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INGRID LANCZOVÁ
Trnava University in Trnava, Slovak Republic

HISTORICAL AND CURRENT PERSPECTIVES ON THE CRIMINAL CODES AS GUARANTEES OF LEGAL SECURITY IN SLOVAKIA

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Abstract

The author describes two crucial periods in Slovak legal history from the perspective of the principle of legal security in criminal law. Firstly, the 19th-century Criminal Code, known as the Csemegi Code, is at the center of attention as it ended the centuries-long legal insecurity resulting from the lack of criminal law codification. The author analyses its leading principles as the safeguard of legal security. In contrast, the second part of the article focuses on the second codification of criminal law in Slovak legal history, the Criminal Code of 1950. The author demonstrates how the totalitarian regime destroyed the principle of legal security in criminal law in Slovakia, only slowly rebuilding it after the death of Joseph Stalin through amendments in 1956 and new legislation in 1961.

The current Slovak Criminal Code and Criminal Procedure Code have been in effect since 2006. In conclusion, the author draws attention to how the latest changes in criminal law codes caused turbulences and worries over the principle of legal security in Slovakia.

Keywords: *Slovak Legal History; Legal Security; The Hungarian Criminal Code of 1878; The Czechoslovak Criminal Code of 1950; Amendments of 1956; Humanisation of Criminal Law in 1961; Amendment of Effective Slovak Criminal Code*

Introduction

The concept and meaning of legal security in criminal law is well defined by Professor Jadwiga Potrzeszcz who states that *legal security is a state achieved by law established in general, and in particular by means of criminal law, in which human life's goods and interests are protected in the most comprehensive and effective possible manner (and) harmonizes properly with the most important functions of criminal law, namely with a protective function and a guarantee function.* (Potrzeszcz, 2018, p. 301)

In accordance with the aforementioned definition, the author aims to introduce Criminal Codes that were in effect in the territory of present-day Slovakia, shedding light on whether they were guarantees of legal security in the state or not, i.e., whether they protected *human life's goods and interests in the most comprehensive and effective possible manner.*

The Overcoming of Legal Insecurity Through the First Criminal Law Codification

The first codification of substantive criminal law in the territory of Slovakia dates back to 1878 through two Criminal Codes, i.e., Act No. V of 1878 on Felonies and Misdemeanours and Act No. XL of 1879 on Petty Offences. The first codification of procedural criminal law dates back to 1896 through Act No. XXXIII of 1896 – Criminal Procedural Code.

According to the introductory provisions of the *General Reasoning* in the explanatory report, the submission of the Draft Act No. V of 1878 did not require *justification from the point of view of necessity.* Already in 1790, the National Assembly recognized the urgent need to adopt a Criminal Code, for which three independent national committees submitted three separate proposals to the National Assembly. Among them, already the first one (of 1795, author's note) had, in the opinion of László Szalay, *significant advantages from the point of view of public law and systematics and reflected the humanistic direction* that spread in the Hungarian Kingdom at the end of the 18th century. Further on, as Szalay said, the one of 1843 *will forever remain in a proud memory as a great progress since 1827 in recognizing the advantages of Western civilization, the legal requirements, humanism, and scientific progress.*

According to the explanatory report, the Criminal Code was supposed to resolve the state of legal uncertainty, as various sources of law applied in the territory of the Kingdom of Hungary, Hungary itself, or even within one Hungarian county. Until the codification of criminal law, these sources were mainly the manual of Hungarian customary law called Opus Tripartitum from 1514, the Austrian Praxis Criminalis Ferdinandea from 1656, Hungarian Draft Acts from the 18th and 19th centuries, the Austrian Criminal Code from 1852 and the Provisional Judicial Rules of the Judexcurial Conference of 1861.

