

VII

SIC MUR AD ASTRA

EDITORS
GERGELY GOSZTONYI
IMRE KÉPESSY
DUNJA MILOTIĆ

Collection
of papers
on **Hungarian**
and **Croatian**
legal history 2024

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Eötvös Loránd University / Faculty of Law / Department of the History of Hungarian State and Law / 2024

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1. Crimes against the state

The danger to society from offences against the state is very high, and this is illustrated by the fact that in modern criminal codes, they are placed in the first chapter of the special section. One of the most important tasks of the State has always been to protect its existence, its fundamental values, and its basic institutions from direct attack. However, these values and institutions, which are at the heart of the protection, depend on the social order and the historical period, so the concept of crimes against the state is determined by the prevailing concept and structure of the state. This is the reason why it is extremely difficult to formulate a uniform or stable definition of political offences or offences against the State. Public crimes are easier to define because they are (presumably) condemned by society as a whole, unlike political crimes, where the situation is not so simple and not so easy to define because of the clash of values, interests, and ideas about society.¹

In my article, I aim to give a non-detailed historical overview of the approach to crimes against the state at the main points of our history, with particular reference to the offences of treason (*crimen laesae maiestatis*) and infidelity (*nota infidelitatis*), and then to illustrate the evolution of the 19th century legislation until the creation of the Csemegi Code. I will then explain how Csemegi distinguished between the concepts

¹ BARNÁ, Attila: *Az állam elleni bűncselekmények szabályozása a 19. századi Magyarországon, különös tekintettel a büntettekről és vétségekről szóló 1878. évi 5. törvénycikk előzményeire és megalkotására [The settlement of criminal offences of the state in 19th century in Hungary with special regard to the antecedents and creation of the Article 5 of the Law of 1878 about Crimes and Misdemeanours]* Győr, Universitas–Győr Nonprofit Kft. 2015, p. 13.

of treason and infidelity, then narrow the topic to infidelity and describe its cases and sanctions in detail. Finally, I will present a case whose judgment was based on Act 5 of 1878.

2. Legal history of infidelity

The existence of standing armies justifies the need for military criminal law to punish those who break the rules governing military life. In the course of Hungarian history, military criminal justice predates both the foundation of the state and the conquest, and the army of the wandering Hungarians was a people's army, based on the fact of common descent and belonging to the nation. The ancient rules appear in the *Gesta Hungarorum*, the chronicle of the blood feud by the anonymous notary of Béla III, Anonymus, and sanctioned infidelity as a standard. The chiefs were thus able to establish a kind of penal code that applied to all members of the contracting tribes. The fifth article threatened excommunication, i.e., expulsion from the tribe, of those who violated the terms of the oath.²

The changes in the criminal, moral, social, and perception of infidelity in medieval Hungary can be traced, depending on the exercise of power. During the patrimonial monarchy, an attack on the state meant an attack on the ruler. Loyalty was linked not to patrimony but to the monarch since he formed the groups that assisted him in the state's administration and were thus bound to him by personal loyalty.³ This system of power and strong emotional ties give infidelity, as a type of crime, a greater than usual importance in moral and ethical terms, which justifies the most severe penalties. In the Árpád era, the principle of consanguinity still prevailed strongly, but in addition, the mutual oaths taken before the Church provided the basis for the unconditional

² HAUTZINGER, ZOLTÁN: A magyar katonai büntető igazságszolgáltatás története [History of the Hungarian Military Criminal Justice] *Jogtudományi Közlöny [Journal of Jurisprudence]*, No. 6., 2007, pp. 263–276.

