

The Death Penalty in Hungary During the 20th Century

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ABSTRACT

Capital punishment is a controversial sanction that still exists today in many states. However, it has been abolished in more than two-thirds of countries, including Hungary. The last 100 years of its application in Hungary have been affected by changes in the political climate. These changes have resulted in different laws using this punishment in different ways. In this article, I compare the peaceful legislation on capital punishment in Hungary starting from the beginning of the 20th century. Throughout this comparison, I focus on three important aspects of this punishment: the crimes that were punishable by death, the means of execution, and other factors that had to be considered while issuing the death sentence, and finally, the practice of the courts. Based on this comparison, I drew a conclusion that aimed to present the dynamics of the analysed period. Accordingly, we can say that in the last 100 years of capital punishment in Hungary, some things like the means of execution have not changed significantly, but crimes that attracted the death penalty have changed frequently. After examining the conclusions of each analysed topic, we can conclude that capital punishment had a structure in which the start and end of the analysed period represented the *ultima ratio* nature of this punishment the most, and the periods in between were more distant from it.

KEYWORDS

capital punishment, means of execution, abolition of the death penalty, Hungary, 20th century, Csemegi Codex.

Pedeapsa cu moartea în Ungaria în cursul secolului al 20-lea

REZUMAT

Pedeapsa capitală este o sancțiune controversată care există și astăzi în multe state. Cu toate acestea, ea a fost abolită în mai mult de două treimi din țări, inclusiv în Ungaria. Ultimii 100 de ani de aplicare a acesteia în Ungaria au fost afectați de schimbările din climatul politic. Aceste schimbări au dus la legi diferite care utilizează această pedeapsă în moduri diferite. În acest articol, compar legislația pașnică privind pedeapsa capitală în Ungaria începând de la începutul secolului al 20-lea. Pe parcursul acestei comparații, mă concentrez asupra a trei aspecte importante ale acestei pedepse: infracțiunile care erau pedepsite cu moartea, mijloacele de executare și alți factori care trebuiau luați în considerare la pronunțarea sentinței capitale și, în cele din urmă, practica instanțelor. Pe baza acestei comparații, am tras o concluzie care urmărește să prezinte dinamica perioadei analizate. În consecință, putem spune că, în ultimii 100 de ani de pedeapsă capitală în Ungaria, unele lucruri, cum ar fi mijloacele de executare, nu s-au schimbat semnificativ, dar infracțiunile >>

>> care au atras pedeapsa cu moartea s-au schimbat frecvent. După examinarea concluziilor fiecărui subiect analizat, putem concluziona că pedeapsa capitală a avut o structură în care începutul și sfârșitul perioadei analizate au reprezentat cel mai mult natura de *ultima ratio* a acestei pedepse, iar perioadele intermediare au fost mai îndepărtate de aceasta.

Cuvinte cheie

pedeapsa capitală, mijloace de executare, abolirea pedepsei cu moartea, Ungaria, secolul al 20-lea, Codul Csemegi.

I. INTRODUCTION

The death penalty is the harshest sanction that can be imposed on a human being, as it was explained in the dissenting opinion of Justice William Brennan in the famous *Gregg v. Georgia* case, “an executed person has indeed ‘lost’ the right to have rights.”¹

Capital punishment is one of the oldest legal institutions and is deeply rooted in ancient times; however, its purpose has changed throughout history. First, it appeared in connection to blood feuds, and then it became a “*poena ordinara*” sanction, but this was not without any periodical peculiarities. In certain periods, it was used as a sanction for everyone; in other cases, it applied only to certain parts of society, and in other cases, it was used as a form of political repression. Capital punishment has been abolished in more than two-thirds of countries, but it still exists in some developed countries, such as the United States.² With a greater emphasis on human rights in the future, it will most likely become an obsolete sanction; however, until then, this is a topic worthy of discussion.

In this article, I will not attempt to showcase the entire history of the death penalty, or its long Hungarian history. Rather, I focus on the more peaceful times of the 20th century, which is the last century in which capital punishment was still used.

