

Riot and Violence in Hungary – Crime Against the State?

Dr. István László Gál*

„It is possible to protest in front of the Parliament. Sooner-or-later they will get bored of it and go home” (Ferenc Gyurcsány, Prime Minister of Hungary)

Historical review

The purpose of this essay is criminal estimation of the bloody Hungarian events and especially the Hungarian Television's siege and though this estimation, analyzing the crimes against the state and the justification of the riot as separate crime.

The bloody events, revolutions and counter-revolutions had a strong effect on the XX. Century's Hungarian codification of the crimes against the system. It's an interesting indeed, and first of all it's important to lay down, that all of the revolutions are amount to a crime against the actual political system, and also against the state.

So, we only can talk about crimes against the state, if the movement would be fallen down, or put down.

If the revolt is successful, the winners would change the Constitution, and the Criminal Code, and moreover sometimes they change the History Book too... We have to mention of rules from the first decade of the 20. century, the special arrangements in case of war (LXIII. Act. In 1912). The 2. chapter¹ of this rule orders the modification and in some parts the complement of the Criminal Code, if the war reaches the extraordinary status, and the situation needs special orders.²

After the revolution's fall in 1919, the Horthy – government ordered the formation of the new Criminal Code.

On the August of 1920 they introduced this bill to the “Nemzetgyűlés”. Originally it was a moderate proposal³, but during the negotiations they larded it with aggravations, which more or less obliquely counted the “legitimate order of the state and the society” as subject saved by the criminal law. Intrinsically, they wanted to save to from the bolshevism, which was called: “mass-crimes”

The proposal, and the III. Act in 1921. (which was accepted by the right of the proposal) were ordered about the more updated safe of the government and the society. It was called: “Order-Act”, and as Pál Angyal - who was the biggest Hungarian criminal law jurist in the first decade of the XX. century - explained: “This Act has been made because of the movements against the government in

* Senior lecturer, University of Pécs, Faculty of Law, Department of Criminal Law

¹ The first Hungarian Criminal Code- the 5th Act in 1878., which was named by Csemegi Károly: Csemegi Code

² Example: martial law

³ Originally the proposal's text doesn't include the passage, which says, that the rule protects from „executive domination of any society class”.

1918 and 1919". He also points out to the prior process and expounded: "If the discipline and the patriotism and also the togetherness declines, and the factious and mostly ruinous power rises, then the order of the moral and economic life would split, and the cultural developing would step and all the things that has been built for many years would go wrong in a couple days."⁴

After the World War II, and the world-wide realignment, Hungary became a socialism country. In 1950 the new act (II. Act in 1950) changed the general part of Csemegi – Code:

the formal bearing of a cases of the crimes
the concept of danger for the society

The codification of the criminal law has started in 1955 and after the revolution in 1956 it stopped because of the political ambience and later it has been continued in totally different way.

The review of the act was necessary after the revolution. A book was published in 1958 about this topic and it's confers "de lege ferenda" the possible modifies, and try to clarify the concept of the political crimes, which had been emerged for 30 years.

"Any attack, which harms or endangers the entity of the socialist state, as the complex of the socialist conversion's achievements, and necessarily counter-revolution attack.

The name: political crime couldn't be held in the socialist states, and the malignant attack should be considered as a counter-revolutionary attack."⁵

Consequently, that time the object of the crimes against the state inner safe were the People's Republic's authority. The malignant attack against this was meant as an endanger of achievements of the proletarian dictatorship and the revolution of the popular democratics.

When the actually operative Criminal Code had been made, the riot was ruled as a crime against the state, in order to save the socialist social and political system. Fortunately we don't meet with this crime in practice.

The system change in 1989 went of peaceably, and luckily Hungary avoided the bloody events like the romanian revolution.

Statement of crime and questions about delimitation:

If the perpetrator doesn't stymies or forces the Hungarian Parliament, President of the Democracy, or the Highest Court, or the Government to do something than it's not a crime against the state.

In this case, it will be qualified as an assault in group against Public Officials or other crimes.