³ MEZEY, Barna (ed.): *Magyar alkotmánytörténet [Hungarian constitutional history]* Budapest, Osiris Kiadó, 2003. pp. 48–51.

commitment of the faithful to the new ruler.⁴ St Stephen's decree stipulated that persons who fled to foreign lands and treason should be condemned and that persons who attempted to take the life of the king should also have their goods confiscated, "but there should be no harm to innocent sons."⁵

The second part of the *Tripartitum* (1514), title LX, § 2, reads "Since it is not customary to condemn a son for the sins and misdeeds of his father, and a father for the misdeeds of his son, either in person or in goods or other things."⁶ Nevertheless, in contrast to these principles, the ideal of collective redress was enshrined in the Middle Ages. This was complemented by a vested interest in rooting out the interest group that helped the perpetrator to commit the crime. An example of this was the sentence following the assassination of Felician Zách, under which his relatives were sentenced to three decades' death and his more distant relatives to the loss of their property.⁷

Through collective punishment, I will inevitably refer to the confiscation of assets as a sanction for infidelity. The *Tripartitum* deals in detail and at length in several places with the changes that occurred in the property of the unfaithful person punished by confiscation of property and of his family members. It provides that 'by the offence of unfaithfulness, the unfaithful man shall lose both his head and his inheritance: that is to say, all his lying goods and possessions, and that of these lying goods and possessions the portion of the class (even if his head were to fall) to which the unfaithful man, that is to say, the man who has been defiled, disgraced and condemned

⁴ NEUMANN, Tibor: II. Ulászló koronázása és első rendeletei [The crowning and first decrees of Ulászló II] *Századok [Centuries]*. No. 2., 2008, p. 322.

⁵ Szent István Király Dekrétoinak Második Könyve 35. Fejezet a királyok adományairól és a tulajdon javak birásáról: „2. § És senki semmi vétek okáért kárvallást az ő javaiban ne szenvedjen, hanem ha a király életére tör, vagy országárulást követ el, vagy idegen földre szökik. 3. § Akkor a királyra szálljanak javai, őt magát pedig ítéljék meg, de ártatlan fiainak bántások ne legyen.” (CJH.) [Chapter 35 of the second Book of the Decretals of King St. Stephen, Chapter 35 of the donations of kings and the judgement of property: „§ 2 And let no man suffer damage to his property for any offence, but if he attempt the life of the king, or commit treason, or escape into a foreign land. § 3 Then the king's goods shall be forfeited to him, and he himself shall be judged, but no harm shall come to his innocent sons.”]

⁶ GAZDA, István (ed.): *Werbőczy István – Tripartitum, A dicsőséges Magyar Királyság szokásjogának Hármaskönyve [The Threefold Book of the Customary Law of the Glorious Kingdom of Hungary]*. Budapest, Téka Könyvkiadó, 1990, p. 410.

⁷ ALMÁSI, Tibor: Záh Felicián ítéletlevele, [Záh Felicián's judgment] *Aetas*, No. 1–2., 2000, pp. 191–192.

by unfaithfulness, is entitled, shall never again revert to his sons or his clan brothers'.⁸ The Act 9 of 1715 extended the confiscation of property to the property of innocent children, to deter fathers from insulting their parents or treason. This severe sanction was only abolished by a resolution and law (Act 56 of 1791) passed during the reign of Lipót II.⁹

We can see, how the process of the moral, moral and legal evaluation of an act that harms or threatens the life, power, and physical integrity of the head of a clan, a prince, or a king is transformed through the laws and the letters of judgement, how it is transformed into an offense threatening the power of God, the Holy Crown and, ultimately, the state, or into a public offense, backed up by elements of public law, and judged by pseudo-judicial tribunals increasingly independent of the monarch. However, institutionalisation and the development of public law increasingly called for the creation of a systematic set of rules of law based on uniform principles, and the creation of a unified or consolidated code of laws, thus putting an end to the fragmented and dysfunctional legal situation.¹⁰

A commission was appointed by the Diet to settle the financial, military, administrative, and judicial questions. One of the members of this committee was Mihály Bencsik, who was entrusted with the task of drawing up a draft, and he listed ten areas that required urgent changes. The seventh point of the outline was to seek to reduce the penalties for *nota infidelitatis*. Bencsik adhered to the Werbőczy legal tradition, especially about the settlement of infidelity. Thus, he did not significantly change the old rules, only where necessary to remedy shortcomings or where established practice took a different direction.¹¹ The conciliatory political climate following the Rákóczi War of Independence favoured the systematisation of the legal

⁸ Hármaskönyv I. Rész 16. cím. [Tripartitum, Part I.] (CJH.)