In Hungary, after the 1867 Austro-Hungarian compromise, which brought about the need to modernise certain pieces of legislation,³ a relatively modern criminal code, namely the Csemegi Codex, was adopted. The general part until 1950 and the special part until 1960 deeply influenced Hungarian criminal law. From its application, one special period must be mentioned: the time of war. This period was very different from peaceful times, and the reason for using capital punishment differed from its regular usage. For two reasons, I will not discuss this period in detail. First, the analysis of this special period due to its difference from peaceful time legislation is incomparable to the other times, and it deserves a separate article. Due to length constraints, even if I

1 *Gregg v. Georgia* 428 U.S. 153 (1976).

2 Death Penalty Information Centre: *Policy Issues International*. Available at: <https://deathpenaltyinfo.org/policy-issues/international> (accessed on 29.12.2022).

3 Barna Mezey (2020): A föltétlen igazság és a társadalom fenntartásának érdeke, in Attila Horváth (ed.): *A Csemegi-Kódex megalkotásának 140. évfordulója tiszteletére*, Dialóg Campus, Budapest, p. 39.

wanted to include it, I would not have been able to do so. Nevertheless, I will outline this period in the second section for clarity.

Therefore, in this article, I provide an overview of capital punishment in peaceful times in its last century by comparing the legislation of the periods. Certain predetermined aspects were used to make the comparison more substantive. The first of these are the crimes that were punishable by death, the means of execution, and other factors that had to be taken into account when sentencing someone for capital punishment, and then the practice of the courts. Finally, I will discuss the abolition of the death penalty in Hungary. By comparing these periods, I highlight the differences in the use of capital punishment over its last 90 years.

II. CRIMES PUNISHABLE BY DEATH

The first issue I am going to cover is crimes that were punishable by death. The nature and seriousness of crimes that stipulate capital punishment are the best indicators of how criminal law regimes construe the death penalty and its most protected values. In this chapter, I discuss the periodic changes in crimes that could have been punishable by death.

1. Csemegi Codex

Our starting point is the Csemegi Codex,⁴ a revolutionary piece of legislation that ended the feudalist structure of criminal law.⁵ Before the Parliament accepted the Codex, there were quite a few opposing ideas toward maintaining the institution of the death penalty. One of the biggest protesters was the previous Minister of the Interior, Bertalan Szemere, who compiled a list of 20 reasons why the death penalty was a less sensible punishment than imprisonment.⁶ Another opposer was Béla Komjáthy, who said in Parliament that capital punishment was unjust and unnecessary. He elaborated his opinion and said that the death penalty is against all the “*principles of correct punishment*”, which are that it is appreciable, restorable, exemplary, reparative, and popular.⁷ Notwithstanding these concerns, capital punishment was included in the new Codex. Here, I have to mention the opinion of Károly Csemegi, who expressed that capital punishment is currently necessary, but it must be limited to the most serious crimes and the most severe cases, and only when it is necessary.⁸ In the reasoning of the 1878 V Act they expressed that the 1843 draft Act on the criminal code did not contain the death penalty as a sanction and that the debates over its necessity have even caught

4 1878. V. Act on the Hungarian Penal Code on crimes and misdemeanours.

5 József Palló (2020): A Csemegi-kódex formálódása a korabeli büntetőpolitikai változásainak tükrében, in Attila Horváth (ed.): *A Csemegi-Kódex megalkotásának 140. évfordulója tiszteletére*, Dialóg Campus, Budapest, p. 47.

6 Bertalan Szemere (1841): *A büntetésről s különösbbe a halálbüntetésről*, A Magyar Kir. Egyetem Betűivel, Buda, pp. 162–164.

