# RESEARCH RESULTS – 2021
# (Summaries of completed research)

**CONTENT**

# A) RESEARCH COMMISSIONED BY THE INSTITUTE

**Tünde A. Barabás – Bernadett Csapucha:**

## The characteristics and enforcement dilemmas of criminal proceedings for endangering a minor in the light of a file research

Within the family as a social unit, special attention must be paid to the protection of children, who are particularly vulnerable. The current Criminal Code broke with the regulatory structure according to the '78 Criminal Code, which dealt with the provisions for the protection of children and the family in a chapter with offences against sexual morality, and now deals with them in a separate chapter (Chapter XX).

Among the offences against the best interests of the child, the aim of the present research was to review the theoretical and jurisprudential characteristics of the criminal law offence of endangering a minor.

The first part of the research examines the existing body of criminal law. It analyses separately the two basic cases of the offence of endangering a minor, within the framework of which it provides a comprehensive doctrinal analysis, bearing in mind the key points in the text of the norm, the aspects that are particularly relevant from a theoretical point of view and the problems that may arise. The empirical research was based on a case file analysis, during which we processed all the decisions (final and binding judgments, decisions/orders to terminate proceedings) of the Budapest-Capital Prosecutor General's Office in 2019 that were made available in connection with the subject of the research. The main objective of the file research was to provide a picture of the domestic jurisprudence and its peculiarities, with a particular focus on the practice of sentencing. Another objective was to identify the reasons behind cases that end with the termination of proceedings.

It is clear from the examined files that it is primarily the offence of endangering a minor under Section 208 (1) of the Criminal Code that has a legal basis in practice, although, in exceptional cases, criminal offences contrary to Section 208 (2) of the Criminal Code are also established. The specificities of sentencing practice have been demonstrated, that the majority of criminal cases of this type ended with a suspended sentence of imprisonment (83 compared to 71%) in the capital's area of jurisdiction. The aggravating and mitigating circumstances taken into account were largely in line with those set out in Criminal Department (BK) Opinion No 56, which provides guidance to law enforcement authorities on the factors to be taken into account and assessed when imposing a sentence.

In terms of the characteristics of perpetrators, we found that a significant proportion of the defendants (63, 54%) were quite under-qualified, with 8 or fewer grades of primary school. Of the total number of convictions, more than half of the perpetrators were in the 35-50 age group (60, 52%).

In criminal cases of endangering a minor, proceedings were mainly terminated on the grounds of a criminal offence or lack of evidence, although other reasons (e.g. death of the suspect) were also rarely used.

The research has also revealed errors in the application of the law, most of which are related to the application of Section 208 (1) of the Criminal Code. When examining the offences covered by Section 208 (1) of the Criminal Code, the offence of bodily harm and the criminal act of causing bodily harm were mistakenly found to be committed concurrently in several cases. If the defendant causes bodily harm within the meaning of Section 164 (2)-(4) of the Criminal Code, and if the conditions of the statutory element of relationship violence are met, then the crime of endangering a minor should have been established in cumulative form with relationship violence, i.e. the cumulative offence should not have been established by one of the above mentioned turns of bodily harm.

**Anna Kiss – Bernadett Csapucha:**

## Measures for the protection of the a minor victim in the Hungarian criminal justice system

The research focuses on the identification of the main international documents aimed at achieving child-friendly justice, highlighting relevant guidelines issued under the auspices of the United Nations, the European Union and the Council of Europe.

With the inclusion in the Criminal Code of Chapter XX, titled 'Criminal offences violating the interests of children and criminal offences against the family', the legislator recognised the need for greater criminal law protection in this area, and that the assessment of offences against children's best interests requires a comprehensive approach.

The research will include a detailed description of the substantive and procedural criminal law provisions for the protection of vulnerable child victims, and will also examine the extent to which Hungarian jurisprudence meets international standards in the context of child-friendly justice.

The final study in the research programme will look at domestic measures instruments for the protection of minors, in addition to criminal law instruments, and those used in other fields of law.

The research analyses in detail the process that started in Hungary in 2011, when the Ministry of Public Administration and Justice, together with the Ministry of Interior and the Ministry of Human Capacities, established the Child-Friendly Justice Working Group to prepare the necessary amendments to the law, and the Government announced the Year of Child-Centred Justice in 2012. The first children's hearing rooms were set up. This was followed by the First Child-Friendly Justice Package, which amended the Criminal Code, the Code of Criminal Procedure (CCP), the Law Enforcement Act and the Code of Civil Procedure in line with the principles of child-friendly justice. With these amendments, among other things, additional guarantees have been introduced in the Code of Criminal Procedure regarding the hearing of juvenile accused persons and minor witnesses, and the conditions for ordering a closed trial and the rules on jurisdiction have been amended in the Code of Civil Procedure. The rules on hearing and questioning minor parties and witnesses were also detailed. The Second Child-Friendly Justice Package introduced further changes, which are analysed in detail in the research. Among the subsequent amendments, the rules on special treatment should be highlighted, for which the Code of Criminal Procedure was amended in 2021 as well.

The research confirmed the initial hypothesis that both the Hungarian legislation and the domestic jurisprudence meet the requirements of international instruments.

The research also found that there are many difficulties in implementing the concept of child-friendly justice in everyday jurisprudence. The research used reports from prosecutors' offices as evidence.

These are also described; the problems are formulated and the solutions outlined in the final report on the research.

**Gabriella Kármán:**

## Criminal law tools to combat fake medicines

Counterfeiting health care products, and in particular medicines, is a serious problem that affects individuals, society and the economy; it threatens health, human life and public health, and causes considerable moral and financial damage. Human life and health, as well as trust in health products and the legal production and distribution of medicines are values which, if violated, are also subject to criminal law. In Hungary, counterfeiting health care products and their active substances has been included as a special offence in the Criminal Code since 1 July 2013, and also for related acts.

Analysis by both the Council of Europe and the European Union's Intellectual Property Office (EUIPO) shows that counterfeiting medicines, while posing a serious threat to human life, is a highly profitable industry with low chances of detection and excessively lenient penalties. The effectiveness of criminal proceedings depends on the success of detection and evidence. The effectiveness of criminal law instruments is also measured by the number of persons and organisations prosecuted, the amount of counterfeit goods confiscated and the value of assets derived from criminal activities.

The first year of the research, which started in 2020, aims to understand the processes and regulation of the legal production and distribution of medicines, as well as the general characteristics of illegal activities, in addition to exploring the punishability of the misuse of health products. In the second year of the research, empirical research was conducted by examining the characteristics of criminal proceedings initiated for these offences.

This included the examination of the criminal files of 185 criminal proceedings for criminal offences registered between 2017 and 2019, which ended in a final and binding decision.

The criteria for data collection included, on the one hand, the characteristics that make it possible to identify the acts, such as the subject of the offences, the modus operandi, the characteristics of the perpetrators, etc., and, on the other hand, the specificities of the detection, proof and adjudication of proceedings.

The analysis of the data shows that, in the vast majority of cases during the period under review, the authorities prosecuted counterfeiting medicinal products as punishable under Section 186 of the Criminal Code. The most common type of case is importing to or transit through the country of health products (medicines) not authorised in Hungary.