If member of the politician establishment got hurt while the riot has been happened, then

⁴ Angyal Pál: Companion of criminal law 4th tome, The more operative protect of state and society order – 1921. évi III. tc. 3. o.

⁵ Dr. Barna Péter: The crimes against the inner safety of the state – 30. page

Only the perpetrator, who took a part in the riot could not be punished, but the leader / organizer of the rioting is not, by the 3rd section.

The reason, why they don't punish the persons who stops to do the rioting is very simple. There is a higher social interest for the preventing injurious consequence, but for the punishment.

The Hungarian operative regulation of the riot

The bearings of the case of the riot has been re-regulated after the peaceful political change.

The statement of the case hasn't changed since 15 October 1989. However, it hadn't necessary to use in practice for 15 years. Until 2006 none of the behaviours were even suspect as a riot.

The operative regulation of the riot is the following:⁶

(1) Any person who participates in a civil disturbance, the immediate aim of which is to prevent:

- a) Parliament;**
- b) the President of the Republic;**
- c) the Supreme Court;**
- d) the Government;**

from exercising its constitutional authority by force or means of violence, or threatening to use violence, or to compel them to do or to refrain from doing, some act is guilty of a felony punishable by imprisonment between two to eight years; the organizer or leader of the civil disturbance shall be punishable by imprisonment between five to fifteen years.

(2) Any person who engages in the preparation to a riot is guilty of a felony punishable by imprisonment between one to five years.

(3) Any person who withdraws from the riot either voluntarily or by order of the authorities before any violence is committed, shall not be liable for prosecution for rioting.

The judiciary object of the crime is the Constitutional Order of Hungary.

The passive subjectives of the action, and in this way the object of the crime: the Parliament, The President of the Democracy, the Supreme Court and the government.

The riot is not only runs against the persons who fills apart important function (politicians, civil servants), but against the organizations which they lead or represent.

The commission – behaviour is taking a part, organizing, or leading a moss-rioting. Neither of the Hungarian Criminal Code or the justification aren't give the exact answer of the question: How many people creates a moss?

By the practice of the law it's approx. 15-20 person's together attendance would mean a moss.

⁶ Hungarian Criminal Code, Special part, Chapter X., Crimes Against the State, Section 140.

As the statement of the fact includes: the direct purpose of the moss-rioting is to embarrass the passive subjectives in practicing their constitutional tether or force them to act.

The purpose of the crime is the same as it's orientation. Anyone can be the subjective of the crime: hungarian or foreign citizen as well. The organizer or the leader – even organizing is a kind of instigation – responds as a delinquent.

By doing the commission – behaviour the crime was finished, but there is no result in the statement of the facts.

The act is especially dangerous to the society, so the preparation is also punished.⁷

18 September 2006 at night- The siege of Magyar Televízió

Ferenc Gyurcsány Hungarian Prime Minister's speech which was kept in private circle, got publicity after the elections of 2006.

In this speech he talked about the electioneering towards of win the elections of 2006 and he also talked about the previous governmental activity touching on the political tricks and lies which have been used by all those parties who wanted to get the power or keep it in some way since the change of system at 1989 but since then no one has admitted it.

After Gyurcsány's speech got publicity thousands of people who already resented the economic tightening actions, went out to the streets to demonstrate claiming the disclaim of the Prime Minister. This nationwide demonstrating wave which was favoured by maverick parties slowly turned out to crimes on 18 September at night. This situation was quite serious as the aggressive core of demonstrators was composed of football hooligans, wanted criminals and old offenders.

The police was not prepared for the situation. They kept the main force in store for protect the Parliament but the bloody affair happened a few hundred meters from the Parliament.⁸

The valuation of occurrences, crimes at Liberty Square

Crimes happened while Magyar Televízió was attacked, but there were some cases which caused arguments in the circle of Criminal Lawyers. It's clear that there was violence against functionaries and the Monument for Soviet heroes was damaged⁹ (Soviet blazon was stolen) which is the prevelaged case of property damage.