Typical features of the Hungarian criminal law before the codification were mainly legal particularism (different legal rules applicable to various social classes which lasted until 1861);[1] the private nature of criminal law (except anti-state crimes); the religious dimension of the crime (crime as a sin, criminal acts such as witchcraft recognized until 1768,[2] etc.); the possibility of redemption from the death penalty by paying the compensation for death, the so-called homage,

the amount of which depended on the agreement of the parties or the decision of the conciliation court; symbolic corporal punishments (e.g., cutting off a thief's hand); the penal responsibility of the landowner or family for persons in their power; broad competences of the judge in the inquisition process (the judge was both an investigator and a prosecutor); while the principles of *nullum crimen sine lege* and *nulla poena sine lege* were only introduced by Joseph II. Habsburg at the end of the 18th century. (Mosný, Laclavíková, 2010, pp. 83-85).

According to the explanatory report, the Minister of Justice demanded to preserve the principles of the proposal from 1843, but he did not consider the proposal to be absolutely satisfactory. He also criticized the subsequent proposal from 1870 and did not recognize it as suitable for submission to the legislature. Therefore, the Minister of Justice entrusted a designated member of the Ministry with further activities in this matter, who completed the first version of the proposal in August 1872, which went through further amendments due to comments in the political press and legal literature and the opinions of the expert commission.

This member of the Ministry of Justice was Professor Charles Csemegi (1826-1899*). His life and personal qualities predestined him for this role. A highly cultured and scientifically minded lawyer of modest bourgeois origin, he was well known as a freedom fighter and committed liberal. Although he was not a professional politician, given his age and his role in public life, he had the trust of František Deák (the first Hungarian Minister of Justice, known as the wise man of the nation – author's note). He was not a university scholar but had full recognition at the law school. At this time, he was not even a novice in the field of codifications.* (Horváth, 2001, p. 28).

Charles Csemegi (Hungarian form of his birth-surname Nasch) obtained his law degree in Pest in 1846 and had knowledge of French, German, Latin, Italian, Greek, and English. He was a military commander in the Hungarian War of Independence of 1848-1849. Since 1850, he was a practicing lawyer. Since the Austro-Hungarian Compromise of 1867, he worked at the Ministry of Justice. Between 1872 and 1879, he was the Secretary of State. He was active both politically, in the Deák´s Party and Liberal Party, and in codification efforts after 1867, with peaks in his legislative work in 1878 (Criminal Code on Felonies and Misdemeanours), 1879 (Criminal Code on Petty Offences)

and 1896 (Criminal Procedural Code). His work and personality enjoyed high esteem both in Hungary[3] and abroad[4]. Professor Csemegi did not only create laws but applied them in practice as he was the President of the Hungarian Royal Supreme Court between 1879 and 1893. Until 1896, he was the President of the (still-existent) Hungarian Lawyers´ Association, which he founded in 1879. He was awarded the Order of Saint Stephen of Hungary, an order of chivalry founded in 1764 by Maria Theresa. Aged 72, he died in 1899.

The Criminal Code is perhaps best introduced through its structure, comprising of Part I. *General Provisions* and Part II. *Classification of Felonies and Misdemeanors and Punishments*[5] and its characteristic features:

- the division of crimes into three categories (felonies, misdemeanours, petty offences)
- public nature (The explanatory report used the words *sharply defined public nature of the criminal law*.[6] However, the Code also recognized private wrongs. Only the injured party or the legal representative could initiate the investigation of the torts such as violation of the secrecy of correspondence, disturbance of domestic peace, theft of food, light bodily harm, etc.)
- humanization (corresponding to contemporary European conditions and manifesting itself in imprisonment and monetary punishment as the recognized types of punishment, although in addition to the death penalty, which, as also follows from the explanatory report, was the subject of controversy, criticism, and, naturally, also fears of legal uncertainty. Csemegi himself reasoned for the need to preserve the death penalty: *Until other Western European states take the first steps, until the situation in Hungary from the point of view of public security continues to be unstable, as it has been since the 1860s, and until jurisprudence or ethics solve the issue.* (Horváth, 2001, p. 33). At the same time, one shall note that it was possible to impose the death penalty only in two cases, namely for the crime of intentional murder according to Sec. 278 and for the crime of high treason according to Sec. 126 Subsec. 1.[7] Furthermore, *it is worth noting that between 1895 and 1900, the judges tacitly agreed not to impose a single death penalty.* (Horváth, 2001, p. 34). Moreover, not only in the case of the consideration of the death penalty, manifested the explanatory