Of the medicines that are the subject of the acts, potency enhancers, performance enhancers, painkillers and drugs containing psychotropic substances were the most common. The quantity of medicines involved in the cases was very variable; fines were common among the penalties imposed and measures used, and release on probation and admonitions were also common. Custodial sentences were imposed by the courts as concurrent sentences for offences involving large quantities of drugs, making them available to a wide range of users and for acts committed in conjunction with other offences (e.g. drug trafficking).

The results of the research will be further investigated, and a focus group discussion will be initiated by the pharmaceutical authorities next year. The results of the research are expected to serve as a starting point for consultations between professional bodies and practitioners in order to improve the effectiveness of the procedures.

**Anna Kiss:**

## Theoretical and practical issues regarding the new Code of Criminal Procedure

The research included an examination of the amendments to the new Code of Criminal Procedure that entered into force in 2018, with a particular focus on the changed rules from 2021, the reasons and explanations for them. In addition to learning about the legislative intentions, we reviewed and analysed the literature on the amendments to the Code of Criminal Procedure. Besides the general legal theoretical analysis, in order to become acquainted with the jurisprudence, we organised a round table discussion on the interrogation of minor victims, selecting the Barnahus method, which will be introduced into criminal proceedings from January 2021, and interviews with legal practitioners.

An important finding of the research is that the explanatory memorandum of the Code of Criminal Procedure and some of the legal practitioners confuse the Barnahus method with the Barnahus institution. With the amendment of the Code of Criminal Procedure of 1 January

2021, Barnahus appears as a method of interrogation in criminal proceedings, and only as a domestic variant of it; this is also only an option: thus, it is a specific Hungarian method in criminal procedures. In other words, the full integration of the legal instrument recommended by the EU and the COE to the Member States and the States Parties has not been achieved, although the explanatory memorandum of the act explicitly refers to it as Barnahus. An analysis of the interviews also shows that the 'Hungarian Barnahus' is one of the austerity measures and is not the same as what the literature actually understands as Barnahus. In this context, the domestic legislator amended the Code of Criminal Procedure only to the extent that it made a leniency measure applicable, at the discretion of the authority, in the criminal procedure instruments of special treatment: for victims and witnesses under the age of eighteen – who are procedural actors requiring special treatment by virtue of the law – and, additionally, for accused juveniles under the age of eighteen. As this is an interrogation method at the discretion of the authority, we assume that it will not be used in everyday practice; in other words, this sparing instrument will rarely be used in practice. Further research will be needed to confirm or refute this assumption, as it is a recent piece of legislation.

An important finding of the research is that the legal practitioners' position is not yet unanimous on the question of what kind of evidence is created as a result of the procedural act conducted by the Barnahus method, which can be performed within a limited framework, in the drama called criminal proceedings: can it be considered as testimonial evidence according to the rules of the Code of Criminal Procedure, or does it only create – in documentary form – objective evidence? Further research could answer this question as well.

**György Virág – Judit Szabó:**

## The link between paedophilia and sexual offences against children

Paedophilia is a phenomenon with a complex background, undoubtedly with important criminological implications.

The classification of sexual behaviours as 'not normal', the definition of sexual deviance or paraphilia, is spatially and temporally dependent, and varies from era to era and society to society. Paedophilia, i.e. sexual attraction exclusively or primarily to pre-adolescent or adolescent children, is still considered by psychiatry as a mental illness, a psychiatric disorder, and is included in both major nosological systems.

Although criminal law does not contain a term or a definition of paedophilia, it does sanction some forms of it under the offences of sexual freedom and sexual morality.

However, there are many misconceptions about it, about paraphilia and its connection with sexual criminal acts against children, sometimes by criminologists and other professionals, too.

The aim of our research is to review the definition, causal background, clinical characteristics and diagnostic criteria of paedophilia, and to examine its role in criminal acts against children, and summarise the knowledge on prevention and treatment. In addition to the literature review, we also used a qualitative empirical method: a focus group interview was conducted to collect and analyse the knowledge, experiences and opinions of legal practitioners and forensic mental health and psychological experts on different aspects of the topic under study.

Both the literature review and the focus group supported what the experts had said, that the vast majority of perpetrators of sexual offences against children are not clinically defined as paedophiles. We conclude that paedophilia as a mental disorder contributes only slightly to the motivational background of sexual offences against children, is of little or no relevance for the application of the law, since – at least according to the current practice – it does not affect the offsetting ability per se. This is why, in order to prevent crimes against children, it is necessary to move beyond equating the two phenomena and perhaps also to review the concept of 'paedophile offences', given its misleading nature.

Child protection requires a more complex approach that goes beyond the criminal justice system and psychiatric categories.

**Gabriella Kármán – József Kó:**

## Expert evidence in the light of the application of the law

The aim of the research, which started in 2019, was to build on our previous theoretical studies on the subject and to examine the experience of forensic expert evidence in the application of the law, with a special focus on the implementation of the objectives of the new Act XXIX of 2016 on Judicial Experts and with particular attention to the anomalies previously encountered by the application of the law. Within the application of the law, the analysis focused on criminal jurisprudence, which is framed by the new Act XC of 2017 on Criminal Procedure and the evidentiary characteristics of criminal procedure. In our opinion, a comprehensive, multidisciplinary examination of expert evidence to assess the situation and to assist both experts and practitioners has become timely in the light of the new legislation.

The empirical research, conducted in 2020, used a questionnaire method among investigating authorities, prosecutors and the judiciary. At least one questionnaire was completed by each district and county organisation, which, together with the 668 completed questionnaires, suggests a representative result.

The year 2020 provided an opportunity to assess the practical experience of the prosecution and the court on the basis of the replies to the questionnaires. The questionnaires completed by the staff members of the investigating authorities, police and NAV (the tax authority) were processed in 2021.

In the vast majority of cases, the appointment of an expert and obtaining an expert opinion take place at the investigative stage, so we were looking for the investigating authorities' experiences of using experts. The responses indicate that, as expected, the expert is appointed by the investigating authority on its own initiative in the vast majority of cases, and by order of the prosecution in around 20% of cases. According to 80% of the responses, the expert is appointed from among the expert institutions.

Finding a competent expert is not a problem in the majority of cases, and colleagues' experience and the experts themselves can help in formulating the right questions.

It is primarily the task of the prosecution and the court to assess the credibility of the expert opinions when issuing the indictment and the final decision. This year, this issue has been examined in the context of a priority group of specialisations: forensic psychology and psychiatry. According to the responses of both prosecutors and judges, these two fields, among others, are particularly characterised by verbal designations based on the subjective judgement of the expert to express the degree of probability, and the most frequent areas of doubt as to the validity of the evidence.

Because of the specificities of the discipline on which they are based, these problems are also discussed in the foreign literature, and research to find solutions is ongoing.

The results of this research can be used as a starting point for further investigation of this and other findings.

**György Virág – Judit Szabó:**

## The impact of natural disasters and epidemics on the evolution of domestic violence: criminological characteristics of changes, prevention and management options

The research was prompted by the pandemic caused by the Covid-19 virus in early 2020. The restrictions imposed to deal with the pandemic situation have had negative consequences in many areas of the economy and everyday life, have had a negative impact on the mental health of the population and have led to an increase in the volume of domestic violence worldwide, among other outcomes. The occurrence of these adverse changes was not unexpected or surprising in the light of previous experience of serious, sometimes near-global epidemics such as SARS-CoV and Ebola, as well as certain natural disasters and socio-economic crises. Understanding and analysing them can contribute to the expansion of preventive measures.

