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**The death penalty in Hungary following World War II<sup>2</sup>  
(Regulations on capital punishment between 1945 and 1950)**

With the gradual liberation of Hungary from the German and Arrow Cross rule (which also meant the occupation of Hungary by the Soviets), a new law came to the fore:<sup>3</sup> On December 21, 1944, the Provisional National Assembly convened in Debrecen and on the next day, on December 22, they elected the Provisional National Government<sup>4</sup> and authorized it to take the necessary measures to stabilize the situation, to re-organize public administration, to provide supplies, to restore public safety and public order and to arrest and prosecute war criminals and those who had committed crimes against the people.

On the basis of this authorization, as one of its first measures, the government issued the Government Decree<sup>5</sup> of the People's Jurisdiction no. 81 of 1945 of January 25,<sup>6</sup> 1945, no. 1400 of 1945 of April 27,<sup>7</sup> and no. 5900 of 1945 of August 1<sup>8</sup>, which contain war crimes and crimes against the people, as well as the procedural rules governing the perpetrators of such acts. Finally, all of these laws (as well as Government Decree no. 6750 of 1945 on the enhancement of the work discipline of public officials) were signed into law by Law no. 7 of 1945 that was published and entered into force on September 15, 1945. These norms are particularly important because they resulted in the prosecution of thousands for war crimes and crimes against the people and many of the "main culprits" were executed.<sup>9</sup>

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<sup>2</sup> The present paper was written and the underlying research was carried out with the support of the Bolyai János Scholarship of the Hungarian Academy of Sciences.

<sup>3</sup> For capital punishment and martial law before 1944, see: Zoltán J. Tóth: Statutory Regulation of Capital Punishment in Hungary during the Horthy Era and World War II. *Journal on European History of Law*, Vol. 6, 2015, No. 2, pp. 23-28.

<sup>4</sup> At the same time, the Provisional National Assembly declared itself "the exclusive representative of the Hungarian state sovereignty" and then, by founding its own legitimacy, it changed into law the decree by Law no. 1 of 1945.

<sup>5</sup> These laws had a retroactive effect thus they were also applicable for the crimes that were committed before their entry into force.

<sup>6</sup> Date of entry into force: February 5, 1945.

<sup>7</sup> Date of entry into force: May 1, 1945.

<sup>8</sup> This decree entered into force on August 5, 1945 and it only regulated the procedure against the absent accused. Accordingly, such an accused could be prosecuted and death penalty could be imposed on him/her. If such a person was caught, he/she had to be interrogated at a public hearing and based on the outcome of this, the sentence (including death sentence) of the previous main trial (the one held in the absence of the convict) could be approved (without holding a separate trial), or a new main trial could be ordered.

<sup>9</sup> The people's tribunals started their operation in February 1945 and the most active people's tribunal (the one from Budapest) already imposed several death sentences. A total of about sixty thousand people (not only those accused of war crimes) stood before the people's tribunals, the majority of whom were convicted and many were executed; the death sentence was executed on 189 people. (Source of data: Szincsák Tibor: *Historic chronology (Történelmi kronológia)*. Tóth Könyvkereskedés és Kiadó Kft., Debrecen, 1998, p. 436)

It should be noted that since statistical data was not available between 1945 and 1951, these data are not entirely reliable. This is also shown by the fact that, according to Tibor Lukács, the number of those sentenced to death in the proceedings of the people's tribunal and actually executed is 180, while according to Ákos Major, the president of NOT (National Council of People's Tribunal) at that time, this number is 194 or 197. /See the latter references: Horváth, Tibor (ed.): *The abolishment of death penalty in Hungary /A halálbüntetés megszüntetése Magyarországon.* Halálbüntetést Ellenzők Ligája, Miskolc, 1991, p. 42/) The most famous war criminals and people accused of crimes against the people who were sentenced to death by people's tribunals were "leader of the nation" Ferenc Szálasi, and former prime ministers László Bárdossy, Béla Imrédy and Döme Sztójay.

Based on Government Decree no. 81 of 1945, the war criminals who could be sentenced to death (Article 12) in the first place, were those who helped Hungary join the war, prevented entering into an armistice agreement, had a leading role in the Arrow Cross movement and brutalized, executed or tortured without cause the population of the occupied and reclaimed territories, as well as prisoners of war.<sup>10</sup> They were the main culprits of the war, but in addition, the common people not holding a leading role could also face this sanction (Article 14(3)-(4)) if they joined the German army or security police (SS., Gestapo, etc.) in spite of being Hungarian citizens (Article 12(4)) if these acts or their service within these bodies resulted in the death of Hungarian citizen(s), if they fought against the Hungarian Defense Forces or prevented the surrender of certain persons or troops to the Red Army; as well as the people who regularly or in exchange for a reward, provided data that constituted “offence affecting the Hungarian interests” to a German group, or served as an informer to them (Article 12(5)).

Regarding the procedural rules, the judgment of these crimes, under the terms of Article 20 of the Decree, belong to the jurisdiction of the people’s tribunals as special tribunals<sup>11</sup>, including the procedures against juvenile offenders (death sentence could not be imposed on juvenile offenders).<sup>12</sup> The people’s tribunal had a body and functioned distinct from the ordinary court, and special rules applied to its procedure, however, this was not the only body authorized to impose capital punishment during this period; besides the people’s

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<sup>10</sup> According to the original text, the Decree punished by death criminals, “who facilitated the escalation of the war of 1939 to Hungary or the involvement to a greater extent of Hungary in the war by their activity or behavior in a leading position” (Article 11(1)(1)); “who tried to prevent entering into an armistice agreement by force or by making use of their influence” (Article 11(3)); “who, by their leading conduct, helped the Arrow Cross movement in their rebellion for gaining more power and keeping power, or who assumed a leadership position within the Arrow Cross government, public administration or national defense after obtaining such power without being forced by life threat (a leadership position refers to the positions of minister, state secretary, count, lord mayor, army commander, commanding officer or positions with similar importance)” (11(4)) and “who seriously violated international laws on war regarding the treatment of the population from the occupied territories and prisoners of war, or tortured the population of the reclaimed territories by abusing their authority, or who was usually the instigator, offender or participant in the illicit execution or torture of people” (11(5)).