report a visionary character. For the future, it assumed a national and international development of views on some questionable or controversial issues, for example, the division of crimes into three categories, life imprisonment, types of imprisonment in terms of the methods and conditions of their execution with regard to justice and the interests of the state, as well as determining the maximum length of their duration and their minimum, determinate and indeterminate punishments or transformation of punishments and their limits. All of this and more was supposed to be the subject of an expert discussion between the representatives of the humanities, statesmen, lawyers, humanists, doctors, and prison directors.)

- late liberal capitalism (see Šmátrala, 2014)
- classic dogmatic school of criminal law approach under which the punishment should be proportional to the committed act and caused damage. *Serious crimes – serious punishments, mild crimes – mild punishments* was one of the leading principles, according to the explanatory report. It found its manifestation even in the corresponding four-classification of prison sentences (workhouse, state prison, house of detention, house of correction). Their detailed regulation was in Sec. 22 et seq. of the Criminal Code instead of in the prison regulations – which is just one example of why people spoke of a concentrated and even monographic character of the Code or nicknamed it *a law only for lawyers*. (Mosný, Laclavíková, 2014, p. 151).
- *Vereinigungstheorie* – combined theory of punishment, uniting absolute and relative theories and thus emphasizing the retributive and preventive function of punishment. From the explanatory report to the Criminal Code, we provide the following excerpts of its second part called *Principle*:

"*…László Szalay, in several places of his famous treatises on the Hungarian Criminal Code Draft of 1843, states justice and the protection of legitimate interests as the basic principles of the Draft. They are clearly expressed in the title of the Act No. V of 1840 (punishment and reformation – author´s note). The same is in the national committee´s report to the Draft, especially in the minutes of the committee's deliberations on prison regulations. The leading principle of this Draft is the same as that of the Act No. V of 1840, and, according to our great scientist, as of the Draft of 1843. It is not an*

*absolute theory or a relative theory; it is not a principle of moral justice in itself, and therefore not merely a punishment; but it is neither utility in itself, that is, neither deterrence, nor prevention, nor independent improvement, nor any of the separate goals known as the exclusive goals of relative theories. The present Draft and its predecessor have one leading principle, i.e., the combination of justice and utility; the combined principle of punishment served as a direction in its creation and establishment: la theorie complexe, as Haus calls it, – Die Vereinigungstheorie, as German criminologists, including Berner, call it. Absolute justice, the theory of moral justice, cannot be accepted as a leading principle of criminal law; for if everything that is to be considered from a moral point of view, that from such point of view deserves rebuke or excites moral abomination, comes under the repressive authority of the civil power; then it would be necessary to punish the wrong intention itself and even more the actions leading to the commission of the crime… the consequence of this principle would be the elimination of the developmental stages of the crime and participation… According to this principle, an unlimited range of acts would be sanctionable… According to this system, says Haus, the state would have the right to punish every violation of morality, even if it did not concern public order; it would have the right to investigate and punish individual immorality and even errors of thought. That would be comparable to the Inquisition and slavery. However, the theory of utili*ty *– public benefit, public interest – cannot be accepted either, on the basis of which punishment is not imposed in order to punish the criminal, and not as required by the seriousness of the violation of the law, but finds the legal basis of punishment in secondary goals abstracted from justice and derives the severity of punishment from these goals. The combined theory is, therefore, the fundamental principle of the civilized world sanctified by science and legislation; that is also our principle!"*

Dualistic Criminal Codes and Criminal Procedure were high-quality works comparable to the best contemporary criminal-law works in Europe that guaranteed legal security in Hungary and later, in terms of their amendments, also in the Slovak part of Czechoslovakia until 1950.