⁹ „*Quo vero a crimine laesae majestatis, patres, metu poenae, etiam in filios ex amissione Portionum suarum redudantis, magis, quam propriae intitu, absterreantur, hocque execrandum et abominabile malum eo magis vitetur*”. Act 9 of 1715. HEIL, Fausztin: Felségsértés [Insurrection] In: *Pallas Nagy Lexikona VII. [Big Dictionary of Pallas]* Irodalmi és Nyomdai Rt., Budapest, 1895, p. 40.

¹⁰ BARNA, *op. cit.*, pp. 48–49.

¹¹ *Ibid.*, pp. 51–52.

system.¹² Bencsik's proposal, which György Bónis sees as an attempt to create the first Hungarian criminal code,¹³ is divided into two parts, formal and substantive law. In accordance with the thinking of the time, he placed procedural law in the first half of his work, followed by substantive law.

Bencsik took a step towards a modern legal approach, since, unlike the *Tripartitum*, he no longer grouped offences according to punishments, but according to the type of offence. For reasons of tradition, Bencsik did not include the offences recorded in the *Tripartitum* under the title *nota infidelitatis* in the substantive part, but in accordance to mitigate the offences, as already mentioned in the seventh point, he formulated the mitigation of cases of infidelity in a separate motion in the Code, as an introduction or supplement. The offences under discussion have been extended based on changed circumstances and practice, with the result that almost as many offences have been brought within the scope of the proposal as are covered by the substantive part of the strict criminal code. The proposal of 1712 was adopted by Parliament but was not enacted.¹⁴

Almost a decade later, part of the proposal in point seven became law and differentiated between cases of infidelity and reduced their punishment. Act LXVII of 1790 entrusted a commission with the overall regulation of criminal law and procedure. The Deputatio fulfilled its obligation in 1795, summarised the requests in 12 volumes, and sent the proposals to the Chancellery, but they were never submitted to Parliament, despite the subsequent intention to submit them to Parliament. The 1827 diet, which was initiated and commissioned by the Diet in 1829, was a step backward from the progress made by the 1795 proposal. Subsequently, the 1843 proposal is worth highlighting from the point of view of the history of codification. The proposal was probably the result of the spread of modern Western European ideas and the

¹² MEZEY, Barna (ed.): *Magyar jogtörténet [Hungarian legal history]* Budapest, Osiris Kiadó, 2007, p. 313.

¹³ BÓNIS, György: *A magyar büntető törvénykönyv első javaslata 1712-ben [The first draft of the Hungarian Penal Code in 1712]* Budapest, Angyal Szeminárium Kiadványai, No. 26. 1934, p. 6.

¹⁴ BARNA, *op. cit.*, pp. 51–52.

pressure of civilisation, which made it clear that criminal codification could no longer be delayed. The commission charged with this task presented the results of its work in July 1843. The proposal is also known as the Deák's proposal since the chairman of the committee that drafted it was Ferenc Deák. The proposal failed because of disagreements between the lower and upper houses, particularly over the death penalty.¹⁵

In 1849, the Strafgesetz of 1803 was enacted in Hungary. A strongly conservative amendment to this was the Strafgesetzbuch of 1852, which made the punishment of imprisonment general. Reform efforts led to a revision of the 1843 proposal, but the arguments for it began to weaken.¹⁶

The real turning point came with the codification work of Károly Csemegi, a lawyer from Arad, who was entrusted with the drafting of the penal code. The draft Criminal Code was completed in 1873, and the Explanatory Memorandum was written the following year. The draft caused consternation among contemporaries, as it completely ignored the 1843 proposal and distanced itself from it. The reason for the consternation was that, although the 1843 proposal never became law, it had already been applied to a certain extent by the judiciary, and it was accepted in the country that it would become the penal code of Hungary.¹⁷ It came to the House's desk in 1875, and the draft was passed. This was the story of Hungary's first criminal code, which became a law, and was formed entirely by the combination of Act 5 of 1878 and Act 40 of 1879.¹⁸ In the next section, I will discuss the content of the proposed and then adopted Criminal Code.