<sup>11</sup> According to the Decree, the people’s tribunal also had the right to prosecute those who committed state crimes against state and social order (Act no. 3 of 1921 Article 1-5), crime of espionage except disloyalty (Act no. 3 of 1930 Article 58-59), rebellion (Act no. 5 of 1878 Article 152-162), “incitement against the constitution, the law, the authorities or the officials” (Act no. 5 of 1878 Article 172(1)), or any other crimes related to these delinquents (crimes abusing or endangering life, health, physical integrity or personal freedom, causing vandalism, arson or flood, damaging railways, ships or telegraph offices or other acts threatening the public), but in the latter case only “if the act is of political nature and the head of the competent prosecutor’s office of Budapest allows the presentation of the case to the people’s tribunal by the head of the people’s prosecutor’s office” (Article 21). Later, other laws allocated other offences to the people’s tribunal, these will be discussed in the appropriate time.

<sup>12</sup> Furthermore, according to the same Article 20, people’s tribunals had jurisdiction over crimes aiming the subversion of destruction of state and social order, punishable even by death in some cases (Act no. 3 of 1921 Article 1-5), military disloyalty also punishable by death (causing disadvantage for the army and advantage for the enemy – Article 58-59 of 1930), rebellion (Act no. 5 of 1878 Article 152-162), incitement against authorities (Act no. 5 of 1878 Article 172(1)) and the adjudication of other crimes committed in this context.

This list was later supplemented by Law no. 47 of 1948 on the jurisdiction provisions on disloyalty regarding military confidentiality, which allocated jurisdiction to the people’s tribunal in cases of military disloyalty, even punishable by death, such as espionage related to military confidentiality (Act no. 3 of 1930 Article 60-64, 66 and 68 and Act no. 18 of 1934 Article 2-4) and all crimes that were committed in relation to these. These rules of jurisdiction are important because in addition to war crimes, people’s tribunals were able to give death sentences in show trials; the most famous of these lawsuits (that was based on the abovementioned provisions of jurisdiction before the Special Council of the People’s Tribunal of Budapest) was the Rajk-trial. [C.f.: Paizs, Gábor: Rajk’s trial. (Rajk-per.) Ötlet, Budapest, 1989.; Soltész, István (ed.): Rajk’s file. (Rajk-dosszié.) Láng Kiadó, Budapest, 1989.] In this case, former foreign and interior minister László Rajk, as well as Tibor Szőnyi and András Szalai were sentenced to death on September 24, 1949 and then executed on October 15.

tribunals, summary courts, court-martials and usury courts constituting of workers' judges also functioned as extraordinary courts.<sup>13</sup>

At the headquarters of each tribunal there was a people's tribunal (sometimes with several councils), which sat in a council of five. In each council, there was <sup>14</sup>one delegate<sup>15</sup> of one of the (five) parties of the Hungarian National Independence Front founded in Szeged, in December 1944;<sup>16</sup> however, in order to ensure professionalism, in addition to them, a professional judge also participated in the procedure as a "chief judge" – but without a right to vote. All members participated with equal right in the judgment, but it consisted of two separate stages: in the first one (by simple majority vote), they made a decision regarding the question of guilt (and the crime itself if the accused was found guilty), in the second one (by simple majority vote as well), they decided on the legal consequences that were to be applied if the accused was found guilty.<sup>17</sup>

Interestingly, according to the Decree, the voting was compulsory started by the eldest judge of the people's tribunal and finished by its youngest member. In the case of a death sentence, the Decree allowed for appeal,<sup>18</sup> which was adjudicated by the National Council of People's Tribunal (or one of its judging councils) acting at the current headquarters of the government<sup>19</sup>, these councils also constituting of five members delegated by the above parties (basing their judgments rather as laymen, considering political aspects over legal ones). With all these provisions, the new practitioners of power "successfully" ensured that the tribunals judging those accused of war crimes were biased in every aspect and their members could (and did) freely enforce their political prejudices against the accused persons.<sup>20</sup>

Government Decree no. 1400 of 1945, on the one hand, extended the scope of war crimes to be punishable by death (Article 7), on the other hand, it amended and supplemented the procedural rules that apply for the procedures of people's tribunals. Among substantive laws, it was possible to apply this sanction also in the case of war criminals who did not try to prevent Hungary from falling into war, even though they could have done so, or who

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<sup>13</sup> These will be discussed later.

<sup>14</sup>The five parties were the following: Social Democratic Party; Independent Smallholders' Party; Civic Democratic Party; National Peasant Party; Hungarian Communist Party. Later, Government Decree no. 1400 of 1945 expands the people's tribunal to six members to grant the National Trade Union Council the right to delegate a member in the councils of the people's tribunal.

<sup>15</sup> These judges – being lay people – were not even bound by the normative and established standards of the legal profession; their judgments can rather be considered as political statements and only to a minor extent as "true" judgments.

<sup>16</sup> Each party could propose five people in each council, of whom the count appointed a regular and an alternate member based on the proposal made by the local national committee. Interestingly, accepting the assignment was mandatory, it could not be refused, but after three months of operation as people's judge, they could resign from their position.