Legal Insecurity in the Czechoslovak Criminal Law During the Communist Rule

Already in 1945, the domestic and foreign policy orientation towards the Soviet Union became evident (see, for example, Art. IV, Par. 2 of the political document called Košice Government Program, a sui generis constitution, which supplemented the Czechoslovak constitution from 1920: *The government will from the beginning implement practical cooperation with the Soviet Union, in all directions – militarily, politically, economically, culturally…*). After the elections in 1946, when the communists won in the Czech countries (the Democratic Party won in Slovakia), and therefore due to the number of inhabitants also from a national point of view,[8] a period of arrests, blackmail, intimidation, and other repressions against political opponents of the Communist Party followed. All of this was additionally approved as legal by Act no. 213 of 1948 Coll. on the Adjustment of Certain Conditions for the Protection of Public Interests.[9] Already this Act made it clear that the ideology became supreme to the universal principle of criminal law described in the explanatory report to the Hungarian Criminal Code. There, Professor Csemegi quoted the Italian lawyer, politician (federalist), and economist Pellegrini Rossi, who said: *The whole of humanity is a witness to a higher, different principle; it recognizes unconditional justice, the existence of which is independent of the material success of our actions; and proclaims an immutable obligation regardless of events, circumstances, time, place, gain or loss; humanity hates crime, even if it is only marginally dangerous.* Csemegi added that: *When the state prohibits an act under the burden of punishment or allows the execution of an act under the burden of punishment, it acts in accordance with its main moral obligation and does nothing else, but rejects the immorality and acts contrary to the legal order, or to the moral order, as well as the inaction of citizens against actions that violate the moral order and threaten the public interest. This task not only excludes but, on the contrary, assumes that the punishment should meet other goals resulting from the relations between the state and society: such as prevention, repression, correction…* The totalitarian state acted contrary to its moral obligation and maintained legal insecurity, mostly through the criminal norms after 1948.

As part of the totalitarian reconstruction of the legal order between 1948 and 1950, Criminal Code No. 86 of 1950 Coll. and Criminal Procedural Code No. 87 of 1950 Coll. came into effect.

Characteristic features of the Criminal Code from 1950 were mainly:

- ideological and social supremacy over the interests of the individual: the purpose of the law and the priority of the protected interests is evident from the order of their expression in Sec. 1: *„The Criminal Code protects the People's Democratic Republic, its socialist construction, the interests of the working people and the individuals and educates to comply with the rules socialist coexistence. The means to achieve this purpose are the threat of punishments, the imposition and enforcement of punishments and protective measures."* They are clearly visible in the second part of the Criminal Code (classification of criminal acts). Its leading principle was the aggravation of the class struggle during Stalinism and the punishment of all external and internal enemies of the communist regime.
- uniformity of crimes in the sense of their non-distinction between felonies and misdemeanors,[10] so that a judge loyal to the regime could decide about their severity from the ideological point of view
- a distorted combined theory of punishment. The primary purpose of punishment (death penalty, prison sentence, corrective measure together with a secondary punishment) was to get rid of the enemies of the working people (Sec. 17 Subsec. 1 Letter a). The purpose of the Act was to be reached through a wide range between minimum and maximum penalty and the vagueness of the provisions, left to the consideration of an ideologically overeducated judge.

Legal insecurity can be demonstrated, for example, in the legal regulation of treason pursuant to Sec. 78 of the Criminal Code, which was a frequent legal basis for the political processes,[11] known as Monsterprocesses.[12]

According to Subsec. 1, who attempted to:

a. destroy the independence or constitutional unity of the Republic,
b. separate a part of the territory,

c. destroy or subvert the people‘s democratic regime or the social order of the Republic, guaranteed by the Constitution, or
d. use violence or the threat of violence to disable the constitutional function of the president or his deputy, the legislature, the government, or the board of trustees shall be punished by imprisonment for ten to twenty-five years or for life. In addition, according to Subsec. 3, Letter f), the perpetrator could be punished with death for *particularly aggravating circumstance* without further specification.