In light of this, our research sought to explore the impact of natural, technological and man-made calamities, epidemics and economic crises on domestic violence and to review interventions and measures to address the problem, with a particular focus on the outbreak of the Covid-19 pandemic in early 2020.

In addition to the literature, we relied on the analysis of statistical data from various sources for the months of the first wave of the Covid-19 pandemic to examine the relationship between the rise in domestic violence and the emergence of extreme situations. Among the factors underlying the association, the mediating role of mental disorders has been highlighted. We also provided a non-exhaustive overview of international efforts and developments to reduce the negative impact of the Covid19 pandemic on domestic violence and to address the problem.

The results of our research support the conclusion that natural disasters and epidemics, and more specifically the Covid19 pandemic and the associated constraints, lead to an increase in the incidence and severity of domestic violence, which places an even greater burden for societies to manage. Significant efforts have been made in many countries around the world to curb the problem, including ensuring that services and institutions to help, house and support victims can function smoothly or are adapted to the new situation, and raising awareness and providing information. Despite domestic figures consistent with international data indicating an upward trend, only a few specific measures have been taken in Hungary to reduce the negative impact of epidemiological restrictions on domestic violence and to address the consequences, although some progress has been made in the victim support system (also) independently of the pandemic. Further research is needed to develop specific tools and methods to adapt to the challenges of the new situation, which efforts should also benefit from the accumulated experience of previous natural disasters and epidemics.

**Ildikó Ritter:**

## Characteristics of old-age criminality

The age-crime curve (ACC) has an illustrious history in criminology. Several new analyses have recently emerged that have detected this change and have taken a different approach to the age-crime relationship than previous ones. The focus has been directed primarily at describing and explaining the micro-level relationship between age and crime propensity, whereas previously it was used to outline macro-level crime trends. The ‘researchers of the new wave’ have investigated whether the general decline in known crime reflects the decline in crime rates in individual age groups, i.e. whether it is a general trend or whether there is a different pattern in different age groups. While crime statistics, victimisation studies and results from large

sample population studies indicate that the prevalence of total crime is decreasing in developed countries, the intensity of certain crimes and age groups involved is increasing. This includes old-age perpetrators.

In the previous year, we examined the situation in Hungary based on the available literature; we analysed how the over-65 population's share of crime has evolved over the past 30 years and what the characteristics of the relevant population are. In the year under review, we used documentary analysis and processing criminal files to investigate the characteristics and current features of old-age crime in Hungary, and the methods that can be used to predict its short- and medium-term development.

The results of the study indicated that, if the social and legal environment does not change, a substantial change in the number of elements or proportion of elements in each age group of a society will also affect the age composition of the perpetrator population; an age group with an increasing number of elements or proportion of elements will also show an increasing number of elements or proportion of elements in the crime statistics. This relationship has been called the linear causal theory

However, the intensity of the change – whether it is a decrease or an increase – depends on a number of other factors. In other words, the linear causality shows only the macro-statistical direction of change, while the pace and spatial specificity of change are illustrated by other variables. These variables are called the linear causal coefficient.

If we want to use a macro-statistical change to model the future evolution of crime, it is not sufficient to predict the spread of a given segment of crime based on linear causality, since, without the calculation and knowledge of linear causal coefficients, we cannot obtain a credible forecast, and our results will not be valid and congruent. By interpreting linear causality in terms of the causal coefficient, we can arrive at the result of extensive or extensive linear causal theory, and from a theoretical point of view, at the result of extended or extensive linear causal theory.

If we accept this, we can add two comments to the age-crime curve and the explanations:

- although the classic 'bell curve' has not yet been questioned in relation to the macro or total crime that we know, it is becoming less and less relevant because it tells us less and less about the aetiology and morphology of crime, not to mention the micro-level characteristics; it is therefore not suitable for use in today's forecasting;
- at the same time, there is a need to start looking at the evolution of the extent and characteristics of crime by different age groups other than the classical ones (juvenile and adult), as the rapidly changing age composition of societies will have an impact on the qualitative and morphological characteristics of crime, not on its quantity. This will significantly redefine criminal policy, crime prevention strategies and affect the world of legislation and law enforcement.

The results of the study confirmed that social and/or health causal factors underlie a large proportion of criminality in old age, and that offending is associated with age-related biopsychological changes or illnesses, or with their social situation. Deviance and crime in old age can also be understood as the result of the combined and diverse effects of biopsychological and social changes affecting individuals as they enter an advanced stage of the life cycle.

**László Tibor Nagy:**

## Empirical analysis of robberies

The research falls within the scope of the OKRI's investigation of violent crime against property, in the course of which vigilantism and plundering have been analysed in recent years. This year, a representative empirical study was conducted, based on the (PIS) Prosecution Information System, using a random selection method, by processing and evaluating data on 228 perpetrators (33.4%), 200 offences and 215 victims out of 683 indicted for robbery in 2019.

The number of recorded robberies has fallen significantly in recent years, from 3,436 in 2000 to 616 criminal offences in 2020. Despite this, robbery remains the most serious offence in terms of material gravity and social danger, and is also the most serious violent crime against property.

Of the robberies investigated, 82% fell under Section 365(1)(a) of the Criminal Code; that is, taking property was committed by force or threat against life or bodily integrity, and 18% of the cases were so-called keeping the thing robberies as defined in subsection 2, where the thief caught in the act applies force or threat against life or bodily integrity in order to keep the thing. There were no offences involving disabling a person by rendering them unconscious or incapable of self-defence in violation of subsection (1)(b).

Eighty percent of the acts were committed in cities, 19% of which in the capital, about half of the cases in public places, 14% in family houses and 8% in stations and vehicle stops.

The most common type of robbery was highway robbery (37%), followed by 'trick' robbery (10%), where the offender first gained the victim's trust, tried to do business with them, borrowed the stolen object for inspection or, for example, posed as a police officer. Assaults against staff in shops and catering establishments accounted for 9%. 49% of the acts can be assessed as premeditated. Among the objects involved in the offence (which could of course be several at the same time), cash (66% of acts), mobile phones (24%) and personal documents (10%) were the most common. The offence values were quite low, with 61% of offences not exceeding fifty thousand forints. There were only three cases of particularly large offences exceeding fifty million forints.

90% of the perpetrators were male, 60% were perpetrators, 32% were joint offenders, 6% were abettors and there was one indirect perpetrator. In terms of marital status, most were unmarried (61%), while 26% were in a life partnership. 30% had a casual job, 21% had a permanent job, while 17% were unemployed and only 22% had some kind of vocational qualification. 25% of the perpetrators were minors and three were children under the age of 14.

57% of the accused committed only the basic offence of robbery, while the most frequent classified offences were almost equally frequent (group offence 17%; armed 15%; offence against a person who is incapable of recognising or preventing the offence because of their age or disability 15%). The most frequent uses of violence were punching with the fist (25%), pushing the victim (20%), hitting with the palm of the hand in the face (11%) and kicking (9%). The use of no implements, physical force or threats alone was typical, while the use of knives was clearly dominant (11%). 31% of perpetrators committed the acts while under the influence of alcohol.