¹⁵ MEZEY, *op. cit.*, pp. 314–320.

¹⁶ *Ibid.*, pp. 326–328.

¹⁷ BÓDINÉ BELIZNAI, Kinga: A magyar büntetőtvénycsok a büntetteköl és vétségekröl. A Csemegi-kódex (1878. évi 5. tc.) [The Hungarian Penal Code on crimes and misdemeanours. The Csemegi Code (Act 5 of 1878)], https://majt.elte.hu/dstore/document/2814/beliznai_csemegi_kodex.pdf, p. 3. [Access on March 24, 2024].

¹⁸ MEZEY, *op. cit.*, p. 329.

3. The infidelity provisions of the Csemegi Code

The proposal of Act 5 of 1878 (hereinafter referred to as the "Proposal"), under the common name of infidelity, summarises several unlawful acts which have a similarity, in that, although, in different ways, they all attack the monarchy or the Hungarian State in its position of power in the community of countries, in its legal personality, but above all in its external security. An important question is: what is it that unites these illegal behaviours and what is it that separates the provisions of the chapter on the violation of sovereignty from those protecting the state, the sovereign territory of the state?

In order to find the answer, it is important to look in more detail at two factors, namely the specific perpetrators and the legal object of the offence. It is stipulated in the Proposal (and ultimately in the adopted law) that in the case of military treason, the perpetrator must always be a Hungarian national or a citizen of another state of the monarchy. Foreigners are subject to international military rules. This arises in cases where a person undertakes and performs military duties at the request of his Hungarian principal and possibly does so in the colours of the Hungarian armed forces. As these persons are undertaking combat activities, either clandestinely or officially, but under the authority of the Hungarian state, they are subject to military law. The question arises, which law is this? Despite the fact that Csemegi indicated in the committee debate those experts had also examined the texts, which they found to be "quite correct", we do not get a more precise answer to this, even in the comments. The basis for the narrowing down of the scope of the offence was the political and legal changes that had already transposed the concept of loyalty as a relationship and the conceptual changes in the state and the exercise of power into criminal law from the end of the 18th century. Thus, a distinction was made between insult and treason.¹⁹ According to Liszt, treason presupposes the existence and participation of several states, but the assassinations that fall under the heading of insurrection would not lose

¹⁹ BARNA, *op. cit.*, pp. 221–222.

their specific character even if the state attacked existed only in the world or if the whole world were a single state.²⁰ In distinguishing between the two offences, the proposal focuses on the definition of the obligation of inhabitants who have been elevated from subjects to citizens and on the interpretation of the relationship of loyalty. In fact, Csemegi considered the use of the word insurrection and its identification with the concept of *crimen laesae maiestatis* in Roman criminal law to be a mistake. *“It has taken a great and long struggle, a great deal of buffeting of science, the correct recognition of correct ideas, and the careful ascertainment of correctly recognized ideas until the assassination by the assault of the person of the king has been separated from the assassination by the assault on the majesty of the state.”*²¹

To commit the offences detailed in this chapter, the legislator requires consciousness and “evil intent”, but at least a willingness to accept the consequences. However, the motive of the offender, the reason and background that guided him when he acted, are irrelevant. A further common element of the offences is the capacity to cause conduct that endangers or harms the state, i.e. to be objectively dangerous. In addition to the offender’s act, the judgment must take into account the resulting dangers and possible negative consequences, with particular regard to special situations (e.g. state of war) and protected objects. It follows that the offences listed in the law as falling within the category of infidelity may be considered to have been completed without damage to the State.²²

After the finalisation and adoption of the Proposal, the crime of infidelity (*nota infidelitatis*) was defined in Article V of 1878 (from now on: Csemegi Code) as those offences which endanger the international status and foreign security of the State, with the additional stipulation that the person subjected to, or the perpetrator of the crime

²⁰ HEIL, *op. cit.*, Diplomáciai honárulás [Diplomatic treason].