<sup>17</sup> The task of the chief judge in this regard was that he had to formulate an opinion first about the probable crime based on the factual situation established and then (if there is such a crime) about the nature and level of the punishment imposed for the crime determined by the people's judges. The chief judge was entitled to vote in one case: if for some reason there were no three unanimous opinions (votes), the chief judge could join the unanimous opinion of any of the two judges. Finally, the chief judge also had the role of guarding legality; because if they considered that the people's tribunal delivered an unlawful judgment and there was no possibility for an appeal (thus it did not apply to cases of death penalty), then they could turn to the NOT (National Council of People's Tribunal) for remedy.

<sup>18</sup> According to Government Decree no. 81 of 1945, making an appeal was possible only in the case of certain sentences; thus, in addition the imposition of death penalty, against sentences of complete confiscation of property, loss of employment, imprisonment of at least three years or a fine of more than 20,000 Hungarian pengős.

<sup>19</sup> Until April 1945, Debrecen filled in this status, followed by Budapest.

<sup>20</sup> This, of course, does not mean that the sentences would not have been substantiated in many of the cases; there were, however, a number of cases that were conceptual (as well).

contributed to the adoption of a decision that led to expansion of war in Hungary;<sup>21</sup> the “simple” war criminals could have already been punished by death if they publicly instigated others for war, if they assisted soldiers in violent acts, if, although not as leaders, they took part in the Arrow Cross movement or engaged in war propaganda.<sup>22</sup> With this, Government Decree no. 1400 of 1945 extended the possibility of death penalty to all war crimes, which was regulated only by Government Decree 81 of 1945. (Other legislation did not make provisions regarding war crimes).<sup>23</sup>

Among procedural rules, the most important amendment to the Decree of April 27 was that it narrowed the possibility for appeal by depriving this right from all those who were condemned as main culprits by the people’s tribunal for any crime defined in Article 11 of Government Decree no. 81 of 1945 (namely, any penalty, including death penalty). If the sentence was death,<sup>24</sup> then the people’s tribunal (if the convict or the defense counsel filed a petition for mercy)<sup>25</sup> would have to express their position on whether the sentenced person was worthy of mercy.

If they considered that the person deserved mercy, they would present the case files and the proposal for mercy to the High National Council as temporary collective head of state body (after it stopped operating, to the President of the Republic),<sup>26</sup> which made a decision

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<sup>21</sup> According to this, the following persons were punishable by death as well: “who facilitated the escalation of the war of 1939 to Hungary or the involvement to a greater extent of Hungary in the war by their activity or behavior in a leading position... and did not strive to prevent it, although they had an opportunity to do so due to their position at a public office or their roles as political, economic or public figures” (Government Decree no. 81 of 1945 Article 11(1)(2)) and “who, as a member of the parliament or a public servant in a leading position, was the initiator or participated in, although they could foresee the consequences, making a decision that forced the Hungarian people into the World War in 1939” (Government Decree no. 81 of 1945 Article 11(2)). Furthermore, Government Decree no. 1400 of 1945 Article 6 introduced a new, 6th point in the enumeration of Government Decree no. 81 of 1945 Article 11; according to this new regulation, in addition to the above, apart from a committing war crime, a person could be sanctioned by death if they, “in a printed form (in any multiplied document), in a speech recited in front of a gathering or through radio, engaged in permanent and continuous activities in order to make the country join the war and continue the war with a greater involvement, by influencing significantly public opinion and by pointing the country in the wrong direction.”

<sup>22</sup> According to Government Decree no. 1400 of 1945, a “simple” war criminal could be subjected to capital punishment if the person “incited the continuation of the war to a greater extent in a printed form (in any multiplied document), in a speech recited in front of a gathering or through radio”, “helped a certain military unit in committing violent acts against a person or property”, “by their non-leading conduct, helped the Arrow Cross movement in gaining or keeping power, or, after obtaining such power, voluntarily assumed an important position within the Arrow Cross public administration or national defense” and “performed significant intellectual work in the service of war publicity” (Government Decree no. 81 of 1945 Article 13(1), (2), (3) and (6)). In addition, Government Decree no. 1400 of 1945 Article 8(2) introduced, as point 7, a new factual situation in Government Decree 81 of 1945 Article 13; according to which, the person “who engages or engaged in, as well as, promotes or promoted activities that are capable of complicating or breaking the peace of collaboration of the people after war, inducing international disputes” is considered war criminal (and as such is punishable by death).

<sup>23</sup> For the practical activity of people’s criminal court, see. e.g. Papp, Attila: Once upon a time, there was a people’s criminal court... (Volt egyszer egy népbíróság...) Nagykanizsa, 2017; Kahler, Frigyes: *Justizmord* in Hungary 1945-1989. (Joghalál Magyarországon 1945-1989). Zrínyi Könyvkiadó, Budapest, 1993; Zinner, Tibor: Political trials in the 20th century. (XX. századi politikai perek.) Rejtjel Kiadó, Budapest, 1999.

<sup>24</sup> According to Article 2 of the Decree, death penalty could be imposed, “if death penalty was the only punishment consistent with the gravity of the crime and the subjective culpability of the defendant”. Of course, this provision did not restrict the people’s tribunals in any way in imposing this sanction, as this “rubber regulation” could include any conduct considered punishable by the Decree.

<sup>25</sup> The petition for mercy could be presented exclusively by the convict or the defense counsel (the people’s prosecutor or any other person were not entitled to present it, including even the people’s tribunal as an ex officio intervention) and filing it was only possible in the case of death penalty.