It was possible to impose the death penalty in twenty-two cases, mainly in cases of crimes against the republic and military crimes. For example, it was possible to impose the death penalty for murder only if it was committed against several persons, repeatedly, during a robbery, particularly brutally, or if there was another particularly aggravating circumstance. Therefore, on the one hand, it reduced the possibility of imposing the death penalty for murder compared to the Hungarian regulation but, on the other hand, the vagueness of the formulation of the particularly aggravating circumstance, the ideological superiority, and the high number of crimes punishable with the capital punishment constituted much more of legal uncertainty.

The legal security in criminal law became higher after the death of Stalin in 1953.

The first improvement was Act No. 63 of 1956 Coll., which amended and supplemented Criminal Code No. 86 of 1950 Coll. For example, the amendment canceled some possibilities for imposing the death penalty (in case of a murder of a constitutional official or bodily harm to a constitutional official), replaced life imprisonment with 25 years of imprisonment, established the death penalty as optional (the judge could choose between the death penalty and a 25-year prison sentence), etc.

Act No. 64 of 1956 Coll. on Criminal Court Proceedings introduced some positive changes, too. According to Sec. 335, if a judgment imposing the death penalty became final, the chairman of the court senate, which ruled on the matter in the first bench, had to immediately submit files to the Supreme Court, which was supposed to assess the legality of such a judgment.

The Criminal Procedure Code also introduced the principle of presumption of innocence in Sec. 2 Subsec. 6.

After the declaration of the victory of socialism, the renaming of Czechoslovakia to the Czechoslovak Socialist Republic, and the adoption of a new socialist constitution in 1960, there was a second codification wave during the period of totalitarianism to rebuild the legal order into a socialist one.

Criminal Code No. 140 of 1961 Coll. had its purpose defined in Sec. 1: *"The purpose of the criminal law is to protect the social and state establishment of the Czechoslovak Socialist Republic, socialist property, rights and legitimate interests of citizens and to educate them to properly fulfill their civic duties and to observe the rules of socialist coexistence."* The order and the hierarchy of protected interests thus still point to the distorted ideological dimension of criminal law (e.g., strict protection of socialist property compared to weak protection of private and personal property). Yet, this Code guaranteed the principle of legal security better than its predecessor of 1950. For example, it clarified the term „particularly aggravating circumstance," set the maximum limit of imprisonment at 15 years (however, it changed to 25 years as a result of normalization in the 1970s), did not recognize life imprisonment, designated the death penalty as an exceptional punishment imposable under relatively specific strict conditions, etc.

The Criminal Procedure Code No. 141 of 1961 Coll. recognized similar humanizing principles as the Act of 1956. As a result of normalization, however, the repressive function of criminal law was strengthened again. Nevertheless, the number of death sentences imposed between 1961 and 1990 was 106 (compared to almost 250 in the period of political trials between 1948 and 1953). Furthermore, since 1961, the judges imposed the death penalty almost exclusively for murder, despite turbulent circumstances related to the invasion of Warsaw Pact troops into Czechoslovakia in August 1968. (Fico, R., 1998, p. 60).

Conclusion

Is the Principle of Legal Security "Secure" in Slovakia Nowadays?

The Constitutional Court of the Slovak Republic, by Resolution PL. ÚS 3/2024-112 of February 28, 2024, suspended the effectiveness of Art. I of the Act of February 8, which amends Act No. 300/2005 Coll. – The Criminal Code. The majority of the plenary session of the Constitutional Court decided to suspend the effectiveness of the amendment to the Criminal Code (substantive law part) as a whole. Changes became effective only in procedural criminal law. The amendments were adopted shortly after the new government came to power.