²¹ Csemegi Károly felszólalása a Képviselőház 1877. november 29-ei ülésén a felségsértésről szóló vitában [Csemegi’s speech at the session of the Chamber of Deputies on 29 November 1877 in the debate on the insult to the sovereignty.] Képviselőházi Napló, 315. Országos Ülés, 1875-78. XIII. Kötet, pp. 397–398.

²² BARNA, *op. cit.*, p. 224.

must be Hungarian or a citizen of another State of the Austro-Hungarian Monarchy. Act C of 2012 on the Criminal Code (hereinafter referred to as the Criminal Code) included the offences of aiding the enemy and espionage in the Csemegi Code, and the offences of treason and treason in the existing Criminal Code was included in the offence of insubordination in the Csemegi Code.²³

One type of treason was the offense against the territoriality of the state, which constituted an act aimed at, directly or indirectly, subjecting the entirety or some part of the territory of Hungary, as well as another state of the Austro-Hungarian Monarchy, to foreign domination by force or causing it to be detached from the state to which it actually belongs. In the Csemegi Code, acts of treason can be divided into two categories: military treason and diplomatic treason. The former, i.e. military treason, is committed when a person provokes a war or acts against the armed forces of the country during a war that has already broken out. In today's Criminal Code, this is included in the list of crimes against the state as support for the enemy.

The offence of conspiracy, which is prohibited as military treason and which endangers the security of the state, is committed by anyone who has entered into contact or conspired with the government of a foreign state to incite or induce the foreign state to commit hostile acts against the Austro-Hungarian Monarchy. Furthermore, it is also a conspiratorial offender who endeavours to induce a foreign state to wage war against the Austro-Hungarian Monarchy. Supporting the enemy's armed forces after the outbreak of war includes the acts enumerated in detail in the law. Such acts include, for example, aiding the enemy with food or money, communicating, or transmitting to the enemy the plans of a camp, fortress, or military operation, obstructing the home force, damaging or burning the food supplies or weapons of the home force, or dams, bridges or embankments, or rendering them unusable. Any person who, after the outbreak of war or the declaration of war, has undertaken military service with the enemy has committed the crime of military service

²³ *Ibid.*, p. 224.

with the enemy. The second type, i.e. diplomatic treason, could be committed not only by Hungarian citizens but by anyone. The types of diplomatic treason are, in fact, similar to the facts of espionage and treason today. The crime of diplomatic treason is committed by a person who, during his or her duties or office, came into knowledge or possession of secret documents, data, or information concerning the important interests or security of the Hungarian State or of another State of the Austro-Hungarian Empire, which he or she communicated directly or indirectly to the enemy. It is also an offence for any person to have obtained possession of or knowledge of the said document, data, or information by theft, deception, embezzlement, or violence, and to have communicated the document, data, or information thus obtained to the enemy.²⁴

4. Sanctioning cases of infidelity

The Csemegi Code, in its second part, which deals with the types of offenses and crimes, as well as their penalties, addresses, in its third chapter (Sections 142-151), the subject of infidelity. Article 142 states that a Hungarian citizen who allies himself with the government of a foreign power or enters into direct or indirect contact with it to induce it to commit hostile acts against the Hungarian State or the Austro-Hungarian Monarchy, or who attempts to induce a foreign power to wage war against the Austro-Hungarian Monarchy, shall be guilty of the crime of treason and punishable by imprisonment for a term of ten to fifteen years. If a declaration of war is made or war breaks out, the penalty is aggravated to life imprisonment. Article 143 provides that a Hungarian national who enters the military service of the enemy after the declaration of war has been made or after the outbreak of war shall be punished by imprisonment for a term of ten to fifteen years. He shall be punishable with imprisonment for up to five years if he has been in military service with the enemy before the declaration of

²⁴ Révai Új Lexikona [The New Encyclopedia of Révai] X. kötet [Volume X], Szekszárd, Babits Kiadó, 2002, pp. 320–321.