<sup>26</sup> The High National Council as a temporary head of state body of three members was established on January 26, 1945 by the Provisional National Government. Initially, the members of the body were the Prime Minister, the President of the Provisional National Assembly and an elected (communist) representative of the Provisional

without justifying it;<sup>27</sup> but if the people's tribunal did not find the defendant worthy of mercy, the death sentence had to be executed immediately (possibly within two hours) after imposing it.<sup>28</sup> Finally, the Decree also made provisions regarding the method of the execution: death sentence had to be executed "by bullet or rope in a closed space, but without the absence of the public"<sup>29, 30</sup>

The authorization given to the government by the Provisional National Assembly on December 22, 1944, did not, of course, include only formulating of the rules necessary for the prosecution of war criminals and those who had committed crimes against the people, but also taking other extraordinary measures, such as new penalty provisions or defining the punishment for certain offences (strengthening them as well). The first such legislation of criminal law imposing death penalty was Government Decree no. 6730 of 1945 published and enforced on August 18, 1945, on strengthening the punishment for price gouging abuse, that set out death penalty as an absolute sanction against the perpetrator of price gouging abuse (Act no. 15 of 1920 Article 1)<sup>31</sup>, provided that the crime was committed as a recidivist,<sup>32</sup> involving a significant value (based on the original provision, more than twenty thousands of Hungarian pengős, which in this case was much higher due to inflation)<sup>33</sup> or commercially, if by doing so, the offender jeopardized public supplies.<sup>34</sup>

On October 19, as a second legal norm of this type, Government Decree no. 9480 of 1945 of the Provisional National Government on the punishment of export without authorization of items of public need, was published and entered into force.<sup>35</sup> Although this

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National Assembly's Political Committee and from December 1945, its members were the President of the Provisional National Assembly and two elected representatives. The operation of the body stopped with the election of the President of the Republic, on February 1, 1946.

<sup>27</sup> If the High National Council (or later the President of the Republic) pardoned the convict, the Decree modified death penalty to forced labor for life and in case of physical unfitness, to life imprisonment.

<sup>28</sup> This was the case as when the High National Council rejected the petition for mercy; but here, of course, the two-hour deadline did not refer to the period after imposing the sentence, but the period after publishing the decision rejecting the petition for mercy (announcement of the decision).

<sup>29</sup> Government Decree no. 1400 of 1945 Article 1(3)

<sup>30</sup> Law no. 34 of 1947 on certain provisions related to People's Jurisdiction, made some minor changes to those described above. On the one hand, for example, it set regarding execution that death penalty should be primarily executed by rope, or "if the execution by rope met obstacles, by bullet" (Article 1(1)), thus, it limited the prosecutor (people's prosecutor) in choosing between the two permissible ways of execution and it set out the primacy of the method of hanging; on the other hand, it excluded the public from the execution (although it allowed people's prosecution to authorize any adult person /with a specified and justified reason/ to be present at the execution. Although the law still did not allow the appeal, it provided an opportunity for the accused to submit a complaint of nullity as a remedy in the event of an infringement, which was judged by NOT (National Council of People's Tribunal) (Article 19). Finally, Article 30(1) set out that the President of the Republic is entitled to judge petitions for mercy and to grant individual (procedural and executive) mercy based on the proposal of the Minister of Justice (but without such a proposal).

<sup>31</sup> Based on Act no. 15 of 1920, the types of price gouging abuse are the following: sale at a price higher than the official (limited) price (price exceeding); setting a price of unjust profit (usury of goods); setting an unjust wage by taking advantage of the oppressed position of the other party (either the employee or the employer) (usury of wage); setting a disproportionate remuneration for mediation related to the marketing of an item of public need (price gouging profiteering); the unauthorized withdrawal from public supplies of a stock of items of public need ordered for marketing with price gouging methods for profit purposes (withdrawal of goods); the unauthorized foreign trade of items of public need with restricted distribution (smuggling of goods); refusal of the sale of items of public need ordered for marketing for the reason that the buyer reported the seller to the authorities for any of the above acts (Article 1(1)(1)-(7)).

<sup>32</sup> Based on the application of this provision, a recidivist is someone, who, for a similar crime, "has already been punished, and the period between that punishment and committing the newest act was shorter than five years" (Act no. 6 of 1944 Article 3(1)).

<sup>33</sup> Act no. 6 of 1944 Article 3(2)

<sup>34</sup> Government Decree no. 6730 of 1945 Article 1

<sup>35</sup> Article 3 of the Decree assigned the proceeding to the competence of usury courts (see later).

act was punishable with death based on Government Decree no. 6730 of 1945 as well – as we have seen, however, through several –, due to the exigent shortage of items of public need and the relative gravity of the act resulting from this, the legislator considered that there was a need for a special regulation that states *expressis verbis* that these acts were sanctioned by death penalty. According to the Decree, a capital sanction was imposed for the export of items of public need without a ministerial authorization (in quantities exceeding the personal needs during travel),<sup>36</sup> “if the act seriously violated or endangered the interest of public supplies, and in the case of commercializing” (Article 1(2)).

Also on the basis of the authorization from December 22, 1944, Government Decree no. 60 of 1946 of the Government ordered death penalty for the cases of trafficking stolen property that were committed in relation to goods acquired from the property or detaining of a public transport company, or from robbery.<sup>37</sup> Finally, Government Decree no. 1750 of 1946, in relation to non-military crimes set out that “if the execution of death penalty by rope met obstacles, it should be executed by bullet” (Article 1), and for this, in the first place, the guarding personnel of the local arresting institute, in the second place, the local guarding personnel of the state police and as a last resort, the local corps of the military should be mobilized (who are, of course, obliged to comply with this request made by the public prosecutor or the people’s prosecutor).