The majority of the defendants, 60%, had already been convicted; 34% had been sentenced to a custodial sentence, and 15% were also considered to be recidivists. 16% of those accused were examined by a mental health professional. All of them were found to have a personality disorder, without being declared mentally disordered for criminal law purposes. In terms of sanctions, three quarters of the accused were sentenced by the courts to non-suspended imprisonment, with suspended imprisonment or measures only being imposed typically in the case of juvenile defendants. The proportion of appeals was 64%, half of which did not change the punishment, 37% were more lenient and 13% more severe.

38% of the victims were women and 19% were under the age of 18. The most frequent victims were people who were alone in public places or in their homes, people working in shops, and young people and children who were physically weaker than their peers. Their habitual place of residence was typically the same as the place where the crime was committed. 59% of victims had not previously known the perpetrator, and 50% did not defend themselves against the perpetrator at all, usually because of the sudden and overwhelming nature of the attack. 18% of them were under the influence of alcohol at the time of the act. The majority of the victims suffered no injuries, 38% had minor injuries and 7% had serious injuries that healed in more than eight days. 29% of them did not suffer any direct financial loss because the act was at an attempted stage or the stolen property was owned by another natural or legal person. From a prophylactic point of view, some of the robberies could have been prevented, mainly if the victim had not been alone at the scene of the crime (sometimes in a drunken state), if they had not visibly used their mobile phone, did not show the money they were carrying, if the building had been protected by stronger

windows and alarms, and in the case of children and juveniles, if teachers/carers had become aware of the acts sooner, which could have prevented continued offences.

In conclusion, the vast majority of robberies in the period under review were committed in an urban environment, in public places, by offenders in difficult financial circumstances, for a low value, with the aim of obtaining cash or a mobile phone, without serious planning, preparation or use of implements, against lone, physically weaker victims, using relatively little violence and causing at most minor injuries.

**Ágnes Solt:**

## Exploring liaison as a tool for reintegration

The research examined the development of liaison during and after the period of imprisonment. It is well known that keeping external relationships alive in prison conditions is difficult. The confinement, the limited communication possibilities, the limited duration of liaison conditions and the significant financial costs of keeping contact are all factors that place a heavy burden on both the prisoner and his family and contacts to maintain and nurture the relationship. It is observed that prisoners with intensive and balanced contacts are less likely to cause incidents in penal institutions and have lower recidivism rates. As the aim is successful reintegration after imprisonment, one of the means of which is the retaining power of the social network, the question is how far it is possible and what means can be used to help the prisoner to maintain positive relationships. At the beginning of the research, the question that has now become really topical was not raised: how the pandemic and the drastic series of measures that followed the pandemic affected the relationships of prisoners and the prisoners themselves.

The families and friends of recidivist, "jailbird" prisoners, i.e. some of their contacts, are also criminalised, so the environment itself is not suitable for avoiding recidivism and for reintegrating into society, into a community framed by social norms and laws. Therefore, especially in the case of juveniles, keeping contacts is not conducive to reintegration when coming from families and environments infected with a criminal background. However, at a time when the external environment can ensure that people stay away from crime, the reintegrating effect of penal institutions can be assessed, which can be achieved by facilitating keeping contact. The research therefore followed the lives of people for about 3 years (varying from individual to individual, depending on the length of the sentence) who were first-time prisoners, had a high IQ, were considered to be of higher status in society, had been sentenced to several years in prison and had family relationships that were able to support them in coping with the sentence and then continuing to live law-abiding lives. It is particularly interesting to see how and in what quality relationships are maintained along such criteria (perhaps how these positive relationships can be facilitated/not hindered without budgetary expenditure) and what the impact of the relationship or its loss is on the individual in the autonomy-depriving environment of prison and then in the years following release. In the current epidemiological situation, the range of issues has been further expanded. What impact does the total lack of personal interaction have on prisoners and their relatives? What is riskier in terms of a one-year period: the complete and total cessation of personal relations without exception, or receiving visits and authorising leave being subject to strict conditions, while minimising the risk of epidemiological risk?

There are some typical characteristics that appear uniformly in everyone – in behaviour in prison, in decisions, in changing values, in desires and fears – that seem likely to be uniformly common to a similar group of perpetrators. We can also draw conclusions that can help to complete the range of considerations to be taken into account when deciding on preferences and risk rating, and the practice of imposing penalties may also be supplemented with aspects to consider.

From each case, typical characteristics are observed that are uniformly plausible for detainees meeting the criteria for inclusion in the sample.

Middle-aged, first-time offenders, defined in the literature as white-collar perpetrators, with a high social status prior to entering the penal institution, are typically those who consciously prepare to serve their sentence prior to entering the penal institution, for which they choose similar coping strategies, with a planned timetable. They try to make the most of their time by studying, reading and exercising. The main focus is on maximising the conditions of the benefits, minimising risk and avoiding confrontation with other prisoners and staff in the penal institution.

During the period of imprisonment, there is an increase in defiance and bitterness, which is the main internal driving force for survival.

It is positive that the basic values and priorities of life change significantly during the period of imprisonment: work, success and material well-being are devalued, while family and close family ties are given priority. All this is happening within a year, and there is a good chance that it will make a lasting difference.

It is characterised by a reassessment of previous behaviour prior to the punishment and its consequences, and, even if the convict considers the punishment excessive, self-critical reflection and introspection, and by drawing appropriate conclusions for future behaviour.

A complete breakdown and negation of faith in the justice system can be observed uniformly, and a suspicion and loss of confidence in the social and legal regulation of economic life and the functioning of institutions, which is close to paranoia, and which largely determines the subsequent economic and work activities of the prisoner.

**Szilveszter Póczik – Orsolya Bolyky – Eszter Sárik:**

## Examining the primary and secondary social impacts of the Covid19 pandemic, with a special focus on specific forms of crime

The study presents the results so far of the Covid working group set up at the Institute in September 2020, a criminological assessment of the situation. Although we have had access to 2020 data since the start of the survey, the available data cannot be considered definitive at this stage due to the specificities of criminal statistics registration. In the final study, we present the findings that can safely be formulated at this stage of the research. The results undoubtedly show that the Covid pandemic has brought about structural changes in society. New phenomena have also emerged in the field of crime, both globally and in Hungary. Although in Hungary, unlike in Western European countries, there were no violent protest movements, and the number of violent acts seemed to decrease during the pandemic, new forms of hatred emerged, not reaching the level of criminality, but certainly threatening. Citizens have bought more unlicensed weapons, and acts of domestic violence are on the rise, as in other countries as a result of confinement together and other negative social influences.

The pandemic has made it necessary to move much of the administrative and economic administration and personal communication online. However, this has opened the door wider to cybercrimes such as phishing, and fraudsters and counterfeiters operating in the online space, while some old forms of fraud have also been given new power in the offline space. To protect the health of citizens and to prevent the spread of fake news, the Hungarian government has also considered it necessary to introduce special legal rules. The study also describes the legal changes. The analysis of the pandemic to date has made it possible to identify some relevant phenomena and to integrate the currently available statistical data.

