of imprisonment.

II. If based on the legal qualification, imprisonment reaches five years, protection is obligatory, and the hearing may not be held without a defence attorney.

III. The review petition submitted by the prosecution for the accused person, is late, if it is finalised for the accused person, contesting the termination of the proceedings, within six months after the disclosure of the final decision by the Prosecutor General to the prosecution.

IV. The public defender in the review proceedings shall be entitled to preparation fee for his/her remark, if the review request was not prepared by the same, and procedural action (related to public hearing) was not made.                    1318

**288** Vehicular manslaughter is committed by the perpetrator, if his/her endangering behaviour starts the process of reasons, as a result of which vehicular manslaughter is committed. This process of reasons is not interrupted by the fact, if the person in danger fails to choose the most appropriate method of the aversion of the danger, or the fact that the end result was contributed to another person's traffic violation.                    1322

**289** The driver, who intends to turn left may not begin and continue the turn, if his/her vehicle is already being overtaken by another vehicle, thus this shall be checked prior to the turn.                    1326

**290** The crime of embezzlement is committed by the person, who provides for the transport of the fodder, safeguarded by the same and owned by the injured party, and then feeds the fodder to his/her animals. In this case, embezzlement is committed not by way of disposal as own property, but by theft.                    1330

**291** The establishment of culpability with regard to the crime of fraud is unlawful due to the violation of criminal substantive law, if the description of the commission behaviour related to the induction of the injured party to hold or continue to hold a false belief is missing from the facts of the verdict. The causal relation necessary for the realisation of fraud, which would lead to the damage may not be established from the facts of the case by way of the missing description of the deception. The verdict establishing culpability based on such facts violates material law, thus realises a reason for review, and leads to acquittal for the lack of a crime.

1332

**292** I. If the court holds the hearing or the public session, summoning the accused person, who did not waive the right of attendance, not by way of the commander in the law enforcement institution, where the imprisonment is executed in spite of the arrest in another case, but from his/her residential address, and public defender is not assigned in spite of the arrest in another case: (so-called absolute) procedural violation resulting unconditional repeal is committed by the court.

II. The accused party may waive his/her right related to presence at the hearing or public session in the proceedings of second instance.

1335

**293** If in the misdemeanour, the appeal court is the injured party, the chairperson and the judges of the appeal court may not represent the same. If the judges and judicial secretaries of the district court, and the judges of the tribunal report that they cannot impartially judge the case because of the injured party, they shall be excluded from further proceedings. A district court related to another appeal court and for possible secondary proceedings shall be designated in consideration of the injured party.

1337

**294** If the order approving payment in instalments is made subsequent to the transformation of fine to imprisonment – unlawfully –, it shall be regarded as another order made in the subject correcting the same, thus appeal against the same is unlawful. The right of appeal ensured wrongfully by the court – even if it is exercised – shall not mean a review obligation, and there shall be no unlawful appeal.

1338

**295** The law enforcement judge competent in the area of the registered office of the law enforcement institution executing the release shall be competent as a main rule with regard to the judgement of the claim related to damages due to circumstances violating fundamental rights related to a period of imprisonment already passed; nevertheless, an obligatory, special rule related to the law enforcement judge is that at the prisoner's or the defender's request, the law enforcement judge competent in the area of the residential address or actual place of residence of the prisoner shall proceed.

1339

**296** In the event of multiple convictions, upon the decision related to exemption, irrespective of inclusion in the total punishment, the base orders shall be examined separately, this is applicable in the matter deciding competence related to the court that ordered the most severe punishment.

1340

## CIVIL CASES

**297** The legal effect of the agreement and the document made based on the same are not the same. The legal effect of the agreement is that it brings about obligation related to the performance of the service and entitlement to the claim of the service. The legal effect related to the document is the material conclusive force, which is different dependent on the types of the documents. The lawyer defendant editing and countersigning the sale and purchase agreement and the transaction document recording the agreement breaking the same, did not cause the plaintiff's damage occurring with regard to the legal transaction. 1342

**298** In case of enrichment without legal grounds, the enriched party shall not pay the damage incurred by the party enforcing claims – the actual costs –, but the monetary gain detectable at the same. Thus, in the proceedings related to the compensation of unlawful enrichment, the entitled party shall not prove the sum of expenses with regard to the property incurred by the same, but the monetary gain of the enriched person. The amount of financial damage incurred by the entitled party is irrelevant from the aspect of enrichment that occurred at his/her disadvantage. 1345

**299** I. With regard to the lease of a property, the general rules on obligation specified by the Civil Code shall be applicable, unless the special rules of the Apartment Act provides otherwise.

II. The increased usage fee applicable to the former tenant, who does not comply with his/her obligation related to the return of the leased property is not the counter value of the use, but the sanction related to the contractual violation, but cannot be qualified as an obligation related to the payment of penalty, thus its amount may not be decreased. 1348

**300** When land is sold, the enforcement of the claim in civil proceedings, arising from the violation of the right of pre-emption is limited to the case, when the land sale and purchase agreement is not subject to official approval. 1352

**301** If in case of the sale of land, subsequent to the exercise of the right of pre-emption in accordance with the Land Traffic Act, the selling owner's decision is based on the order of those entitled to the right of pre-emption, the remedy of the legal violation may be requested in the proceedings started based on section 6:223 of paragraph (3) of the Civil Code by the auction buyer entitled to the right of pre-emption. 1355

**302** The financial relation of the spouses may be settled by way of an agreement – either comprehensively or for certain assets. In case of a valid agreement, the legal matrimonial property rules may only be enforced subject to the provisions of the agreement: the court may only apply the provisions of the law, if the agreement of the parties does not regulate the issue questioned in the proceedings. 1358

**303** I. The representative of the community of owners registered by the hunting authority shall represent the community of owners.