In the following lines, the reader can get acquainted with some criticism of the changes in Slovak criminal law;

European Chief Prosecutor: *"The combination of recent legislative amendments proposed by the Slovak government concerning the Criminal Procedure Code, the Criminal Code, the Act on the Public Prosecutor's Office and the Act on the Protection of Whistle-blowers constitute a serious risk of breaching the rule of law in the meaning of Article 4(2)(c) of the Conditionality Regulation: they would minimize detection of potential fraud affecting the financial interests of the EU; disrupt functional reporting lines established between the EPPO and the Special Prosecution Service; cut the EPPO from the specialized investigators of the National Criminal Agency, without adequate replacement; reroute most of the EPPO cases from the Specialized Penal Court to lower courts, with little expertise in crimes under the competence of the EPPO; and constitute a de facto amnesty in a substantial number of active investigations into fraud affecting the financial interests of the EU in the Slovak Republic. As a consequence the EPPO's ability to effectively investigate and prosecute offences under its competence would be seriously affected and the level of protection of the financial interests of the EU in the Slovak Republic would decrease steeply. In this context, the European Chief Prosecutor also noted that the speed with which the Slovak government intends to proceed with these amendments casts serious doubts as to its compliance with its obligation of sincere cooperation (Article 4(3) TEU). Finally, given that the proposed amendments would decrease the criminal law deterrence as regards*

offences falling under the competence of the EPPO, the Slovak government's intention to fulfil its duty to effectively protect the Union budget (Article 325 TFEU) is also put into question." (European Public Prosecution´s Office, 2023).

European Parliament: "*With 496 votes for, 70 against and 64 abstentions, the European Parliament adopted a resolution questioning Slovakia's ability to fight corruption and protect the EU budget should the reform of the criminal code proposed by the new government of Robert Fico be adopted. MEPs expressed criticism over criminal code revision, whistleblower protection reform, dissolution of Special Prosecutor's Office, they condemned divisive language and plans for new legislation on civil society organisations and expressed worries about planned reform of public broadcaster and media freedom in the country.*" (European Parliament, 2024).

The former President of the Slovak Republic, Mrs. Čaputová filed a complaint at the Slovak Constitutional Court because of:

- *the shortened legislative procedure*
- *legislation allegedly tailored to suspected and accused (or even indicted) persons with bonds to the coalition*
- *violation of the state's positive obligation to effectively punish criminal activity and protect the rights of citizens due to a combination of (i) a fundamental reduction in criminal rates, (ii) an increase in damage limits, (iii) changes in the imposition of suspended prison sentences and (iv) changes in the limitation periods*
- *violation of the rights of the injured to discuss the case without unnecessary delays by abolishing the special prosecutor's office (resulting in more than 1,000 live cases transferred to the General Prosecutor's Office of the Slovak Republic and regional prosecutor's offices)*
- *non-respect of the material core of the constitution (positive commitment of the state to effectively prosecute criminal activity, violation of elementary justice, legal certainty, and international obligations)*
- *specific circumstances related to initiating the proceedings (the challenged law was approved in the parliament on February 8, 2024, in the evening and delivered to the President only six days later).* (Constitutional Court of the Slovak Republic, 2024, pp. 3-4).

Many criminal law experts in Slovakia emphasize the necessity of amendments to the criminal codes but see some problems in the latter amendment, especially the combination of a reduction in criminal rates for property and economic crimes and the lowering of limitation periods. For example, many practicing lawyers consider it necessary to change the current legal regulation of drug crimes, the legal regulation of protective treatment and detention, the imposition of a sentence of house arrest, a fine or a sentence of confiscation of property, the specification of damage (above 266 euros) – which has not changed for 18 years – emphasizing that criminal law should be a means of ultima ratio. Furthermore, many of them even consider necessary the change in the penalty rates in the case of economic and property crimes – because, in qualified bodies of the crime, the sanctions might become as high as in cases of murder crimes, distorting the hierarchy of protected values. Therefore, they consider the amendment of the Criminal Code necessary, however, the Constitutional Court will first have to rule on the constitutionality of the provisions of the current amendment due to reasons stated above.