war or the outbreak of war and remains in service without compulsion with the enemy's armed forces and has fought against the armed forces of the Austro-Hungarian Monarchy or against the armed forces of alliances or joint forces of the Austro-Hungarian Monarchy. Article 144 provides for life imprisonment for a Hungarian national who commits the offence outlined in the following eight points:

“1. whoever places a fortress, town, fortified place, beach, ford or military post, armoury, supply or food depot, ship or any officer or soldier belonging to the Austro-Hungarian armed forces in the power of the enemy, or who agrees with the enemy for this purpose;

2. who communicates to the enemy the plan of a military operation, camp, fortress, or stronghold;

3. who facilitates the enemy's entry into or progress through the territory of the Hungarian State or the Austro-Hungarian Monarchy;

4. who assists the enemy with money, or by aiding his armed forces, military equipment, or the means of subsistence of his army, or by facilitating the acquisition thereof;

5. who aids the enemy by undermining the loyalty of persons belonging to the armed forces of the Austro-Hungarian Monarchy;

6. whoever sets fire to, breaks up, damages, or otherwise renders unusable any bridge, embankment, dike, dam, iron road, or road, or any other structure, whether to the detriment of the Austro-Hungarian armed forces or the advantage of the enemy;

7. who informs the enemy of the position, condition, or movements of the Austro-Hungarian armed forces, hides the enemy's spy or soldier sent to spy, or gives aid or advice for the purpose of carrying out his objective or for his escape;

8. who commits any of the acts specified in this Section against the territory of the Austro-Hungarian Monarchy or the armed forces of the Austro-Hungarian Monarchy acting in conjunction with its armed forces.”

According to Article 146, whoever, in the course of his special mission or profession, has knowledge or possession of secret data, documents, or information relating to the security or other important interests of the Hungarian State or another State of the Austro-Hungarian Monarchy, communicates them directly or indirectly to the enemy, shall be punished with imprisonment for a term of between ten and fifteen years. Any person who communicates secret information, document, or report to the government of another power for purposes other than to bring it to the knowledge of the enemy, or who makes public the information, document or report, or its contents, shall be punished by imprisonment for a term of up to five years. According to the provision of Section 147, whoever obtains the information specified in Article 146 by force, theft, embezzlement, or subterfuge and communicates it directly or indirectly to the enemy shall also be punished with imprisonment for a term of ten to fifteen years. If the secret document, report, or data has not come to his knowledge in the manner specified above, but he has communicated it directly or indirectly to the enemy, knowing its secret nature, he shall be punished by imprisonment for a term of five to ten years. Under Section 148, a person shall be punishable with imprisonment for up to five years, who has formed an association for the commission of any of the acts specified in Section 142, the first paragraph of Section 143, and Section 144, as provided for in Section 132, if no preparatory act has been involved. Otherwise, he shall be liable to imprisonment for a term of five years to ten years.

Section 149 provides that anyone who makes a public and direct invitation, in the manner provided for in Section 134, to commit the offences of treason provided for in Sections 42, 143, and 144 shall be punished with imprisonment for a term of five to ten years. Section 150 provides for a penalty other than imprisonment, suspension of political rights, and loss of office, which also applies in the cases listed in this Chapter. Section 145 does not contain precise facts and does not lay down a penalty, but states that foreign nationals are subject to the rules of international war in the cases provided for in Sections 142 and 144 and that the provisions of this Act apply to nationals of another State of the Austro-Hungarian Monarchy in the cases provided

for in Sections 142, 143 and 144. This shows that infidelity as a crime is a more serious category. The Csemegi Code mainly punishes it with imprisonment. In terms of the range of penalties, the majority of the penalties are the same, ranging from ten to fifteen years imprisonment, but there are also mitigated penalties of five to ten years or up to five years imprisonment. However, there are also examples of life imprisonment, indicating the seriousness of the offence. The difference is to be found in the institution where the sentence is served. Section 143 provides for a state prison in the case referred to in the second paragraph of Section 146, while in other cases, the law provides for the prisoner to serve his sentence in a penitentiary.