II. If the right to hunt is used by way of leasehold, the obligation of reasonable management shall be examined based on the selection of the lessee by the lessor. 1362

**304** The court's injunction may not be reviewed. 1364

## ECONOMIC CASES

**305** If the securities account keeper fails to submit the request related to the entry of the dematerialised share in the share book within two days, the shareholder is not prohibited from submitting the request to the manager of the share book. 1366

**306** I. The review of a binding verdict may be requested with reference to a legal violation. The possible violation of the provisions of the government decision may not be examined in review proceedings.

II. Liability for damages shall not directly arise from the fact that in the subject of a public administration decision, which can be contested with a remedy request, a different decision is made in the proceeding of second instance. The expenses and costs related to the submission of a tender – if unsuccessful – shall only fall in the business risk of the bidder, if the tender is judged lawfully. 1368

**307** The legal consequence of the repeal of the decision of the member's meeting amending the articles of association with a binding judicial verdict is that the accepted amendment of the agreement is not suitable for the legal effect in the legal relationship between the company and the members. 1372

## LABOUR CASES

**308** The reason for termination shall be clearly specified in the employer's written notice of termination.

The reasoning of termination is not in compliance with the laws and regulations, if the employer names the employee's inappropriate behaviour – without specifics – in the course of contracting and amendment of the same. The scope of the internal audit on which the measure is based, however is not disclosed to the employee, and the findings of the same are not included in the termination, and the same is only disclosed in the legal proceedings. 1375

**309** Termination with immediate effect by the employer based on section 78, paragraph (1), point b) shall be lawful, if a behaviour or circumstance objectively supporting loss of trust on the employee's side, and rendering the upkeep of the employment by the employer impossible 1379

**310** For the lack of the employee's reference to invalidity due to the failure to put these conditions in writing, the labour contract shall effectively be made with the content expressed verbally, which may include probation. 1384

**311** Section 96, paragraph (2) of the Labour Code specifies that flexible working hours shall be regulated by the employer in writing. 1386

## PUBLIC ADMINISTRATION CASES

**312** In cases of accumulation of wealth, the contest of the reality of the facts is not sufficient in order for the burden of proof to be turned around, as the plaintiff shall also provide evidence refuting the facts of the case, thus doubting the reality of the facts of the case. 1391

**313** It is not the circumstances, which are irrelevant from the aspect of tax liability may, but the change of the facts of the case significantly influencing tax liability, which may result in the termination of the binding force of conditional tax establishment. 1393

**314** With regard to the party acting in person without a legal representative, the court is not obliged to inform the party about the fact that the claim of legal fees is to be submitted before the hearing is adjourned. If the winning party fails to submit its claim for legal costs before the adjournment of the hearing, no legal costs shall be payable. This failure cannot be remedied by way of a request related to the supplement of the verdict. 1400

**315** The examination of the public administration decision different from the content specified therein shall be justified by the court. 1401

**316** In order for the violation of the requirement of equal treatment be established, the matter whether there is a relationship between the protected feature and the stated disadvantage shall be clarified, as otherwise condemnation may not be exercised. 1403

**317** If the Local Government Council of the Curia establishes the legal violation by a local government decree, the repeated passing of the unlawful provision in another local government decree by the local government in the same legal environment is not possible, as legislator rights are especially dangerously abused by the local government. 1407

## **DECISIONS OF THE COURT OF THE EUROPEAN UNION**

### **I. Judgment of the court of 9 July 2020 in Case C-272/19, VQ versus Land Hessen**

Article 4, paragraph (7) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) must be interpreted as meaning that, in so far as a Petitions Committee of the parliament of a Federated State of a Member State determines, alone or with others, the purposes and means of the processing of personal data, that committee must be categorised as a ‘controller’, within the meaning of that provision, and consequently the processing of personal data carried out by that committee falls within the scope of that regulation and, in particular, of Article 15 thereof. 1410

### **II. Judgment of the Court of 16 July 2020 in Case C-81/19, SIA ‘Soho Group’ versus Patērētāju tiesību aizsardzības centrs**

The concept of the “total cost of the credit to the consumer”, contained in Article 3, point (g) of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, must be interpreted as meaning that that concept includes the costs for any extension of the credit, provided that, first, the actual and precise conditions for its possible extension, including the duration of that extension, form part of the terms and conditions agreed between the creditor and the borrower in the credit agreement and, second, those costs are known to the creditor.

**III.** Judgment of the Court of 16 July 2020 in Case C-424/19, Cabinet de avocat UR versus Administrația Sector 3 a Finanțelor Publice prin Direcția Generală Regională a Finanțelor Publice București, Administrația Sector 3 a Finanțelor Publice, MJ, NK

1. Article 9, paragraph (1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a person practising the profession of a lawyer must be regarded as a ‘taxable person’ within the meaning of that provision.

2. EU law precludes a national court, in a dispute relating to value added tax (VAT), from applying the principle of res judicata where that dispute does not relate to a tax period identical to the one which was at issue in the dispute which gave rise to the judicial decision having the authority of res judicata, does not have the same subject matter as that dispute, and where the application of that principle would prevent that court from taking into account EU legislation on VAT.