7 Iván Nagy (ed.): *Országgyűlés Képviselőházának Naplója XIII. kötet*, 309/1875, pp. 279–280.

8 Gergely Szalóki: Halálbüntetés a Csemegi-kódexben, *Belvedere Meridionale*, 10/2008, pp. 42–43.

the attention of the codifiers of the Belgian Criminal Code.⁹ After examining the issue of capital punishment, the Belgian legislature followed a practical approach and stated that capital punishment was considered necessary at that moment. This approach was followed at the creation of the 1878 Criminal Code. The reasoning of the Act expressed that the current public security conditions in Hungary required capital punishment. Thus, given the climate, capital punishment was included in the Criminal Code but was limited to only two crimes: high treason (Article 126) and murder (Article 278). According to the Csemegi Codex, there were several ways to commit high treason, but only paragraph one was punishable by death. In this case, the perpetrator must murder or deliberately kill the king, or they must have attempted either of these acts. Thus, the legislature punished completed and attempted high treason equally. Some criticised this approach as implying that the completed form (when the king dies) of the crime is not more serious than its attempted form (when the king does not die);¹⁰ this is at the least questionable. The other crime, sanctioned by capital punishment, was a pre-determined homicide. The rationale for this was that the Act makes a psychological distinction between murders that are predetermined and those that are not, but this difference in predetermination does not necessarily mean that the perpetrator would be executed solely based on his motive, rather, the circumstances have to be so morally questionable that a milder penalty as defined in the 89–92 articles cannot be applied (these will be explained in the next chapter). As we can see in the Csemegi Codex, the death penalty during peaceful times is only imposed on the most vicious crimes, and only in their most serious cases. The Csemegi Codex was a complex piece of legislation that did not aim to use capital punishment as a mere tool for political revenge, but more as a necessary but not desired form of sanction.

2. Period of wars

To clarify the article, I will briefly discuss the two wars. This extraordinary period started with the 1912 acts¹¹ that made capital punishment a more common sanction; at this time, martial courts were introduced. The next significant change occurred at the end of the war. After the devastating loss resulting from the war, Hungarian communists under the leadership of Béla Kun took power with a *coup*, and the Hungarian Soviet Republic was announced. During the terrible 133 days of the regime, criminal law went backward, and the death penalty was introduced for many crimes. The next event worth mentioning was the Horthy¹² period. The Kingdom of Hungary was re-established, and Miklós Horthy became Hungary's regent. This was quite an ambivalent

⁹ 1878. V. Act reasoning.

¹⁰ Ákos Pálvölgyi (2018): *A szabadságvesztés-büntetés felfüggesztésének ingamozgása a magyar büntetőjogban a Csemegi Kódextől napjainkig*, Pécsi Tudományegyetem Állam- és Jogtudományi Kar Doktori Iskola, Pécs, p. 48.

¹¹ These were the: 1912. XXXII. Act on the code of military criminal procedure for the common forces, 1912. XXXIII. Act on the code of military criminal procedure of the armed forces, 1912. LXIII. act on exceptional measures in the event of war.

¹² Miklós Horthy was an admiral and the regent of the Kingdom of Hungary between 1920 and 1944.

period, as there was a return to the Csemegi Codex's regulations. However, there was an increase in the number of crimes that were punishable by death. With the help of the martial courts, the number of people who were actually sentenced to death has also increased; these changes were definitely contrary to the aim of the Csemegi Codex. This, along with the outbreak of the Second World War, worsened the situation, and even more, crimes that were tried by martial courts attracted capital punishment.¹³ These periods were devastating in our history, as individual lives were not at the forefront of the fight for power. Unfortunately, these tendencies have not been uncommon over the subsequent 60 years.

3. The period after the Second World War

In 1944, Soviet troops entered Hungary, and from then on, Soviet occupation began. This was marketed as a temporary situation, but the continued presence of Soviet troops for 45 years proved otherwise. Within this period, the Csemegi Codex was still in force, but other legislation made it possible to carry out executions outside the scope of the crimes punishable by death in the Codex. To fulfil its primary objective of punishing the crimes of the war, the interim national government¹⁴ adopted the 81/1945 Decree on the people's courts, the 1.440/1945¹⁵ Decree that modified the 81/1945 Decree, and the 5.900/1945¹⁶ Decree that also modified the 81/1945 Decree.¹⁷ The 81/1945 Decree adopted two crimes—war crimes and crimes against the people—but only certain war crimes were punished by death. A retroactive effect was applied to these crimes. In the 1.440/1945 Decree, the scope of war crimes was extended, and from then on, every war crime was punishable by death.

In the following months, new government decrees were implemented to increase the number of crimes punishable by death.¹⁸ To this group of decrees belongs the 6.730/1945¹⁹ Decree that included certain cases of price-gouging abuse (this crime was defined in 1920. XV. Act related to price-gouging abuse). Accordingly, the crime is committed by selling certain products over the maximum price, profits over reasonable

13 Zoltán J. Tóth (2010): *A halálbüntetés intézményének egyetemes és magyarországi története*, Századvég Kiadó, Budapest, pp. 253–276.

14 The government was elected by the interim parliament in 1944.

15 1.440/1945 Decree on amending and supplementing the 81/1945 Decree on the people's courts.