Section 35 provides that state prisons are subject to less stringent rules than those laid down for prison and jail. Persons detained in the State Penitentiary may spend two hours a day in the open air in an area designated by the Board. Depending on local conditions, prisoners are kept separately at night and together during the day, are allowed to wear their own clothes, feed themselves, cannot be forced to work, and are entitled to engage in the work of their choice. There are also more lenient conditions in terms of house rules and discipline and in terms of contact with persons not belonging to the institution. Unlike in state prison, a prisoner sentenced to a penitentiary can be forced to perform assigned work, has no freedom of choice, and is obliged to perform the work assigned to him. A further difference is that the prisoner is obliged to wear church clothes, is usually kept in solitary confinement, and the rules and regulations are stricter than in the state prison. The prison is governed by Sections 28 to 34.

5. Presentation of the conviction in the Standard case

On Tuesday, 21st February 1950, at noon, the Special Council of the Budapest Court of Justice pronounced judgment in the trial I am about to present, the Standard case.

There were seven persons involved in the case, Imre Geiger, Zoltán Radó, Róbert Vogeler, Edgár Sanders, Kelemen Domokos, István Justh, and Edina Dóry.²⁵

An important background to the discovery of the facts is that the US-based monopolistic communications equipment companies ISEC and ITT, of which Standard, Budapest, was a subsidiary, were closely linked to US military circles. It was in the interests of the group's shareholders to obtain larger orders for the military. For this reason, a significant number of high-ranking military officers were elected to their management. It is also important to point out that their business policy was subordinated to the General Staff.²⁶

From the autumn of 1945 onwards, businessmen were sent to the Central European states, including Hungary, to carry out military and political intelligence activities in secret, under the pretext of controlling companies. In 1947, when the question of the direction of political development was finally settled, these concerns set themselves a new objective in addition to increased military intelligence. The new objective was the withering away of American capital-interested enterprises in Hungary and in the countries of the people's democracies in general. This was because the US had no interest in companies increasing the military or economic power of the people's democratic countries. Thus, at the end of 1947, the accused Imre Geiger was ordered to New York and received instructions from the group's managers to this end.²⁷

In October 1948, the president of ISEC, Colonel Behn, held a secret meeting at the Gellért Hotel, attended by the accused Imre Geiger, Róbert Vogeler, and Edgar Sanders. He appointed Imre Geiger as General Director and, in line with the objective, ordered him to take over the Standard factory in Budapest under his leadership without being noticed. As a reward for carrying out this risky and dangerous task, Geiger was paid 2,500 forints per month and \$125 per month into his New York checking account, in addition to his salary as CEO. Imre Geiger took on the task and

²⁵ *Népszava*, 22 February 1950, p. 1.

²⁶ *Ibid.*, p. 1.

²⁷ *Ibid.*, p. 1.

sabotaged the business production on technical, financial, and business levels. He minimised the company's mobility by unnecessary purchases of materials, wasting working capital, and diverting it to long-term investments. Furthermore, it failed to meet state orders, orders from the countries of the Soviet Union and the People's Democracies on time, and deliberately produced goods of substandard quality for them. In addition, he kept false accounts and damaged the country in the field of taxation. They overestimated the war damage four times over, falsely reported to the Planning Office the capacity of the plant and reported higher than actual production levels in order to cover up their sabotage activities. In addition to successfully carrying out these activities, Imre Geiger recruited several of his colleagues, including the accused Kelemen Domokos, the director of the accounting department of the factory. With their help and cooperation, he carried out the specific sabotage instructions that he received from New York through the US Embassy via US agents Róbert Vogeler and Edgar Sanders.²⁸

