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### CRIMINAL CASES

**1** I. In case of a crime against gender freedom, it is expected that the accused person protects what the law protects, otherwise their insistence to gender freedom is not real. Thus such violence shall not necessarily be insurmountable in the first place, but suitable for the resolution of the severe resistance of the accused person. Consequently, such violence may only be established in the event of the resistance by the accused person and the severity of the same. Nevertheless, endless defence (resistance) is not expected. The establishment of the severity of resistance is not excluded by the fact, if the accused person does not defend themselves, or stops the defence, because they consider their situation hopeless.

II. In accordance with section 43, paragraph (2) of the Code of Criminal Procedure, the same defence attorney may only proceed in the case of several accused persons, if the interests of the accused persons are not contrary.

The difference may arise from the method of protection (silence, negation, admittance, etc.), the role in the committed crime, but also from any other reason outside of the proceedings; this shall be examined thoroughly in all sections of the proceedings.

If one of the accused persons gives an incriminating testimony with regard to another, but the accomplice denies the commission of the crime, there is conflict of interest. But there is no conflict of interest purely because the accused persons could in theory have submitted a different defence, make a corresponding statement, which could have affected the judgement of their action more beneficially. If such defence is not presented by the accused person, and his/her testimony did not contrast with his/her accomplice, there shall not be conflict of interest. 20

**2** The statement of facts objectively suitable for damaging one's reputation may not be unlawful, if it happened in the lawsuit, or any other legally regulated (official) proceedings, in the course of the enforcement of a right, or an obligation, in connection with the substance of the case constituting the subject of the given proceedings. Such are for example the performance of reporting, notification and testimony obligations. 23

**3** I. The crime of the obstruction of official procedures specified in section 242/A, paragraph (1) of Act number IV of 1978 is in the phase of attempt, if the passive subject of the action does not practice the targeted behaviour in spite of the violence exerted by the accused person. Nevertheless, with the exertion of violence, the attempt is ended, thus voluntary withdrawal may not be established.

II. Reference to the mistaken qualification of the act, the violation of other rules of the Criminal Code may only be effective in the review, if it results in the imposition of an unlawful punishment. 25

4 If the perpetrator realises that he/she is unable to perform, but still enters into new agreements, he/she misleads the contracting parties and exhausts the legal facts of the case.

Conclusion drawn for the accused person's consciousness is factual. Conclusion drawn for wilfulness, negligence and the method of the same as well as culpability are legal evaluations, and thus legal matters. 27

5 I. Criminal organisations and criminal associations are different legal institutions. With regard to the crime of budgetary fraud, the exclusion of unlimited mitigation is related to criminal associations out of social commission forms. Based on the principle of nulla poena sine lege, this legal provision may not be applied to the perpetrators within a criminal association with this analogy. Thus with regard to the accused person in a criminal association – if the further legal conditions are met – in accordance with section 396, paragraph (8) of the Criminal Code, the unlimited mitigation of the punishment is possible.

II. The testimony of the accused person made at the preliminary hearing is a piece of evidence, which can be used later too. Thus, the hearing of the accused person can be ignored during the proceedings. The hearing of the accused person in the preliminary hearing is a source of evidence acquired lawfully. In case the approval of the agreement is refused, there is no legal option for the use of evidence acquired from such testimony in the criminal proceedings. Thus, the statements made in the testimony may further be used as evidence in the proceedings.

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6 Limited appeal against the imposition of penalty opens the review rights of the court of second instance for the entirety of the related provision. The prohibition of aggravation is released without limits, if the appeal is submitted against the accused person. On the other hand, if an appeal is lodged against the accused person, the violation of the prohibition of aggravation may not be an issue irrespective of the part of the punishment it is related to. 39

7 The verdict made in the subject of summary punishment, declining summary shall not be a definitive decision, thus there is no legal option for review. 41

8 If the applicable facts of the case do not clearly indicate whether the accused person violated any traffic rules, it leads to the violation of substantive law, because based on the facts of the case specified in the binding verdict, the issue of culpability cannot be specified.