Breach of peace happened as well which cause problem because that is a subsidiary crime which means it can only happen if other outweigh crime did not happen. How serious crime do we think about? For example there are different opinions about setting vehicles on fire. Some people think that it is just a simple abuse. But there were 2 statements of facts, one of them is demolition, the other

⁷ By the right of: CompLex DVD Law Database Hungarian Criminal Law Comment

⁸ http://en.wikipedia.org/wiki/2006_protests_in_Hungary#Riot_and_violence (15. 09. 2007.)

⁹ By the hungarian – russian agreement it had been guaranteed the existence of one statue in remembrance of the russian victory in the II. World War, this was the Monument for Soviet heroes in the Liberty Square.

one is insurrection were said about by criminal lawyers that they were crimes against to government. We can hardly say that demolition happened, because we can not prove that disturbance of constitutional order happened as an intent.

Insurrection is a more interesting question because it doesn't need such an intent like demolition and its statement of facts doesn't contain violence, for insurrection to be happened only need that principals take part in a mass rioting which intent is to obstruct the government in practising its constitutional tether or made it to take measures. Maybe the second statement of facts make sence as they wanted to read a petition in claiming the government's disclaim which happened together with mass rioting. That's why criminal lawyer can say that insurrection was committed. Even so Hungarian Court of Law did not determine insurrection. In my opinion if it wasn't a mass rioting, than I don't know what could be one, on the other hand I think it is impractical to determine that crime against to government happened because it would be like fuel ont he flame and it could push the events to a very dangerous way endangering the safety of the state. Additionally if the court had appointed crime againts to government than they should look for thousands of principals not only a few hundreds of them and as the penalty keeps from 2 to 8 years not sure that Hungarian Court of Law could ensure enough room for the convicts.

In addition 3 other serious crimes could come into existence, one of them is public endanger (like setting vechicles on fire therefore fire spread over to Magyar Televízió), the second one is disturbing the work of plants as they made Magyar Televízió to stall. The third one¹⁰ is setting monitor on fire which was a vehicle within 3 policemen. You commit homicide attempt in a minimal probability aim when you set a vehicle on fire within people and you know that they don't dare to get off and you also know that the vechicle may blow up. Furthermore we can talk about assault against public officials and crime againts on more than one person. In my opinion, that was the most serious crime at Liberty Square because people died there. The penalty for that can be life imprisonment but there is just a little chance to find the perpetrators. Actually the 3 policemen's lives were dependent on some well-meaning demonstrators otherwise a country had watched their deaths. (The events were broadcasted by a Hungarian commercial channel). But there are still some question. Did the police make a mistake? Did the secret service work properly, etc.? This is being analyzed by criminal lawyers even today. But I wouldn't criticise their work because we don't know what happened at the background what did they have to balance at the scene. Furthermore there weren't people only in Budapest who declared their political opinions in a violent way. We don't know if there are other places where the police managed to prevent the dangerously situations. Fortunately, the same situation didn't happen in other cities, what is luck or not just luck.

Conclusion

¹⁰ The demonstratives burnt a a monitor which had been stucked int he grass with Molotov-coctail. On the moment when it happened, 3 policemans were in the monitor.

It seems, that the statement of facts is a kind of phantom in Hungarian Criminal Code. It could be clear for everybody that insurrection happened even so noone started to investigate. It's like jurisdiction would be afraid of appoint political crime. It's true that Hungarian Penalty Execution does not have enough capacity to admit thousands of convicts. Moreover, in this case the crime wave would turn up, than it could sweep the political system and the jurisdiction away. It's better to redeem insurrection with public crimes like abuse, assault against Public Officials, causing public danger or terrorism in some cases. Even so we are not allowed to decriminalize the statement of facts of insurrection. First of all there are some potential perpetrators who are kept back only by knowing about that insurrection is a crime. In the other hand it could be the background for damning based organizing. That kind of work of secret service is indispensable for disrupting the growing up unconstitutional groups and suspects.