Róbert Vogeler, a colonel in the US Army and Vice President of the ISEC consortium, spent nearly a decade as a military intelligence officer in the Army's military services, and the defendant Edgar Sander, a captain in the British Army, attended intelligence schools in the Army and was involved in intelligence activities for many years. For this reason, they were both sent to the Standard factory to conduct military reconnaissance under the guise of their positions as inspectors. They both provided military, economic, and political intelligence under the briefing and instructions of their respective military commands. They covered the substantial costs of their espionage activities by using forged vouchers from the Standard factory's cashier's office and, with the help of the recruited Zoltán Radó, the head of the heavy industry department, by releasing and withdrawing funds from the company's blocked account. Róbert Vogeler recruited Edina Dóry for espionage activities to make his reconnaissance work more effective Róbert Vogeler recruited Edgar Sanders, Imre Geiger, Zoltán Radó, and

²⁸ *Ibid.*, p. 1.

other defendants in addition to Edgar Sanders, Imre Geiger, and Zoltán Radó. He collected economic, military, and political data from them and sent it beyond the US Embassy to the ODI headquarters in Vienna. Sanders, Dr István Justh, a defendant, similarly recruited a rector-parish priest and others from whom he collected data on the Hungarian army, its armaments, troop movements along the border, airfields in Transdanubia, and similar data in exchange for financial reward. The accused Zoltán Radó, as the head of the department of the Hungarian Ministry of Heavy Industry, handed over to Vogeler, after his recruitment, the highly significant statements and industrial production data available to him in his official capacity, and also exposed the sabotage of bullets in the Standard factory, which constituted a breach of his duty as a public official. The Budapest State Prosecutor's Office charged the defendants essentially based on the facts outlined above. The unexpected raid and the investigation uncovered a mass of physical evidence so that the defendants could not deny the charges and admitted to a series of activities that had already been largely uncovered.²⁹ The Criminal Court imposed the following sentences on the defendants:

- Imre Geiger was sentenced to death as the principal punishment, and, if pardoned, to ten years' imprisonment and suspension of his political rights, also for ten years, and confiscation of all his property as a subsidiary punishment.
- Zoltán Radó was sentenced to death as the principal penalty and, as an ancillary penalty, to 10 years' imprisonment and, if pardon is granted, to the suspension of his political rights for a further 10 years and the confiscation of all his property.
- Róbert Vogeler was sentenced to a total of 15 years' imprisonment as the main penalty, and as an ancillary penalty, his property located in the territory of the country was confiscated, he was expelled from Hungary after serving his sentence and was banned from returning to the country.

²⁹ *Ibid.*, pp. 1–2.

- Sanders Edgar was sentenced to a total of 13 years' imprisonment as the principal penalty and, as an ancillary penalty, confiscated his property in the country, deported from Hungary after serving his sentence, and permanently banned from returning.
- Kelemen Domokos was sentenced to a total of 10 years' imprisonment as the principal penalty, 10 years' deprivation of his official functions and suspension of his political rights, also for 10 years, and confiscation of all his property as a subsidiary penalty.
- Dr István Justh was sentenced to a total of 10 years' imprisonment as the principal punishment, 10 years' deprivation of his official functions and suspension of his political rights, also for 10 years, and confiscation of all his property as a subsidiary punishment.
- Edina Dóry was sentenced to 5 years' imprisonment as the principal penalty, 10 years' deprivation of liberty and suspension of her political rights, also for 10 years, and confiscation of all her property as a subsidiary penalty.³⁰

6. Summary

The aim of my article was to describe the legal history leading up to the Csemegi Code as the first Hungarian criminal code. Although I did not intend to do this in detail, as stated at the beginning of the article, I have, contrary to my plans, provided a more detailed overview of legal history, but of course, I have done this within the scope of the article. The Csemegi Code contains detailed provisions on infidelity and breach of sovereignty. I have collected the facts and sanctions of this legislation and then I have described a case of infidelity, the facts of which fall within the scope of diplomatic infidelity, and which were judged under Act 5 of 1878. The case presented illustrates that treason was sanctioned very severely for its gravity.

³⁰ *Ibid.*, p. 1.

In conclusion, the regulation and sanctioning of infidelity have undergone many changes in the course of history, and the main reason for this is the constant change in the definition of the term. However, one thing can be said in common: infidelity has been present in all social systems in one way or another and has always been considered a crime of the highest gravity, because of the danger it poses to society.