**Renáta Garai:**

## Domestic violence in the light of the jurisprudence (validity, effectiveness)

The focus of the research is on the practical manifestation of the facts of relationship violence under Section 212/A of the Criminal Code. Through professional roundtables, focus group discussions and interviews, we have mapped out at national level how the law on this crime is being applied by the various authorities and family and child protection services, and how much the people concerned know about it and what changes they perceive in the light of the new rules. The basic principles of criminal law protection, the relationship between the new Code of Criminal Procedure and relationship violence, the requirement of special treatment and child-friendly justice, as well as the issues of secondary and tertiary victimisation were also included in the research, and the ORFK (National Police Headquarters) Instruction 2/2018 (25 January) on the police tasks related to the handling of violence between relatives was also a focus.

Obligations and non-options are contained in the legal provisions, and the research examined the enforcement of these and their actual application in everyday life, or the lack of it, or the failure to apply them. The experiences of the peer consultations and the reports from members of the family and child protection referral system show serious problems that need to be tackled immediately, and provide a basis for criticism:

- investigating authorities still do not pay sufficient attention to correct classification, so that investigations are ordered into the underlying offence (typically bodily harm, harassment, criminal damage, violation of personal freedom, etc.);
- a significant proportion of police stations consider the whole of the offence to be punishable by private petition and to be subsidiary, thus providing victims with illegal information;
- they omit essential investigative acts in cases of turns of relational violence that are prosecuted ex officio, and do not draw victims' attention to the future significance of circumstantial evidence;
- the inadequacy of the alert system, the unavailability of a safety net and the attitude of the authorities in dealing with the problem contribute greatly to the vulnerability of victims;
- victims ask for real and tangible help when the legislative basis is in place.

Overall, it can be said that the application of the law is often based on misconceptions and old habits, and although the authorities are aware of the dynamics of domestic violence and its characteristics, these procedures are, to a large extent, still on the way to being terminated. In the future, the prosecutor/prosecutor's office supervising the rule of law should pay more attention to the work of the police and report any illegal decisions without delay.

The background to criminal offences between relatives can be understood in a complex and complicated system, in which all links in the chain function as actors of significant importance. Real and effective help for victims of violence within the walls of the home can only be achieved by joining forces, thinking together, eliminating current practices and holding accountable those individuals and organisations who are obliged to take action.

**Ágnes Solt:**

## Examining the sociological context of parricide

The aim of the research is to come closer to answering the question of how and after what kind of antecedents someone reaches the point of killing their own mother or father. What do we have in common regarding the perpetrators and the parent-child relationship and its dynamics?

What are the motives which, by analysing, presenting and summarising them, can make the phenomenon of parricide more comprehensible to us?

In this research report, we first present some data and research findings on the issue of parental abuse and parricide, as well as the findings of the scarce literature. We take a look at the studies on parricide and the reflections they contain. The sample and methodology of the empirical research are then presented, followed by the results of the file processing.

The phenomenon of parental abuse became widespread and problematic in our society at a time when the number of divorces and single-parent family models that emerge from divorce has increased significantly. In the case of parental abuse, the two most common sets of circumstances and recurrent characteristics are the following:

1) repeated assaults by a minor or young adult son on his mother, and
2) abuse by an adult person with a disability, often an addict and/or suffering from a psychiatric illness, against an elderly, weak and vulnerable parent living in the same household.

Parental abuse can lead to taking a parent's life, but this only occurs in extreme, tragic cases and cannot be considered common. Observing parricide and its broadly interpreted circumstances, we can see that, although there is an overlap in the concomitant factors that typically occur, we can nevertheless speak of a phenomenon with at least partially distinguishable characteristics. In the case of parricide, there are three typical situations, one of which overlaps completely with a typical set of circumstances of parental abuse: this is the homicide or attempted homicide by an adult person suffering from a psychiatric disorder against an elderly parent living in the same household.

Another typical context of parental abuse and parricide differs in that the teenager or young adult who abuses their mother is typically different from the teenager or young adult who kills their parent. The fundamental difference is that, in the past, the young perpetrator in homicide cases was typically a child who had been abused by a parent or had grown up with deep trauma, while the young male child who typically abused his mother had no history of abuse or subjective harm from his abused parent in childhood. The third case of a typical environment preceding and surrounding a parricide is that of a parent who is helpless and in need of care, neglected by an adult, often elderly child, and the victim dies due to negligence.

Both the phenomenon and frequency of parental abuse and parricide highlight the dysfunctionality of the social safety net:

- inadequate care for psychiatric patients;
- the inability to look after themselves and vulnerability of elderly people who are helpless, and;
- shortcomings in child protection.

The research and its present results once again draw attention to the indispensable importance of prevention and the social care system, which could and should be the primary and most important means of crime prevention.

**Szilveszter Póczik:**

## A systematic analysis of the international refugee crisis that started in 2015 and the social reactions to it from an international and domestic legal and criminological perspective

Digging deeper into the causes of the 2015 refugee crisis, we have previously established that the large-scale emigration of populations from the Middle East and North Africa is the result of economic and political processes that can be measured in historical time horizons. The war in Syria and other related theatres of war, as well as the terrorist activity closely linked to it, have forced millions of refugees to flee their homes or emigrate. In this study, we have shown that the greater region of North Africa and the Middle East, which has been a permanent crisis zone since

the end of the colonial period, is the main source of mass migration today. One of the main causes of the refugee crisis in 2015 was the Islamic State and its consistent genocide, which triggered a tsunami-like global migration wave following a slow migration surge after 2010. In the absence of a common European approach to migration, some countries have been forced to set up border barriers using different technical means. The technical border barriers presented illustrate that the EU has not found a universally applicable, generally accepted approach to recent security challenges. While the erection of physical barriers runs counter to humanitarian principles that call for the protection and integration of refugees, the mass nature of migration and the security risks associated with mass immigration require independent state solutions, especially if there is a lack of international support. Despite the expectations associated with the dismantling of the Iron Curtain, Europe has now moved from being a region of free movement to a region of border fences, but the strengthening of technical border protection has proved successful against asymmetric threats, transnational organised crime and terrorist infiltration. The countries mentioned in the analysis, which protect their borders using technical barriers, are not only strengthening border controls out of self-interest, but also to protect other European countries, existing administrative and social structures and regional stability and security in Europe.

**Eszter Sárik:**

## Social perceptions of personally motivated harassment

The issue of the criminal offence of harassment was examined from a legal and criminological perspective in 2020, primarily on the basis of legislation and international and national literature. The results of the investigation showed that harassment cannot be considered a homogeneous phenomenon from a legal or criminological point of view: the behaviours of the perpetrators are extremely diverse, and it is almost impossible to count the different types of behaviour due to the high level of creativity of the perpetrators. The study has revealed a gap in our knowledge of the phenomenon of harassment in Hungary and, from a scientific point of view, what people in general think about personally motivated harassment. International (primarily Anglo-Saxon) literature has shown that the gender of the respondent has a greater influence on the perception of harassment and attitudes towards the phenomenon than whether the person has ever been affected by the issue. To prove (or disprove) the hypothesis, an online questionnaire was compiled that probed several things in addition to the basic hypothesis. In addition to demographic data (age, gender, education, labour market position, living environment, financial situation), the survey also looked at the social perception of gender roles and the social characteristics of perceptions of harassment. The volume of harassment, the characteristics of perpetrators and victims of harassment, the dynamics of harassment and its prevention were all surveyed, in addition to the specific harassment suffered at an individual level. We shared the questionnaire on our Facebook community site and with our personal circle of contacts (reaching out to groups), so the findings are not nationally representative, but the completion reflects the attitudes of the groups and individuals we reached, which, with almost 3000 respondents, are findings that can be further considered.