The National Assembly formed as a result of the National Assembly elections held on November 4, 1945, now granted new statutory authorizations to the government for issuing various regulations, in the area of criminal law as well. The first authorization of this type was included in Law no. 6 of 1946, which set out that “the Ministry may, in order to ensure the economic, financial and administrative order of the state, by Decree, make any other provision of private, criminal, administrative law and others under legislative competence, and thus it may, with the exception of the laws of the National Assembly, set out provisions different from the existing laws. The mandate was valid with effect until July 31, 1946<sup>38</sup>, but it was first extended by Law no. 16 of 1946 until October 31, 1946, and then by Law no. 28 of 1946 until February 28, 1947.<sup>39</sup>

Based on these authorizations, the government also published Government Decree no. 8800 of 1946 regarding the protection of economic order by criminal law. This Government Decree, on the one hand, re-regulated the different types of price gouging abuse set out in

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<sup>36</sup> In addition, in accordance with the last sentence of Article 2(2), as in the case of many similar legislations of the following years, full confiscation should also be set out. (In the following, we will not mention, in the case of certain legal provisions, the compulsory nature of neither full confiscation, nor the deprivation /suspension/ of political rights in addition to death penalty, but instead we will refer generally to the not exclusionary, but systematic features of criminal law provisions of the period after 1945.)

<sup>37</sup>“... the crime of trafficking stolen property is punishable by death, if the person 1. acquires or hides such a stolen thing or assists in selling such a stolen thing about which he/she knows that the thief stole it from the property or detaining, transport equipment, railway station, premise of area belonging to a public transport company, ordered for railway tracks and public transport; 2. acquires, hides or assists in selling a thing about which he/she knows that its owner or detainer obtained by committing robbery.” (Article 1)

<sup>38</sup> If a general change of government had taken place prior to that date, the validity of the mandate would have ended. (The same will be true for the following two similar laws.)

<sup>39</sup> Based on the authorization of these two latter laws, “the Ministry may, in order to ensure the order of economic life, the balance of the national budget and the undisturbed operation of public administration, by Decree make any other provision under legislative competence and thus it may set out provisions different from the existing laws” (Act no. 16 of 1946 Article 1(1)). However, “provisions different from the laws of the National Assembly and of public law could not be set out, the organization of public administration could not be modified, new crimes could not be defined and a more severe punishment for a crime than the one set out by law could not be ordered, except for those aiming to restore the balance of the national budget and to ensure public supplies” (Act no. 16 of 1946 Article 1(2)), however, these (restoring the balance of the national budget and ensuring public supplies) still provided a great opportunity for action for the government to regulate criminal law, while the government did take advantage of it.

Government Decree no. 6730 of 1945, on the other hand, it listed and defined the crimes endangering the interest of public supplying. The Decree imposed death sentence for five types of price gouging abuse<sup>40</sup> (price exceeding, usury of goods, price gouging profiteering, withdrawal of goods, deceit of price gouging)<sup>41</sup> if one of these acts was committed by a person with criminal record, commercially or for a significant value<sup>42</sup> and the offender caused a serious violation to the economic order.<sup>43</sup>

Under the same conditions (on the one hand, the criminal record, the commercializing nature or the significant value of the act, on the other hand, the serious violation of economic order), a person was punishable by death<sup>44</sup> if he/she committed an “act endangering the interest of public supplying.”<sup>45</sup>

These included the breach of statutory production obligation (if a person did not produce the crop and product specified in the legislation, or if they did not take into account the prescribed quantity and procedure); the withdrawal of the stock of products or crops;<sup>46</sup> the failure to notify the authorities regarding them, or making a false or incomplete statement about them; the withdrawal of the stock of products or crops sequestered for public supplies or material management;<sup>47</sup> withholding such stock against a legislation setting out its marketing, as well as its marketing in an inappropriate manner, quantity or for inadequate purposes; the failure to comply with the statutory obligation to deliver the product or crop; the purchase of a product or crop by exceeding the maximum price set out by the authority (even without the intention of resale); the false notification regarding the right to purchase, deliver or use a product or crop by the non-disclosure of the truth or by any other fraud, as well as any illicit profiteering with this right.

Finally, Article 20(2) of the Decree also imposed the most severe sanction for usury courts<sup>48</sup> assigned to proceed in such cases, against the offenders, who, with different financial offences<sup>49</sup>, seriously violated the interest related to the stability of value of the new legal

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<sup>40</sup> Government Decree 8800 of 1946 Article 1(1)-(5)

<sup>41</sup> As it can be seen, the crimes listed in Act no. 15 of 1920 Article 1(1) and punishable by death penalty according to Government Decree no. 6730 of 1945 did not include usury of wage (point 3), smuggling of goods (point 6) and the refusal of the sale of items of public need (point 7), however, a new factual situation was added, the deceit of price gouging. According to Article 1(5), this is committed by someone, who, “in order to mislead or deceive the authorities regarding a significant condition in determining the price, consciously provides false information to the authorities”.

<sup>42</sup> These qualifying conditions were basically the same as the previous regulations, namely, the provision set out in Act no. 6 of 1944 Article 3(1)-(3).

<sup>43</sup> Government Decree no. 8800 of 1946 Article 9(4)

<sup>44</sup> See the previous footnote.

<sup>45</sup> Government Decree 8800 of 1946 Article 7(1)-(6) and Article 8(1)-(2)

<sup>46</sup> This included their use, consumption, destruction and rendering them unusable.

<sup>47</sup> Such a “withdrawal” was the concealment, hiding, disposal of this stock, or the failure to perform the obligation of transferring or transporting them.

<sup>48</sup> For the statutory provisions and the judicial practice of usury adjudication in Hungary, see: Major, László: The usury courts’ procedure. (Az uzsorabírószági eljárás.) Grill, Budapest, 1947.

