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COMPLAINT COUNCIL RELATED TO THE UNIFORMITY OF THE LAW

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CRIMINAL COLLEGE

325 The establishment of the defendant's guilt in the crime of endangering others in road traffic, if from the facts of the final judgement, the realisation of direct endangerment, and the defendant's wilfulness related to causing the same are not prevalent. 1763

326 The application of certain examination by the doctor, the provision of health care services, the decisions made during the selection from among the same are necessarily in connection with the activity provided for or for the purpose of the business organisation, and as such, the acceptance of the bribe can be put in the facts of the case. From the aspect of the realisation of the crime of the acceptance of the bribe, with regard to the commission behaviour based on the facts of the case, the provision of the basic activity by the doctor (health care worker) (doctor-patient relationship, outpatient and inpatient services) and the budgetary organ (economic organisation), the business activity, civil law relations may not be objected with one another. On the contrary, these two are closely related. 1767

327 In the proceedings of second instance, in the event of the appeals giving grounds to complete review based on section 590, subsection (10) of the Code of Criminal Procedure, only the crime violating the same legal facts shall be qualified as the same crime. The expression "same", shall not be the same as the closely related crimes, because it would result in a wider interpretation, which contrasting the legislator's intent, would make possible in every case, based on the individual examination of the "relation" – in spite of the reported limited appeal – the entire review. The same crime may not be interpreted as the same action, that is not the facts of the story, but the facts of the case shall be the same. 1775

328 I. The behaviour that in the course of the police officer taking official measures, going beyond the purpose of the measure, takes a picture of the person under the measures, as a "trophy", in a humiliating way, for the purpose of private goals, sharing this picture in a Messenger group, violating his/her human dignity, and the public trust in the legality of the operation of the police department as a state organ. Such abuse of official power causes unlawful harm to the person under such measures, thus is suitable for the establishment of abuse of power.

II. All measures, procedures, which appear formally legal, shall mean the improper use of the rights related to the official position shall fall in the category of the commission behaviour of the abuse of power. With regard to the purpose, the condition of the action is the intent related to causing unlawful harm or gaining unlawful benefits. The harm or benefit is unlawful, which using the official position of the perpetrator, could not have been performed without the option

provided by the official proceeding, and for the causing or gaining of which there are no legal grounds. 1781

329 The judgement whether a document is regarded public document or private document, is not a fact of the story, but a legal evaluation, consequence drawn from the facts of the story. Section 630, subsection (2) of the Code of Civil Procedure specifies that subheading 94 shall be applied for documents and copies made on or after 1 January 2018. 1788

330 If there are no contradictions between the primary (shown in the external world) and secondary (on the level of one's consciousness) facts, the facts of the case do not imply any contradictions, which would impede the establishment of the legal qualification of criminal responsibility or the action and would result in a violation of material law. In such a case, the factual (not legal) consequence related to the motive of the defendant's action shall not be questioned in the review proceeding. Thus, if based on the applicable facts of the case specified this way, the violation against the defendant was exerted by way of unlawful appropriation, the qualification of the action as robbery is lawful. 1791

331 The summons shall not be regarded regular, if the defendant is not even actually at the given address, but complied with the obligation to report his/her temporary place of residence, yet the summons was not sent to such address. 1796

332 The approval of the substitute private prosecutor related to the appeal reported by the legal representative shall not require a formal statement. The legal representative's appeal is lawful, if in the case, there are no questionable data in the unity of the legal actions of the substitute private prosecutor and the legal representative. If the will of the substitute private prosecutor is not clear, the same shall be examined, even by way of the acquisition of the written declaration by the substitute private prosecutor. The appeal by the legal representative shall only be regarded as coming not from an entitled party, if the approval is not putative, but an actual lack can be established. 1797

CIVIL COLLEGE – CIVIL CASES

333 I. If from among the lands constituting the subject of the lease, the owner transfers the ownership rights of only certain ones, with regard to the properties where the subject was changed, based on the law, all rights and obligations arising from the lease agreement shall be transferred to the new owner. In such a case, new lease agreement is not made with the change of ownership, and the original obligation is continuous, and it only becomes of several subjects. That shall only be regarded as a new agreement from the aspect of the application of section 53/C, subsection (2) of Act number CLXXVII of 2013 on certain transitional provisions related to the entry into force of the Civil Code, the applicability of the Civil Code.

II. The divisibility or indivisibility of the service shall determine the legal consequence of several subjects, thus the legal indivisibility of a service shall not exclude the option of the transfer of all rights and obligations arising from the agreement.