**Szandra Windt:**

## Criminological and sociological characteristics of child prostitution

Country-specific characteristics of the phenomenon of trafficking in persons are summarised annually by the US in the TIP (Trafficking in Persons) report. The section on Hungary in 2020 reads that “under Section 203 it was a criminal offence to ‘prostitute a child’ or ‘provide

remuneration for a sexual act with a child' and therefore a prison sentence of up to three years was imposed, which was not sufficiently severe" – until 30 June 2020. The level of penalties that can be imposed on the basis of these facts has only increased if a person "is supported in whole or in part" from exploiting such a child, or runs or operates a brothel for the purpose of exploiting a child for such purposes. Exploitation of child prostitution (Section 203 of the Criminal Code) is not a 'significant' criminal offence according to criminal statistics, although the figures are higher than those collected under Section 192 of the Criminal Code. Since 1 July 2013, the number of registered criminal offences exceeded 50 in 2015, but was otherwise much lower. In the period under review (2014-2020), there were a total of 212 recorded offences that were classified under Section 203 of the Criminal Code.

The exploitation of child prostitution was typically accomplished by Hungarian men offering consideration or maintenance to the detriment of Hungarian victims. In other words, the user, the client, on the one hand, and the child abuser who exploits the child and lives off the money they earn, on the other, are the perpetrators of these acts.

In 2020, we requested domestic prosecution files for the last seven years from every county. A total of 89 files were processed, involving 140 perpetrators and 159 victims: 141 girls (89%) and 18 boys (11%). Victims of child prostitution tend to come from children's homes, foster care and dysfunctional families: in addition to street prostitution, internet advertising is becoming increasingly common.

In the case of exploitation of child prostitution (as in the case of trafficking in human beings, Section 192 of the Criminal Code), detection and proof are difficult due to the emotional (and financial) dependence of the person forced or coerced into prostitution by the perpetrator, and the fact that the child is often forced to perform sexual services by threats or abuse.

In the experience of prosecutors in recent years, victims also tend to be more concerned that the authorities should not be informed of the crime. On 8 October 2021, experts from the Ministry of Interior, the Budapest-Capital Regional Court, the National Police Headquarters, the Prosecutor General's Office, the Hearing and Therapy Department of the National Child Protection Service and the Rákospalota Rehabilitation Institute and Central Special Children's Home of the Ministry of Human Capacities participated in a meeting held at OKRI. This discussion covered prevention options, changing attitudes, the role of peers, lessons learned from the universal protection measure and the impact of the Covid19 pandemic.

## B) RESEARCH COMMISSIONED BY THE PROSECUTOR'S OFFICES

**Petronella Deres:**

### Insurance of property liable to confiscation or forfeiture and of property located abroad as security for a civil claim

The definition and 'treatment' of criminal property is not a new problem in practice and in academic research, and the issues of securing 'crime-related property', which are the subject of research, should be discussed in the context of property recovery.

According to Ervin Belovics, "one of the essential elements of effective action against crime is to prevent the accumulation of wealth resulting from the perpetration of criminal acts".

On the one hand, discovering and securing the proceeds of crime deprives the perpetrator of the criminal act of meaning, and on the other hand, the recovery of the proceeds provides a basis for the victim's compensation.

In presenting the international scene, the research has reviewed the main international documents that have achieved notable results: the foundations of EU legislation were laid, and the European Union has kept the issue on the agenda, adopting a growing number of instruments. Hungarian criminal law and criminal procedure legislation is in line with international and European rules, and the relevant legal instruments are regulated in the legislation and instruments are identified in the research. The new Hungarian Code of Criminal Procedure has changed the system of procedural actions for the recovery of crime-related property, because this is a priority in criminal proceedings.

The empirical phase of the research included a nationwide questionnaire survey, the aim of which was to map out how the law enforcer evaluates the topic under investigation in criminal proceedings, and what specific experiences and opinions they have on it. The evaluation of the questionnaire sent to the county prosecutor's offices and the Budapest-Capital Prosecutor General's Office (consisting of 26 questions, a total of 160 received) was carried out within the framework of the study. The questionnaire was filled in by prosecutors who were familiar with the issues covered by the research.

Overall, it can be concluded that the need to recover and confiscate the proceeds of crime has become a priority in recent decades, and the need to recover and confiscate the proceeds of crime has emerged as a key crime control mechanism at national and international level, which is a complex, multifaceted process and takes place in several stages; the provisions on freezing, seizure and confiscation are contained in a number of important procedural laws at different levels. The difficulties caused by cross-border organised and serious crime have increased in the European Union. Problems in domestic law enforcement include the cumbersome and time-consuming process of obtaining data from different countries, sometimes lack of cooperation between countries, mapping money trails and the lack of technical expertise and resources of judicial authorities.

The empirical part of the research also touches upon the issue of new information technologies (including the phenomenon of cryptocurrencies), which the currently available legal instruments may not be sufficient to detect and secure.

**Krisztina Farkas – Katalin Tilki:**

## Limitations on the admissibility of the results of covert means as evidence in domestic judicial practice

The research aimed to explore the practical experience of the use in criminal proceedings of evidence obtained using covert means regulated by the Code of Criminal Procedure, which entered into force on 1 July 2018. The main objective was to examine to what extent and within what limits the results of the use of covert means can be used as evidence in criminal proceedings.

One of the most significant innovations of the Code of Criminal Procedure is the creation of a new model of covert criminal intelligence for the detection and proof of criminal offences, known as covert means. Covert means are divided into three categories, depending on whether their use is subject to authorisation by a judge or prosecutor, or whether such authorisation is not required.

The sources and methods of the research covered several levels: the theoretical foundations were processed and compiled with the help of a review of the legislative background and the authoritative domestic literature. This was the basis for the empirical research, in which criminal records were examined. The cases under examination were those in which covert means were used after 1 July 2018 and the case was concluded with a final and binding judgment by 31 December 2020. The county prosecutor's offices have provided very useful practical experience. As a next stage, a focus group discussion took place, where representatives of all three professional orders (police, judiciary, prosecution) expressed their views. The participants

described the characteristics and potential applications of each process, while highlighting the following problems:

- identifying who can be intercepted/observed and deciding what part of their conversations can be used as evidence;
- the obligation to delete the data obtained through the use of the covert means within 30 days;
- the information obtained during the interception is irrelevant to the main case but is significant in another case;
- the date of the assessment of the available data and, in this context, the deletion of the audio material generated during the interception;
- provocation;
- undercover investigator – secret collaborator – plea bargaining relationship;
- the use of information obtained for another criminal offence specified in the authorisation or against another perpetrator;
- file management practices.

Given the relatively short time that has elapsed since the entry into force of the new Code of Criminal Procedure, no general conclusions can be drawn at present with regard to judicial practice on the legality of the use of covert means, particularly in view of the fact that criminal proceedings are still ongoing in a number of cases.