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9 I. The court conducts lawful proceedings in the absence of the accused person against the accused person, who is located at an unknown address and fails to exempt him/herself from the absence at the hearing, in accordance with the relevant rules on special proceedings.

II. If the court passes its verdict of first instance in the absence of the accused person, and the measures related to the search for the accused person are successful, in accordance with section

752, paragraph (1) of the Code of Criminal Procedure, holding the hearing in the absence of the accused person constitutes an unconditional procedural violation. 46

## CIVIL CASES

**10** I. Proceedings related to the protection property, except for the fundamental case is proceedings related to right in rem (property), and because the value of the property cannot be determined, exemption depending on the limit of value cannot be applied.

II. The fact that the court of first instance and the court of second instance got to the same substantive law based on different procedural law shall not exclude the establishment of the fact that the court of second instance approved the verdict of the court of first instance with reference to the same legal provision and legal justification, thus an application related to the approval of review shall be submitted for the sake of the justification of the review request. 51

**11** I. The family law effects of life partner relationship regulated as law of obligations, life partner alimony and the use of apartments by life partners are subject to the independent principles of family law, thus a fundamental guiding principle is that family law relationships are to be settled equitably considering the protection of the weaker party in the matter of enforcement of rights.

II. The following would violate a principle: if after cohabitation of 28 years and the raising of three children, in the joint apartment acquired during cohabitation, due to the defendant's arbitrariness, the plaintiff excluded from management would not even be entitled to the right of use. 53

**12** When determining the amount of allowance substituting the amount enforced due to the loss of a relative, the amount of widow's pension may not be taken into account. 56

**13** The lessor may not derail the notification of the notice, if the address of the apartment used for actual residence, different from the leased property, not used for a regular residence is notified to the lessor by the same. The notice sent to this address by the lessor is suitable for effecting a targeted legal effect even, if in the lease agreement, the parties agreed in a delivery protection related to the letters to be sent to the address of the leased property. This is in line with the requirement of cooperation obligation and the principle of lawful legal practice. The defendant may refer to the continuation of the lease against the evacuation application, thus the establishment of the same in the counter-application is not necessary in order for the defence of the defendant's rights against the plaintiff. 58

**14** Practice right is a property right related to a person, but shall only give entitlement for the practice of family medicine along with an agreement related to the performance of duties. The local government is not obliged to enter into an agreement with the family doctor having the right of practice, as it is entitled to select those with which it enters into an agreement related to the performance of duties. 61

**15** If the owner is obliged towards several entitled parties with regard to the transfer of the property, the party whose property rights are entered in the property registry shall receive the property right. 65

**16** Assignment is the transfer of the obligation; thus the provisions of the old Civil Code shall be applicable for the assignment of the obligation arising from the obligation valid upon the entry into effect of the Civil Code. The obliged party may not refer to the invalidity of the assignment agreement related to the obligation, if no special circumstances are specified, based on which the party to which it is obliged to perform is significant. The legal declarations establishing the assignment agreements shall be interpreted in accordance with section 205, paragraph (1) of the Old Civil Code and section 207, paragraph (1) of the Old Civil Code. Liability for damages is not subject to the court sentencing the managing director in the case of property crime. 66

## **ECONOMIC CASES**

**17** The contractual provision, which allows the immediate termination of independent pledge, founded with the purpose of guarantee is not unfair for the purpose, due to which – in accordance with the dispositive regulation related to loan relationship, and the loan agreement made between the parties – the loan agreement may be immediately terminated. 71

**18** If the party declares in the appeal submitted against the verdict refusing the appeal that the appeal is suitable for substantive deliberation, but fails to clearly indicate the request for the change or repeal of the verdict, the appeal is suitable for judgement for the lack of other reasons. 74

**19** Review proceeding may not be conducted against the order refusing the application related to the conduct of supervision proceedings on lawfulness. 75

**20** If legal representation is obligatory in a lawsuit, the association established with the purpose of representation may perform representation, if separate law entitles them to do so. With regard to non-obligatory representation, a representative may act in the lawsuit of the member of the association, if the lawsuit is especially related to the task specified in the statutes as a representation purpose of the organisation. 75