<sup>49</sup> The issuing by the public official of a mandatory payment order including impermissible loan transfers violating legal provisions relating to state accounting, that of additional expenses and payment without appropriation pursuant to the budget credit or the total amount of credit provided by the Ministry of Finance as well as the intentional breach of other obligations of public officials under the legal provisions relating to state accounting during the issuing of such mandatory payment orders (Government Decree no. 8800 of 1946 Article 19); tax fraud; excise violation; profiteering with international and domestic payment instruments (Act no. 36 of 1922 Article 1(1)); non-declaration or the deliberate declaration of false information regarding international payment instruments and accounts receivable (Act no. 32 of 1931 Article 1(1) and Article 2(1)); exceeding salaries or other allowances set out in a collective agreement (Government Decree no. 490 of 1956 Article 13); misuse of loans or advances granted for the purpose of primary production, industry, commerce or transportation (Government Decree no. 8990 of 1945 Article 3).

tender, the Hungarian forint introduced simultaneously with the entry into force of the Decree.<sup>50</sup>

The mandate of this later provision, based on Article 20, was effective until December 31, 1946, but this deadline was first extended by Government Decree no. 24650 of 1946 until June 30, 1947 and then by Government Decree no. 8000 of 1947<sup>51</sup> for the period after July 1, 1947 (according to the latter created Government Decree no. 15340 of 1947<sup>52</sup> until July 31, 1948). Government Decree no. 5450 of 1948 extended the possibility of death penalty, in addition to the crimes enlisted in Government Decree no. 8800 of 1946 Article 20 (under the conditions mentioned therein), to the “crime and the offense of counterfeiting committed in relation to banknotes and coins denominating values of forint”<sup>53</sup> as well, and assigned the jurisdiction of procedures of such offences to the usury court.

Finally, the mandates of both Government Decree no. 8800 of 1946 Article 20 and the newly created<sup>54</sup> Government Decree no. 5450 of 1948 were extended by Government Decree no. 7920 of 1948<sup>55</sup> for the period after August 1, 1948 (according to Government Decree no. 12590 of 1948<sup>56</sup> until December 31, 1949).

Regarding the usury courts mentioned in the previous paragraphs, they were not the invention of the republican legislation, as they were created at the beginning of the Horthy-era, by Government Decree no. 5950 of 1920 published for the implementation of Act no. 15 of 1920 on price gouging abuses. These special courts, initially, did not (and based on the provisions of Act no. 15 of 1920, they could not) have the right to impose death sentences, only the legislations after World War II allowed them to do so. In the Horthy-era, they operated within the royal court or bigger district courts, in separate councils of three, the president and one member being professional judges, while the other member, as lay magistrate, was the representative (“professional man”) of primary production, industry or commerce.

This organization remained active for a while after 1945 and the criminal proceedings assigned to the jurisdiction of the usury court were judged by councils of similar composition (most of them being professional judges), however, in 1947, the National Assembly adopted Law no. 23 of 1947 on the panels of usury courts, which ordered the establishment of one (or more) “panel of usury court” at the usury courts operating at the seats of Regional Courts of Appeal, which had a function distinct from the tasks of usury courts (moreover, its composition significantly differed from its “mother organization”).<sup>57</sup> Thus, according to the law, the jurisdiction of the panels included the judgment of the price gouging abuses set out in Government Decree no. 8800 of 1946 and the “acts endangering the interest of public supplying”<sup>58</sup> (even if, based on qualifying circumstances, the imposed sanction for the offence

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<sup>50</sup> August 1, 1946.

<sup>51</sup> The publication and entry into force of this Decree took place shortly before the end of the mandate, on July 28, 1947.

<sup>52</sup> Published on: December 23, 1947.

<sup>53</sup> Government Decree no. 5450 of 1948 Article 1(1).

<sup>54</sup> Government Decree no. 5450 of 1948 was published and entered into force on May 12, 1948.

<sup>55</sup> Date of publication and entry into force: July 27, 1948.

<sup>56</sup> Published on: December 15, 1948.

<sup>57</sup> The panels of usury courts were bodies of five members and only their president was a professional judge (appointed by the Minister of Justice), the members (and the two alternate members) were non-professional “workers’ judges”. The latter were admitted to their offices after a two-round process: in the first one, the bigger industrial and mining plants (of at least two thousand people in Budapest and five hundred people in other areas) nominated one worker doing physical labor after every one hundred workers to the nomenclature of the Trade Union Council, from which they chose by lot the workers’ judges for the panels of usury courts. (For the detailed regulation of this, see Decree no. 70000 of 1947 of the Ministry of Justice regarding the implementation of Act no. 23 of 1947, basically, on election procedure of workers’ judges).

<sup>58</sup> This also meant that financial crimes regulated (and in some cases, punishable by death) by Government



is death penalty and the crime of exporting items of public need without a ministerial authorization (Government Decree no. 948 of 1945), if the act was committed commercially; but other, subsequent legislations disposed of the assignment of criminal proceeding regarding certain offences to the panels of usury courts.<sup>59</sup>

Usury courts, panels of usury courts and summary courts as a form of special court along people's tribunals, continued to exist. The procedural rules of summary jurisdiction did not change compared to the Horthy-era (i.e. the regulation from 1912); although, Government Decree no. 11800 of 1945 adopted on December 5, 1945, published and entered into force on December 13, modified the procedural regulations of martial law, it did not make many substantive changes.<sup>60</sup> With regard to substantive norms, there are not many changes in their nature as compared to the regulation from a few years earlier (except for the fact that the provisions connected to the war /for instance, crimes committed during or in relation to air raid alerts, blackouts, air strikes, etc., crimes related to postal packets sent to operational areas, etc./ were implicitly missing in this era from the offences that could be subjected to martial law).

The re-introduction of summary jurisdiction after the war was made by the Provisional National Government on October 18, 1945.<sup>61</sup> This was when Government Decree no. 9600 of 1945 was published, which ordered the martial law for the entire territory of the country both for civil and military jurisdiction for the specific cases of murder, intentional killing, robbery and burglary,<sup>62</sup> as well as for any crime committed by fabricating, purchasing, possessing and using explosives and explosive substances (Act no. 15 of 1924 Article 1), for the attempts in this regard and for alliances made for committing murder.