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Endnotes

[1] Sec. 2: *It is no longer possible to make distinctions in the field of criminal law between nobles and non-nobles, especially with regard to determining the type and amount of punishment, the non-nobles have equal rights with the nobility, and corporal punishment will no longer apply to non-nobles based on existing judicial practice after 1848.* Sec. 3: *Differences in procedural provisions between the nobility and non-nobles, preserved according to the Hungarian laws, are cancelled with full effect for the future, but not in such a way that the nobility is limited in its rights, but, on the contrary, the non-nobles become equal to the nobility. Therefore, those regulations of the old Hungarian laws and court decisions related to investigation and detention, imprisonment and release, guarantees and representation in criminal proceedings, or legal aid, which until now were used only for the nobility, should also apply to non-nobles.* See the Provisional Judicial Rules of the Judexcurial Conference of 1861 (Laclavíková, Švecová, 2016, p. 25).

[2] The Act from 1766 redefined witchcraft as *generally such a vice as when someone appropriates to himself the ability to contact the devil, to maintain relations with him, to enter into an overt or secret contract with him, and with the help of the devil, thus obtained the ability beyond human power and strength, while harming or not someone or something and ascribes to himself the right to commit an abomination of this kind.* (See Laclavíková, Švecová, 2020, p. 213).
The last processes with alleged witches in Trnava were in 1744 (Anna Chlebová and Magdaléna Görögová). In the Hungarian Kingdom, in Čongrád County, they condemned the last woman as a witch in 1756 because after accepting the Catholic faith, she converted to Calvinism. Allegedly, at the same time, she poisoned the patient with a tobacco leaf because, as a midwife, she did not have the necessary laxative.

[3] E.g. Új Idők Journal, 1899: *We had a world-renowned person whose greatness is comparable only to Werbőczy.* (Werbőczy was a Hungarian legal theorist and statesman, author of the Hungarian Customary Law, born c. 1458). See Bódiné Beliznai, K.

[4] E.g., *The choice of the Minister of Justice, Boldizsár Horváth, to ask Charles Csemegi to draft the Criminal Code demonstrates his deep knowledge of people. The extraordinary zeal, penetrating critical sense, the broad judgment of this remarkable servant, and his intelligence as a statesman offered the best guarantees of success: one could hardly make a better decision.* (Von Liszt, F., 1894, p. 416).

[5] Part I. General Provisions: I. Introductory Provisions; II. Local and Personal Scope; III. Types of Punishments; IV. Attempt; V. Participation in Crime; VI. Intention and Negligence; VII. Reasons Excluding or Mitigating Criminality; VIII. Concurrence of Criminal Offences; IX. Grounds for Excluding Criminal Responsibility and Punishment. Part II. Felonies, Misdemeanors and Their Punishments: I. On Insulting His Majesty (on High Treason); II. Harassing the Members of the Royal Household and Insulting the King; III. Infidelity; IV. Rebellion; V. Violence Against Authorities, Members of the Assembly, or the High Bodies; VII. Violence Against Private Persons; VIII. Felonies and Misdemeanors Against Citizens' Right to Vote; IX. Felonies and Misdemeanors Against Religion and Its Free Exercise; X. Violation of Personal liberty, Domestic Law, and Correspondence and Telegraphic Secrecy by Public Officials; XI. Falsification (Forgery) of Money; XII. Perjury; XIII. False Accusation; XIV. Felonies and Misdemeanors Against Morals; XV. Bigamy; XVI. Felonies and Misdemeanors Against Marital Status; XVII. Defamation (Slander, Disrespect); XVIII. Felonies and Misdemeanors Against Human Life; XIX. Duel; XX. Bodily Harm; XXI. Felonies and Misdemeanors Against Public Health; XXII. Violation of Personal Freedom by Private Persons; XXIII. Violation of Correspondence Secrecy by Private Persons; XXIV. Prohibited Disclosure of Another's Secret; XXV. Violation of Domestic Peace by Private Persons; XXVI. Theft; XXVII. Robbery and Extortion; XXVIII. Defraud, Violation of Sequestration Order and Unfaithful Administration; XXIX. Misappropriation; XXX. Hiding and Abetting; XXXI. Fraud; XXXII. Forgery of Documents; XXXIII. Issue and Use of False Medical and General Certificates; XXXIV. Fiscal Stamp Forgery; XXXV. Fraudulent and Culpable Bankruptcy; XXXVI. Damage to Someone Else's Property; XXXVII. Arson; XXXVIII. Causing a Flood; XXXIX. Damage to Railways, Ships, Telegraphs and Other Generally Dangerous Acts; XL. Aid in the Escape of Prisoners; XLI. Felonies and Misdemeanors Against the Armed Forces; XLII. Felonies and Misdemeanors of Officials and Lawyers; XLIII. Final Provisions.