## **LABOUR CASES**

**21** When determining whether the negotiation and correspondence after the change of promotion related to the change of the defendant's place of work are regarded as the maintenance of the defendant's offer, and the constraints of the defendant's offer, or as the unilateral – unlawful – amendment of the offered change of the promotion, the definitive significance lies not in the fact that the plaintiff was not yet at work during his/her vacation in the member institution unilaterally designated for the same, but in the fact that in the last legal declaration of the defendant sent to the plaintiff, the finalisation of the decision related to the promotion was clarified. 77

**22** I. The employee, by refusing the receipt of the notice, deprives him/herself from the option of knowing the remedy deadline.

II. The length of judicial vacation shall not be included in the term for bringing actions [section 287, paragraphs (1)–(4) of Act number I of 2012 on the Labour Code]. 80

**23** In accordance with section 6:70, paragraph (2) applicable based on the authorisation specified in section 31 of the Labour Code, the agreement is to be regarded written even if the declarations of all parties are not included in the same document, but the legal declarations of the contracting parties put in different documents jointly include the mutual and identical will of the parties.

II. In accordance with section 15, paragraph (4) of the Labour Code, unilateral legal declaration becomes effective by way of communication of the same with the addressee, and – unless otherwise specified by the law – may only be amended or withdrawn with the addressee’s approval. 82

**24** In case of employees incapable of work for a long time, increased cooperation is expected from the employer with regard to the certification of absences. The weight of the violation of obligations in the late submission of employer certificates may be judged by the examination of the previous behaviour of the employer. 86

### **PUBLIC ADMINISTRATION CASES**

**25** The members of financial institutions are legally responsible for the unlawful situation, but may be exempt from responsibility with the proof of what may be generally expected with regard to status.

The legal regulations related to the members of the board of directors may not be referred to, when determining responsibility, as they are impossible requirements. 91

**26** If the law specifies separate independent responsibility facts, and the fine is imposed at a different legal title, one may only be exempt from the payment obligation related to the fine, if the law expressly provides for the same. 94

**27** In the proceedings related to the deletion from the registry or the entry into the registry, the hunting authority shall examine whether the party submitting the application is in compliance with the provisions of the hunting act and the regulation related to the performance of the same, the application includes the appendices specified therein, and if so, deletion from or entry into the registry shall be ordered.

The hunting authority is not entitled to judge the origination and termination of the lease agreement in accordance with the rules of civil law. 97

**28** Section 111, paragraph (2) of the Act on Attorneys-at-law provides for discretion with regard to the ordering of the performance of disciplinary punishment. The factors of deliberation are not specified in section 111, in this scope, the deliberation factors specified in section 109, paragraph (1) are not applicable. 101

**29** There may be independent remedy against the decision repealing the agricultural aid decision, failing which the lawfulness of withdrawal may not be disputed in the course of the ordering of retention. 105

**30** In negligence proceedings, the application shall include those specified in section 128, paragraph (3) of the Code of Administrative Litigation, for the lack of which the court shall order the remedy of deficiencies. 109

**31** Pending cases sent from the public administration and labour courts to the tribunals may not be regarded as new cases, thus lack of jurisdiction of tribunals may not be established with reference to the competence rules in effect from 1 April 2020 of the Code of Administrative Litigation. 110

**32** I. Allowance elements, which was received by the defendant in violation of section 101, paragraph (4) of Act number XLIII of 1996 on the Service Status of the Professional Members of Armed Forces, or without a legal authorisation, shall not be included in the allowances to be established upon the categorisation to be performed upon the entry into effect of Act number XLII of 2015 on the Service Status of Professional Members of Law Enforcement Agencies on 1 July 2015.