16 5.900/1945 Decree on the supplementation of the rules concerning the proceedings against an absent accused person and the representation of the public prosecution in the context of the administration of justice.

17 Zoltán J. Tóth: A halálbüntetésre vonatkozó magyarországi szabályozás a rendes és a rendkívüli büntetőjogban

a II. világháborút követő években, valamint az államszocializmus első évtizedében, *Miskolci Jogi Szemle*, 1/2008, p. 88.

18 I'm going to discuss these according to the very thorough collection of Professor Zoltán J. Tóth in his book titled: *A halálbüntetés intézményének egyetemes és magyarországi története* (Universal and Hungarian History of the Institution of the Death Penalty).

19 6.730/1945 Decree on the increased penalties for price gouging abuse.

profits, and so on.²⁰ This was later modified 8.800/1946²¹ Decree²² and became punishable by death. The next decree worth mentioning is the 9.480/1945 Decree prohibiting the export of goods of public necessity without authorisation. The most severe punishment was only applied when the act seriously harmed or jeopardised the interests of public services and in the case of commercial intent.²³ This decree was followed by the 60/1946 Decree,²⁴ which aimed to severely punish the sale of stolen goods if these goods were connected to public transport or if the goods were the result of a robbery.²⁵

4. The First Period of the Hungarian People's Republic and the 1956 Revolution

After the war ended, the idea of parliamentary elections became topical. This materialised in November 1945. Despite all the efforts of the Communist Party, the smallholder's party won by a landslide, and Zoltán Tildy became prime minister and, later, in 1946, president of the republic. The smallholder government was facing challenges from the get-go as the communists were using "*salami slicing tactics*" against them. In 1947, the members of the Communist Party took power in the blue ballot elections. Later in 1949, the totalitarian government adopted a new constitution based on the 1936 Soviet constitution, establishing the Hungarian People's Republic.

At the beginning of this era, several new laws were adopted that enabled capital punishment outside the scope of the Csemegi Codex. These new laws were adopted to reflect the ideologies of the new leadership. The first of these was the 4/1950 Decree-law on criminal law protection of the planned economy. As its name suggests, this law aimed at prescribing the death penalty for acts against the planned economy and when the act caused particularly serious damage, or when it was committed against certain factories of particular importance, or acts committed by a person multiple times.²⁶ The second piece of legislation worth mentioning is the 24/1950 Decree-law on criminal law protection of social property. The idea of the decree-law was rooted in the 1948 *novella* (amendment) of the Csemegi Codex, which made the theft of the property of state factories punishable without considering the value of the stolen items.²⁷ In line with its ideological background, this legislation aimed to protect the assets of the state, institutions managed by the state, cooperatives, and assets under the control of these entities. Theft of social property was punishable by death if it had caused particularly

20 1920. XV. Act on the price gouging abuse.

21 8.800/1946 Decree on the criminal law protection of the economic order.

22 Tóth (2008): p. 95.

23 9.480/1945 Decree prohibiting the unauthorised export of articles of public utility.

24 60/1946 Decree on the more serious punishment of selling stolen goods.

25 In addition to the crimes that I have listed above there was a special legislation, namely the 1948. évi LXII. Act that regulated the military crimes of which several were punished by death. Due to the length constraints and the different focus of the article I'm not going to discuss these in detail.

26 Tóth (2008): p. 102.

27 Sándor Madai (2013): A társadalmi tulajdon fokozottabb büntetőjogi védelme egykor és most, in: Balázs Gellér, Zoltán Csige (ed.): *Békés Imre emlékkötet*, Tullius kiadó, Budapest, pp. 100–101.

serious damage and if the perpetrator was engaged in such theft multiple times, or if it was committed as part of a criminal organisation. Setting fire or blowing up social property and the robbery of such property in cases that resulted in particularly serious damage were also punished by death. This law was a very good representation of the decades that came, as it made a clear distinction between social and private property and placed a clear emphasis on social property.

However, the most significant change in this period was the adoption of the new general part of the Criminal Code with the 1950. II. Act.²⁸ This was a key step in cutting ties with the “bourgeois” heritage of the Csemegi Codex and having a piece of legislation that serves the socialist needs. The new General Part’s 30th article listed sanctions and capital punishment within it. The reasoning of the 1950 II Act explained that although the death penalty would eventually become obsolete, the current status of society required it.