The most commonly used covert means is interception with a judicial warrant. Also common is the monitoring of information systems conducted under a judicial warrant, whereby the evidence obtained is much more useful for evidence and detection than intercepted material. The covert means subject to the prosecutor's authorisation introduced by the Code of Criminal Procedure have so far rarely been used in practice. Of these, the undercover investigator and the prospect of avoiding criminal prosecution (investigative bargaining) are currently of particular importance. There is a shift in attitudes, with other covert means increasingly coming to the fore, in addition to interception with a judicial warrant. This is a slow process that will take several years, but the trend is encouraging.

**Krisztina Farkas:**

## Restrictions on the right of access to documents as interpreted by the Court of Justice of the European Union

The aim of the research is to explore the interpretation of the right of access to documents in the jurisprudence of the Court of Justice of the European Union (CJEU) and to examine the problems arising from the literature and the jurisprudence of the CJEU. The research aimed to find out whether the rules of Act XC of 2017 on Criminal Procedure (Sections 100-101 of the Code of Criminal Procedure) are in line with the jurisprudence of the CJEU.

The right of access to documents is a reflection of the rights of persons involved in criminal proceedings guaranteed by the Code of Criminal Procedure, and any restriction of this right is an obstacle to the exercise of the rights guaranteed by the Code of Criminal Procedure. The right of access to documents is an aspect of the right to a fair trial, part of the right to information. It is important to make a distinction, of what material may be accessed by which subject at which stages of the procedure.

The research was based on a review of the relevant domestic legislation and EU documents, a review of domestic and foreign literature and an analysis of the jurisprudence of the CJEU.

The theoretical foundations were processed with the help of a review of the legislative background and the authoritative domestic literature. This was followed by an exploration and evaluation of the jurisprudence of the CJEU.

The right of access to documents is enshrined in the jurisprudence of the European Court of Human Rights (ECtHR) in relation to the right to a fair trial. The European Union Directive 2012/13/EU ensures access to the case file in the context of the right to information for the accused. The CJEU addressed the issue in its judgment in C-612/15, Kolev and others; no jurisprudence is currently available on this. The definition of the limits of access to the case file is possible on the basis of the principles established in the case-law of the ECtHR (European Court of Human Rights): the ECtHR also refers to the right of access to the file of the accused in relation to Article 6 of the European Convention on Human Rights, the right of defence and the principle of equality of arms. The practice of the ECtHR also provided the basis for the draft of the directive.

In parallel with the protection of the rights of the accused, there is also a trend towards harmonisation of EU law in relation to the strengthening of victims' rights. In Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, the right of victims to information on the case has been highlighted.

The right of access to documents is not absolute; it must be weighed against other interests that require protection. Rules that unnecessarily hamper the effectiveness of the right of access to documents must be avoided. In particular, those that limit where, for how long and what type of information individuals or their defence lawyers can access.

**József Kó:**

## Criminological nature of administrative offences committed by professional police officers

The research started with a first round of investigations into administrative offences. We have reviewed the creation and development of the category of administrative offences. Highlighting the most important factors leading to the current legislation, we have examined administrative offences in the context of the existing criminal law. Crime statistics (ENYÜBS) data were used to investigate how the frequency of the criminal offences under investigation has evolved over the last twenty years. It can be concluded that administrative offences show a fairly high degree of stability, with no significant change during the period under review. The decrease in the number of criminal offences in recent years has not been detectable; on the contrary, it has increased. The increase in the figures is partly due to the practice of multiple offending and the assessment of regularity.

In addition to examining the statistics, we looked at all cases that became final and binding in 2020. In the file processing, we tried to identify the differences and similarities between crimes committed by professional police officers and crimes committed by civilians.

In both groups examined, the most common offence was abuse of powers. These typically involved unauthorised data requests. The civilians mainly transmitted vehicle registration data illegally, while police officers mainly transmitted RobotZsaru data to their clients. Particular attention should be paid to assaults committed by professional police officers.

**Renáta Garai:**

## Analysis of agreements concluded in mediation proceedings conducted after 1 July 2018

The research explored the basis for the regulation of mediation procedures and, while recognising the need for victim reparation, also pointed out the contradictions between the legal regulations.

The conditions of the mediation procedure to be applied in the spirit of restorative justice, in addition to the scope of the criminal offence, largely determine the identity of the participants, who can reach a consensus on the duration of the suspension. In the period under review (01.07.2018 – 31.12.2020), a total of 6,220 mediation agreements were recorded for a total of 6,220 criminal offences/suspects, thus the prosecutors/prosecutor's offices terminated the same number of proceedings. The capital city and Pest County are the 'clear leaders' in terms of agreements between the suspect and the victim, followed by Baranya, Borsod-Abaúj-Zemplén and Szabolcs-Szatmár-Bereg Counties. During the same period, 1065 cases (mainly theft, causing a road accident and fraud) were prosecuted after mediation, which shows that negotiation between the parties is only one option and does not always lead to a result.

The file reviews have shed light on the fact that the installation of CCTV cameras in certain institutions and public places greatly helps in the detection of perpetrators; meaning that it is not suspects who voluntarily give themselves up, but persons detected by the investigating authority who are have the possibility of impunity.

The research highlighted a number of issues, such as the specific situation of juveniles, the content of the agreements and the background to their failure, the reasons for refusal by the prosecutor, and the specific living conditions among relatives. Directly, all prosecutors' offices in Hungary participated in the national survey, which gave us insights into legal uncertainties and concrete difficulties, in addition to good practices. Among other things, it was stated that police law enforcement needs support, the prosecutor's admissibility (capacity of the accused) is highly discretionary in the absence of additional information, there are many "idle hours" during the suspension of proceedings, but the prohibition of breaching good morals, the communication between the parties and the unjustified delay in proceedings in some cases were also highlighted. The practitioners also made suggestions that it would be advisable to harmonise the Criminal Code and the Code of Criminal Procedure, to broaden the scope of offences that can be included in mediation proceedings, to include prior statements by the parties, and to increase the flexibility and individualisation of mediation agreements.

The mediation process has basically lived up to expectations, but, as regards victims' claims competing with the state's claim under criminal law, we cannot ignore the fundamental need to deter the accused from committing crimes in the future.

**Tünde A. Barabás – Orsolya Bolyky – Szandra Windt:**

## The criminological and sociological background to crimes against people in vulnerable situations

Vulnerability is a broad concept. The general meaning of the word can be a starting point, which is then decided by the legal practitioner by taking all the circumstances of the case into account.

The assessment of the existence or absence of vulnerability and this state of affairs must be examined from the perspective of the vulnerable person. The vulnerable situation is essentially that of those who do not have the power to control their own destiny. The *lack of opportunity* may be due to a lack of personal ability, which may be due to age (e.g. infancy) or physical/mental

disability, but also to social circumstances (e.g. poverty) or other circumstances that prevent a person from making free choices and actions. The circumstance or person to whom a person is at the mercy of, who exercises quasi-power over them, as they have the power of choice and action, and the fate of the person in need depends on them. The vulnerable situation implies the possibility of abuse, therefore it is necessary for outsiders to pay attention to such situations, to intervene if necessary, for the legislator to regulate and for abuses to be punished.