II. For the lack of the establishment of the verdict and the identity of rights and facts, the legal standpoint previously explained shall not mean a judged thing, and shall not bind the court. 111

**33** Act number I of 1998 on road traffic took the regulation on plants endangering the safety of traffic out from the scope of local public affairs, which excludes local governments from the passing of regulations with regard to the removal of plants due to traffic safety issues. 117

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

**I.** Judgement of the Court of 29 October 2020 in case C-243/19 (A versus Veselības ministrija)

1. Article 20(2) of Regulation number 883/2004/EC of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, read in the light of Article 21(1) of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding the insured person's Member State of residence from refusing to grant that person the authorisation provided for in Article 20(1) of that regulation, where hospital care, the medical effectiveness of which is not contested, is available in that Member State, although the method of treatment used is contrary to that person's religious beliefs.

2. Article 8(5) and (6)(d) of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, read in the light of Article 21(1) of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding a patient's Member State of affiliation from refusing to grant that patient the authorisation provided for in Article 8(1) of that directive, where hospital care, the medical effectiveness of which is not contested, is available in that Member State, although the method of treatment used is contrary to that patient's religious beliefs, unless that refusal is objectively justified by a legitimate aim relating to maintaining treatment capacity or medical competence, and is an appropriate and necessary means of achieving that aim, which it is for the referring court to determine. 119

**II.** Judgement of the Court of 28 October 2020 in case C-321/19 (BY and CZ versus Bundesrepublik Deutschland)

1. Article 7(9) of Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures, as amended by Directive 2006/38/EC of the Parliament and of the Council of 17 May 2006, must be interpreted as meaning that costs related to traffic police do not fall within the concept of ‘costs of operating’ within the meaning of that provision.

2. Article 7(9) of Directive 1999/62, as amended by Directive 2006/38, must be interpreted as precluding the weighted average tolls from exceeding the infrastructure costs of the infrastructure network concerned by 3.8 percent or by 6 percent as a result of what are not insignificant calculation errors or because costs that do not fall within the concept of “infrastructure costs” within the meaning of that provision have been taken into account.

3. An individual may directly rely, before national courts, on the obligation to take into account only the infrastructure costs referred to in Article 7(9) of Directive 1999/62, as amended by Directive 2006/38, that is imposed by that provision and by Article 7a(1) and (2) thereof, against a Member State where that Member State has failed to comply with that obligation or has failed to transpose it correctly.

4. Directive 1999/62, as amended by Directive 2006/38, read in the light of paragraph 138 of the judgment of 26 September 2000, *Commission versus Austria* (C-205/98, EU:C:2000:493), must be interpreted as precluding an excessive toll rate from being justified *ex post* by a new calculation of the infrastructure costs that is produced in the context of judicial proceedings.

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**III.** Judgement of the Court of 21 October 2020 in case C-529/19 (Möbel Kraft GmbH & Co. KG versus ML)

Article 16(c) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council must be interpreted as meaning that the exception to the right of withdrawal laid down in that provision may be relied on against a consumer who has concluded an off-premises contract for the sale of goods which are to be made to his or her specifications, irrespective of whether the trader has begun to produce those goods.

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**IV.** Judgement of the Court of 15 October 2020 in case C-778/18 (Association française des usagers de banques versus *Ministre de l'Économie et des Finances*)

Article 12(2)(a) of Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation number 1093/2010/EU must be interpreted as precluding national legislation which authorises a lender to require a borrower, when concluding a credit agreement relating to immovable property for residential use, as consideration for an individual advantage, to deposit all his or her salary or similar

income on a payment account opened with that lender, irrespective of the amount, maturities and duration of the loan. However, that provision must be interpreted as not precluding national legislation under which the duration of the deposit required, where it does not relate to the borrower's entire income from employment, may be of up to 10 years or, if it is shorter, the duration of the credit agreement concerned.

2. The concept of “charges” or “fees”, within the meaning of Article 45(2) of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, Article 55(2) of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation number 1093/2010/EU, and repealing Directive 2007/64/EC, and Article 12(3) of Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, must be interpreted as not including the loss of an individual advantage offered by a lender to a borrower as consideration for the opening of an account with that lender for the purpose of depositing his or her income in the context of a credit agreement, caused by the termination of that account.