[6] *…a büntetőtörvénykönvnek élesen kifejezett közjogi jellegénél.*

[7] *The crime of high treason is committed by 1. whoever murders or intentionally kills the King or attempts to do any of these acts.* Under Sec. 128, the punishment was a death penalty.

[8] 43,26 % in Czechia and 34,46 % in Moravia and Silesia, in contrast to 62 % for the Democrats and 30,37 % for the Communists in Slovakia. See *Statistická příručka Československé republiky*, 1948, p. 105.

[9] According to Sec. 1 Subsec. 1: *Measures by Action Committees or measures taken at their suggestion or in place of them, which took place between February 20, 1948, and the day this law came into effect, and which aimed to protect or secure the people's democratic establishment or purify public life, are lawful, even in those cases where they would not otherwise be in accordance with the relevant regulations.*

[10] Petty offences got excluded from the jurisdiction of the courts in favour of the National Committees.

[11] According to the Act on the Protection of the People's Democratic Republic No. 213 of 1948 Coll., most persons were convicted for high treason (17.4 %), for illegally leaving the republic (16 %), for sedition against the republic (14.9 %), and for spreading an alarmist message (9.6 %).
According to the Criminal Code of 1950, most persons were convicted for endangering the unified economic plan (56.0 %), illegally leaving the republic (7.7 %), sedition against the republic (6.3 %), and high treason (4.6 %). Kaplan, K., 1996, pp. 40-42.

[12] According to the Slovak National Institute: *The 1950s and the beginning of the 1960s were the most drastic years during the communist regime in Czechoslovakia. Persecutions and contrived trials affected almost all strata of society. During this period in Slovakia, more than 71,000 people were wrongfully sentenced to a total of more than 85,000 years in prison. All over Czechoslovakia, 250 people were executed for the so-called anti-state acts, up to 500 people died at the border while escaping, up to 600 people were murdered by State Security investigators during interrogations, 8,000 prisoners who criticized the regime died in mines, prisons, and camps. Four hundred thousand people escaped or were expelled from the country. Many victims of the regime became imprisoned without trial in labor camps or in auxiliary technical battalions, and the state denied them and their family members access to education and social employment.*
As reported by the Slovak National Memory Institute, the persecutions concerned almost all layers of society but, at the same time, it is possible to perceive a pattern of repeating similarly motivated trials against certain groups of the population, namely trials against:

- political opponents (e.g., with a lawyer and politician JUDr. Milada Horáková et al.)
- Church officials (e.g., the trial for the so-called Číhošť miracle, when a half-meter cross allegedly moved in the church and the communists accused the local priest Toufar of trying to stage a miracle, who later died as a result of torture)
- members of the armed forces (e.g., with General Heliodor Píka, who served in the USSR during the war as the Commander of the Czechoslovak Mission and was therefore familiar with the practices of the Soviet Secret Service or the horrors of the gulags)
- *external enemies* (e.g., with the American journalist William Oatis, who worked in Prague as a correspondent at a press agency)
- leading communist functionaries (e.g., with the general secretary of the Communist Party of Jewish origin, Rudolf Slánsky)
- kulaks or peasants who refused to join the Unified Agricultural Cooperatives.