The subsequent Government Decrees had gradually expanded this circle to more and more offences, both in civil and military criminal justice and not just to the crime itself, but to attempts at them, and not only to offenders, but to partners as well. This included Government Decree no. 50 of 1946<sup>63</sup> published and entered into force on January 2, 1946, Government Decree no. 1830 of 1946 of February 22, 1946<sup>64</sup>, Government Decree no. 6330 of 1946 of

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Decree no. 8800 of 1946 Article 20, did not belong to the jurisdiction of the panels of usury courts; in that regard, the procedure (according to Article 22 of the above Decree) continued to be carried out by the "ordinary" usury courts.

<sup>59</sup> Thus, Government Decree no. 680 of 1948, no. 3350 of 1948 and no. 4940 of 1948 imposed this, but the most important of these other legislations was Government Decree no. 2140 of 1948, which assigned certain crimes endangering the implementation of the economic plan (regulated by Government Decree no. 14200 of 1947) to the jurisdiction of the panels of usury courts.

<sup>60</sup> The most important substantive change was the one that set out that, although sentencing to death would require in continue the unanimous vote of the members of the court, but "regarding the issue of qualification and punishment, it is sufficient if the decision is reached by majority vote" (Article 2(2)).

<sup>61</sup> Summary jurisdiction disappeared only in 1953, to be re-introduced in 1956.

<sup>62</sup> According to the Decree, the procedure of the summary court was ordered when the theft committed in a building, fenced area or ship, by breaking in, climbing in or breaking the lock or other device serving for protection, was carried out during the night, being armed or collectively (by several people together).

<sup>63</sup> Government Decree no. 50 of 1956 extended summary jurisdiction to stealing assets related in any way to public transport companies.

<sup>64</sup> According to the Decree, the following are subjects to summary procedures: crime of causing flooding (Act no. 5 of 1878 Article 429-431); crime of public endangerment carried out by vandalizing any artwork, installation, material, equipment, etc. used for flood protection and the protection of inland waters (Government Decree no. 1820 of 1946 Article 1, Act no. 2 of 1939 Article 208), as well as thefts in this regard (Government Decree no. 1820 of 1946 Article 2); crime of public endangerment carried out by vandalizing or stealing object, installations, etc. used for rail transport and road traffic (Government Decree no. 3780 of 1945 Article 1(1), Act no. 5 of 1878 Article 434); offenses of public endangerment carried out by vandalizing or stealing objects, etc. used for postal, telephonic or telegraphic installations (Government Decree no. 3780 of 1945 Article 1(2)); crimes of public endangerment carried out by vandalizing vessels, aircraft and objects connected to them (Act no. 5 of 1878 Article 434 and 444, Act no. 2 of 1939 Article 209); the crime of public endangerment carried out by vandalizing the installations and accessories of generating, conducting and distributing electricity, by

June 4, 1946<sup>65</sup>, Government Decree no. 7200 of 1946 of June 22, 1946<sup>66</sup> and Government Decree no. 23700 of 1946 of November 30, 1946<sup>67</sup> (however, Government Decree no. 9700 of 1948 published and entered into force on September 29, 1948, limited procedures of martial law compared to the previous ones).<sup>68</sup>

The fourth type of special court entitled to impose death penalty (in addition to people's tribunal, usury court and summary court) was the court-martial. Government Decree no. 7290 of 1945, published and entered into force on September 6, 1945, provided the establishment of court-martials. This set out that regarding military criminal jurisdiction, namely the judgement of military crimes and non-military offences committed by soldiers, court-martials of three members<sup>69</sup> should be established, which have the jurisdiction to carry out both ordinary and summary procedure.

The procedure was carried out in accordance with the rules set out in Act no. 33 of 1912 (Military Criminal Procedure Code), although, Government Decree no. 1740 of 1946 made some small changes in this regard.<sup>70</sup> One of these provisions set out that if the sentence of death penalty could not be executed with rope, the convict should be shot (Article 16(4); the other supplemented the Military Criminal Procedure Code in relation to summary jurisdiction<sup>71</sup> with the same detail that was set out in Government Decree no. 11800 of 1945 in relation to summary jurisdiction, namely that a person can be declared guilty and thus sentenced to death only unanimously, but "on the issue of qualification and punishment it was sufficient to reach a decision by majority vote" (Article 19).

The recast of the substantive part of military criminal law was set out within a short time: the National Assembly carried it out by Law no. 62 of 1948 on the Military Criminal Code,<sup>72</sup> which imposed death penalty as the sanction of fourteen different crimes.<sup>73</sup> Thus, the

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interrupting or impeding their usability (Act no. 16 of 1931 Article 61, Act no. 2 of 1939, Article 208); crime of theft on or near the scene of a flooding.

<sup>65</sup> It ordered martial law for the crimes of arson and alliances for committing arson.

<sup>66</sup> The Government Decree imposed summary procedure for those who, by the violation or circumvention of legislative regulations, acquired, held, delivered or circulated firearms or ammunition and who did not comply with their obligations to report or to surrender (Government Decree no. 7140 of 1946 Article 2(1)).

<sup>67</sup> Government Decree no. 23700 of 1946 imposed summary jurisdiction for all cases of price gouging abuses and acts endangering the interest of public supplying, which were punishable by death based on Government Decree no. 8800 of 1946 Article 9(4), as well as the crime of exporting items of public need without authorization (Government Decree no. 9480 of 1945). (See the detailed regulations of these previously.)

<sup>68</sup> On the one hand, it abrogated Government Decree no. 23700 of 1946, thus, the summary jurisdiction ordered therein could not be applied anymore, on the other hand, it terminated martial law in all cases of burglary, previously falling under this procedure (as set out in Government Decree no. 9600 of 1945).