III. Based on the lease agreement of several subjects, the content of which is the same as the previous, certain lessors may separately initiate the amendment of the lease fee of the property of which they may dispose. 1800

334 The mistaken designation of the final measure, itself, shall not result in the invalidity of the final measure, but – if necessary – opens the road to the proof of real data. 1806

335 The additional rule on legal interpretation specified in Article 28 of the Fundamental Law shall not exclude the application of other legal interpretation methods, but the result of these shall be compared to the purpose of the law and that of the Fundamental Law. The insurance company may claim the payment of the damages paid by the same, from the driver, the driver's licence of which did not provide the right to drive upon the causing of the damage – due to the lapse of the date specified at the medical examination. 1809

336 The termination of the legal status of the budgetary organ of the university that has previously been maintained by the state, and the transfer of the same to the maintenance of a foundation shall not result in the termination of the legal status of the same as a higher education institution and the related legal personality, that is the change of maintenance shall not affect the legal status of the university. 1812

337 The entitled party, by way of his/her approving statement, shall regard the party presenting the same as the one entitled to receive the performance, except, if the contrary is clear from the circumstances. The parties may deviate from the method of the performance of the obligation meaning the performance of financial debt with the mutual will of the parties without the amendment of the agreement, and the sum, without transfer may be paid, and shall result in proper performance. 1813

338 The estimate of damage made by the expert acquired in the estimate proceedings related to the establishment of the agreement between the person entitled to hunt and the defendant responsible for the damage before the notary, itself, is not necessarily suitable for the establishment of the motion, if the report of the estimate of game damage is not in compliance with the legal requirements. The report may not be used as the basis of later analysis, without the work performed by the expert, the estimate of game damage, the methodology of the estimate of harvest, and the most detailed documentation of the same, and the long-lasting recording of the information, and the data related to the areas to which the game damage is related. 1818

339 In spite of the approval reason not allowing for deliberation, review may not be approved, if the final verdict differs from the decision published previously by the Curia, but the legal standpoint specified in the latter cannot be directed, because the Curia passed a different decision ensuring the uniformity of the law. 1820

340 In the proceedings related to the enforcement of the need arising from the contractual legal relationship, by the business, against the consumer, jurisdiction condition may not be enforced based on the agreement of the parties (that is “submission”) against the exclusive jurisdiction rule based on the defendant's residential address. 1823

CIVIL COLLEGE – ECONOMIC CASES

341 In a way specified in the general terms and conditions, usual in the applicable trade, the determination of prices given by way of reference to stock market prices shall not be regarded as an unusual condition, thus such condition shall be regarded as the part of the agreement even

without a separate call for the same. In sale and purchase type agreements, the purchase price shall not only be regarded as specified, if the agreement includes the actual number, but also, if the purchase price can be calculated upon performance based on the other provisions of the agreement. 1825

342 In the proceedings related to the review of a corporate decision, the verdict declining the application related to the suspension of the execution of the corporate decision may be appealed. 1830

CIVIL COLLEGE – LABOUR CASES

343 I. The employee's incapacity to work can be established even after the period for sick pay is over.

II. The employee's readiness and ability for performance may be interpreted in the scope of the frames of contractual work position. The employer shall be obliged to employ, if the employee is ready and able to perform. 1832

344 If the termination of the employment violated the principle of equal treatment, the claim for tort is well grounded. 1839

PUBLIC ADMINISTRATION COLLEGE

345 When establishing the basis of fee specified based on the difference of market value, with regard to the acquisition of each and every apartment, only the value of one apartment can be applied, due to which it is not possible to combine the fee bases. 1843

346 If the party makes an acceptance declaration related to the exercise of the right of preliminary lease, the document verifying the right of preliminary tenancy shall be attached. If the legal declaration is not attached, the agricultural administration body may not substitute the acceptance declaration with query from the records. 1846

347 If a separate act specifies that the defendant's decision may not be changed in certain cases, this shall bring about the fact that the separate act makes possible the change as a main rule.

The operative part of the judgement and the justification shall be logically aligned, and the justification shall justify the operative part reasonably. 1848

348 If the judgement to be made in the lawsuit establishes the nullity of the sale and purchase agreement, the court shall be obliged to raise attention of the contracting parties to enter into the proceedings as stakeholders, and if they do not wish to do so, or fail to make a statement, based on section 20, subsection (6) of the Code of Administrative Litigation, the court shall be obliged to put them in the proceedings as stakeholders on the defendant side. 1853

349 The property administration of first instance is not in violation of the law, when the agreement found in the records is used upon the judgement of the property registration application. 1854

350 The termination of the public administration decision contested when recognising the reason for nullity may not be ignored. In this regard, the principle of being tied to the order sought is not enforced. 1861

351 The unilateral amendment of the appointment is a disproportionate harm, if the public servant, during his/her performance of work, is subject to circumstances, which could have aggravated an existing disease. 1864

352 The Council of the Local Government of the Curia shall reserve its practice based on which in the legal relationships related to the use of public areas, the local government takes part not as a normal private contracting party, but as the owner of public power, as it is also the regulator of the relationship which it is affected by. The guarantee rights of the other subject of the agreement, may only be enforced by public means, thus cases related to the use of public spaces shall be qualified as cases of the local government. The local government may apply civil law elements, but only built in the public administration relation. The regulation may not mix the elements of public and private law relationships just for the purpose of practicability. 1867

DECISIONS OF THE COURT OF THE EUROPEAN UNION

I. Judgement of the court of 6 October 2021 in criminal case C-35/20, PPU against A 1871

II. Judgement of the court of 6 October 2021 in case C-882/19, Sumal, SL versus Mercedes Benz Trucks España, SL 1876

FORUM

Gábor Szilágyi, Observations in the bifurcation nature of Hungarian patent rights 1884