Hungarian criminal law has also bowed its head to the results of criminological research on vulnerable persons by making it a qualifying criminal offence to commit a number of offences against a person who is unable to defend themselves, on the one hand, and against *a person who is unable to prevent the offence because of their age or disability*, on the other. It is objectively evident and research has shown that certain crimes are significantly easier to commit if the victim is a member of a vulnerable group (e.g. robbery, plundering, homicide, acts of sexual offences). In this case, the perpetrator takes advantage of the victim's mental and/or physical disability or condition that makes defending against the crime impossible or limited. In our research we also took victimological, sociological, criminological and criminal law aspects into account when defining a vulnerable situation, also citing legal cases to illustrate the different interpretations. After all, it is not entirely uniform when law practitioners consider someone to belong to a vulnerable group, which is necessary in order to establish the qualifying event of a given criminal offence. We assume that attitudes may also differ between the specific types of professions, and that subjective impressions and evaluations of the perpetrator and victim in a particular case may also influence sentencing. These circumstances are not covered in this study, but could be the basis for future research.

**Anna Kiss:**

## The effectiveness of representation of victims lacking capacity to stand trial by a case manager in criminal proceedings

In the course of the research, we reviewed the rules on the representation of victims lacking capacity to stand trial by a case manager, and the reasons behind the related legislative changes, which are primarily related to the efficiency of criminal proceedings, including measures to speed up proceedings, and not to the interests of victims who lack the capacity to act in criminal proceedings.

Interviews with law practitioners revealed that, in the majority of cases, the case manager is appointed by the investigating authority at the very beginning of the criminal proceedings, during the investigation phase. However, in the event of a conflict of interest, the prosecutor's office must disqualify the statutory representative under the rules in force. (Until 31 March 2020, this was rarely done, as it was not required by law.) The research found that several problems arise in the course of the criminal proceedings concerned:

- the case manager is not appointed on time;
- the case manager is appointed in the absence of a legitimate reason (e.g. in the case of a minor involved in a procedural act, there is a conflict of interest with only one parent);
- if the victim dies, it may still be necessary to appoint a case manager (e.g. in order to ensure rights of remembrance);
- in several cases, the statutory representative is automatically excluded from the criminal proceedings by the appointment of a case manager without any investigation on the merits, although the Code of Criminal Procedure does not provide for such a rule;
- the case manager exercises the rights of the statutory representative even if no decision has been taken to disqualify the victim's statutory representative;
- a victim who lacks capacity to act in criminal proceedings, although not entitled to appeal against the appointment of a case manager, has the right to request another case

manager, except for a minor victim, who is then at a disadvantage compared to other victims who lack capacity to stand trial.

The research also found that the current case manager system has similar problems to those of public defence lawyers. The selection of lawyers is random; they are not appointed from those who have already represented victims who lack the capacity to stand trial in criminal proceedings, so the amended legal instrument cannot be considered effective at all.

**László Tibor Nagy:**

## Unlawful use of pyrotechnic devices at sporting events

In recent years, thanks mainly to more effective and clearer legislation and competition organisation, as well as more professional action by the authorities, the security situation at sporting events has improved considerably, which is an important public interest, also due to the high level of publicity. The new, integrated approach to security philosophy in the triple system of *security-safety-service* has made it necessary to create the infrastructure conditions necessary for stadium security, prevention, communication and the protection of persons and property, as required by the strategy. However, the unlawful use of pyrotechnic devices has still not been effectively prevented, despite fines sometimes amounting to several millions imposed on some clubs.

In the course of the research, we explored the regulatory environment, the information provided by the literature and professional events on the subject, the decisions on infringements, the data on disciplinary proceedings of the Hungarian Football Federation (MLSZ), and – based on our inquiries – we came to know the views of the National Police Headquarters, the National Directorate General of Disaster Management Directorate General for Law Enforcement, the MLSZ, the first-class football sports organisations and some supporters' groups.

The unlawful use of pyrotechnic devices at sporting events is specific to football events, with occasional exceptions. Considering the risk of injury, their use at sporting events that do not comply with the regulations can seriously endanger the safety of life and property. Offences relating to civil explosives and pyrotechnic products, as defined in Section 182 of the Offences Act, are committed by the police misdemeanour authorities, and fines may also be imposed by the public area inspector and the authorised administrator of the professional disaster management body. Violations were typically detected in the public areas surrounding the stadium, during access control and in the spectator areas of matches, based on on-the-spot observations and camera footage. In addition to the offence mentioned in Article 182 of the Offences Act, other offences (disorderly conduct, hooliganism) may also be committed at sports events in connection with pyrotechnic products, in which case the police will conduct a preliminary procedure and the competent court will determine the legal penalty. According to Section 19 (1) of the Offences Act, a person subject to proceedings for an offence related to participation in, travel to or departure from a sports event may be banned from any sports event organised within the competition system of any sports federation, as well as from the sports facilities of any sports event organised within the competition system of any sports federation. In the majority of cases, the offence authorities impose fines, but they also use the possibility of banning from the premises in justified cases. Warnings are typically used against juveniles.

Ultra supporters' groups, on the other hand, believe that 'pyroing' is part of the supporter culture, which creates a better and livelier atmosphere to show their passion and support for their team. They believe that members of organised supporters' groups can use the appropriate devices in a completely safe way; the use of pyrotechnics should not be banned, but allowed under certain conditions, and therefore they propose a rethink of the legislation.

In 2017, UEFA conducted a wide-ranging technical consultation, involving international experts and umbrella organisations of supporters' groups, to examine the safe use of pyrotechnics. It has been established that the use of pyrotechnic devices in crowded

environments, such as stadium stands, poses serious health and safety risks, both short and long-term. Following a request from the Supporters' Office, the MLSZ conducted a similarly extensive consultation process, in cooperation with the police, the emergency services and the Pyrotechnicians' Interest Organisation. The outcome of this consultation process is that the composition of pyrotechnic articles, the content of black powder, the specificities of their use and the interests of supporter groups make it impossible to create a use environment and product range that can meet both supporter needs and safety requirements.

**József Kó:**

## Indicators of acts of corruption that can be assessed under criminal law

The ultimate goal of the research was to develop a concept for a corruption indicator that can be used to assess cases that can be assessed under criminal law. To achieve the research objective, corruption case files and data on criminal offences of corruption from the criminal statistics (ENYÜBS) were examined.

We examined the extent to which crime statistics data can be used in the creation of the indicator. Also using international comparisons, we have found that crime statistics alone are not suitable for creating an internationally comparable corruption indicator. The nature and reliability of the data, on the one hand, and the differences in national legal systems, on the other, hinder valid comparisons. To avoid these problems, it is necessary to define the frequency of latent criminal offences. We have therefore included in the index a factor measuring cases that end in termination. However, this factor can be misleading in absolute terms, because there is also a high incidence of termination due to the absence of a criminal offence. Thus, the inclusion of a modifying coefficient became necessary. We set the coefficient at 0.6.

In addition to data on crime statistics, it is also appropriate to collect data on latent crime in order to get a realistic picture. The index must be supplemented with information from other data collection sources. It is necessary to collect information from two groups: the population and the business sector. Similar data collections are currently underway in both circles. Surveys can complement these, but can also be conducted independently. Using the *self-report* technique, it is possible to collect reasonably valid data on the extent of latent acts.

If the necessary survey data are available, an index of criminally relevant corruption can be compiled.