<sup>69</sup> The president of the court-martial was a military judge and the two assessors were two individuals of the military personnel. One of the latter was always an officer, while the other one, depending on the military rank of the defendant, was either an officer (if the defendant was an officer), or a warrant officer (if the accused was one as well), or a member of the enlisted personnel (if the person under investigation was an enlisted man or a civilian). It is important that a person with a lower military rank than the one of the defendant cannot be involved in the court-martial (for example, in the case of a major, a captain should not assist).

<sup>70</sup> The Decree was published on February 27, 1946 and it entered into force on July 15, 1946 (in accordance with Government Decree no 17494/1946 published based on the authorization granted to the Minister of Defense, set out in Article 21(1) of the current Decree).

<sup>71</sup> The Government later (June 8, 1946) published and entered into force a new regulation (Government Decree no. 6340 of 1946) that furtherly modified certain rules regarding a few points in military criminal justice; however, as those did not include substantive provisions related to death penalty, we do not discuss them.

<sup>72</sup> This, of course, implied the abolishment of Act no. 2 of 1930 (Military Criminal Code). Law no. 62 of 1948 was the last separate military criminal code, because the further resolution of military offences was not set out in an independent legislation, but in a chapter of the Criminal Code. (This method was also applied by Law no. 5 of 1961 and Law no. 4 of 1978)

<sup>73</sup> According to Article 7 of the military Criminal Code based on the main principle, death penalty should be executed by a firing squad; execution by rope was only allowed, if Act no. 62 of 1948 made provisions in this regard (it did so only in the case of absconding to the enemy), but even then, the execution was to be carried out

instigators and leaders of mutiny were sentenced to death (Article 30(2), as well as those who called for mutiny, if, as a result, the mutiny did take place (Article 33).<sup>74</sup>

The offender of “cowardly conduct” was also punishable by death<sup>75</sup>, if he, as a commander, allowed his unit to be captured or abandoned them, or if he (having any rank) demonstrated a cowardly conduct in battle and this implied the cowardly conduct of others as well (Article 38(2)). The offence of “absconding”<sup>76</sup> was punishable by capital sanction in one case: if the soldier deserted or attempted to desert to the enemy; in this case (as the only crime in the Military Criminal Code), the execution was to be carried out by hanging representing a shameful and humiliating method for soldiers (Article 41(2)). The crime of evading to perform military service was also punishable by death (by bullet) if “the act was carried out by a commander during the war and, as a result foreseeable by the offender, one or more people lost their lives, or a big amount of war material was destroyed, or if the act imposed a great disadvantage to military operations” (Article 47(2)).

The same sanction was imposed for the abuse or other form of violence against chiefs or superiors if those were committed while the person was serving in a time of war; for “the intentional murder of a chief or superior” (Article 58) (in all cases without exception); for insubordination to a service command “if the explicit denial of the order during the war was related to the abuse of the superior, or to other violent or dangerous threat, or if the soldier committed the act during the war and, as a result foreseeable by the offender, one or more people lost their lives, or a large amount of war material was destroyed, the act being a disadvantage for military operations” (Article 59(3)); and for “the violation of a general order”<sup>77</sup> if the act was deliberately committed during the war by the commander “and, as a result foreseeable by the offender, one or more people lost their lives, or a large amount of war material was destroyed, the act being a big disadvantage for military operations” (Article 62 (2)).

Death penalty was imposed on the offenders of the crimes committed against the military guard<sup>78</sup> (Chapter 6) if the soldier intentionally killed the guard (Article 67) and in some cases<sup>79</sup> if the soldier did not obey the instructions of the guard on service;<sup>80</sup> on those carrying out crimes related to service (Chapter 10) if the military guard, who violated the general or special instruction of the guard,<sup>81</sup> “committed this act during the war and it resulted in a big disadvantage, in case the offender could foresee it” (Article 88(4)); on those who committed crimes against the population of the occupied territory (Chapter 17) if the offenders carried out serious “crimes of sexual assault”<sup>82</sup> and intentional killing<sup>83</sup>.

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by bullet, if the execution of hanging was not possible (for example, in the absence of a professional hangman).

<sup>74</sup> “The soldier who calls for committing mutiny or mediates such a call, ... if... as a result of the call, mutiny takes place, the inciter should be punished in accordance with Article 30(2).”

<sup>75</sup> “Cowardly conduct is demonstrated by the soldier who, fearing his own safety, does not fulfill or fulfills improperly his duties.” (Article 37)

<sup>76</sup> “The soldier who, in order to avoid service obligations of any kind, arbitrarily leaves his position and place of destination and remains absent, commits absconding.” (Article 40)

<sup>77</sup> This crime is committed by a soldier ““who, either intentionally or out of negligence, violates a general order or prohibition serving to maintain discipline and order” (Article 62(1)).

<sup>78</sup> Based on the provision of Article 63, “the soldier who, in accordance with instructions of military service, carries out an activity of military guard”.

<sup>79</sup> If “the act was carried out during the war and, as a result foreseeable by the offender, one or more people lost their lives, or a big amount of war material was destructed, or if the act imposed a great disadvantage to military operations” (Article 70(4)).

<sup>80</sup> “Insubordination with guard” (Article 70).

<sup>81</sup> “Violation of the instruction of the guard” (Article 88).

<sup>82</sup> “The soldier, who committed statutory rape (Article 232 of the Criminal Code) or sexual abuse (Article 233 of the Criminal Code) against a person who belongs to the population of the territory occupied by the army, ... in a serious case, is punishable by death.” (Article 117)

<sup>83</sup> “The soldier, who committed the crime of intentional killing defined in Article 279 and 280 of the Criminal

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Code against a person who belongs to the population of the territory occupied by the army, is punishable by death.” (Article 119)