In the autumn of 1956, university students began gathering to express their demands for necessary changes in the country, but peaceful protests were met with violent responses from the state protection authorities. On the night of 23 October, the leadership called for Soviet help which arrived in the days that followed. The occupying Soviets were met with brave resistance but eventually overpowered Soviet troops prevailed on November 4th.

János Kádár assumed power in 1956 and he voiced that new laws must be created to punish the participants in the revolution. These new decree-laws, on the surface, preserved the image of legality; however, in reality, they very much lacked it.²⁹ This period saw the renaissance of extraordinary courts, and summary procedures were introduced in the 22/1956 Decree-law.³⁰ The next law worth mentioning was that of 28/1956 Decree-law on the order of summary proceedings that allowed these procedures in the case of the following crimes: murder, intentional homicide, arson, robbery, crimes of intentionally damaging factories of public interest or factories serving the public’s necessities of life, unauthorised possession of firearms, ammunition explosives, or explosive substances. This law only provided for the summary procedure and did not impose capital punishment for these crimes, but this was soon changed. Two days later, the 32/1956 Decree-law³¹ was adopted amending the 28/1956 Decree-law with the provision that capital punishment shall be imposed if the perpetrator is found guilty.

5. The 1961 Criminal Code

In the Hungarian history of capital punishment, 1961 was a special year for multiple reasons. First, this was the year when the last deadly trial of the revolution ended; this was the final year of the special courts in Hungary; and third, this was the last year

28 1950. II. Act on the general part of the Criminal Code.

29 Szilveszter Csernus: A törvényesség álruhájába bújtak 1956 véreskezű megtorlóit, *Múlt Kor*, 2021. Available at: <https://mult-kor.hu/a-torvenyesseg-alruhajaba-bujtak-1956-vereskezu-megtorloi-20211104> (accessed on 29.12.2022).

30 22/1956 Decree-law on simplifying criminal proceedings for certain crimes.

31 32/1956 Decree-law on amending the 28/1956 Decree-law.

of the Csemegi Codex as a new complex Criminal Code was adopted. The New Criminal Code was enacted in the 1961. V. Act.³² According to the reasoning of the Codex, even though socialist ideology is against the institution of capital punishment, it had to remain a sanction because the fight against capitalists cannot do without it. Looking at the previously discussed 1950 general part, we can observe similarities. Both legislations declare that capital punishment should not be maintained, but the current climate does not allow for its abolition. On the surface, it looked like a genuine commitment towards future abolition, but in reality, both systems kept it as an intimidation tactic and a tool to eliminate those against the system.

The special part of the Code sanctioned 31 crimes with capital punishment. Within the scope of this article, this is the period with the most crimes punishable by death, but a mere number that does not consider actual practice does not show the full picture.

The first group of crimes punishable by death included nine crimes against the state. These were conspiracy (Art. 116), from which the five most serious cases could be punished by death, three classified cases of rebellion (Art. 120), more serious cases of damage that could be committed only by certain people against the people's republic (Art. 124), classified cases of destruction (Art. 125), assassination (Art. 126), classified cases of high treason (Art. 129) (high treason just like in the Csemegi Codex was included in the new Code but obviously with a different substance), support of the enemy (Art. 130), certain classified cases of espionage (Art. 131) and the final one was committing these crimes against any other socialist state (Art. 133). The classified cases in most of these crimes were a) causing serious consequences or b) committed during a war. The second group of crimes that could theoretically have been sanctioned by capital punishment were crimes against peace or humanity. Both crimes remained theoretical, as neither was committed since their inclusion in the Code.³³ The two crimes punishable by death were genocide (Art. 137) and classified cases of war atrocities (Art. 139). The eight most common crimes sanctioned by death belong to the third group of crimes. These were certain classified cases of prison mutiny (Art. 186) and classified cases of murder (Art. 253). The other six common crimes mentioned in the Code are somewhat different from these two. Not surprisingly, the socialist regime formulated criminal law to meet its needs and introduced capital punishment for certain crimes that derogated the socialist property structure. These six crimes attracted capital punishment when they were committed against social property theft (Art. 291), embezzlement (Art. 292), fraud (Art. 293), misappropriation (Art. 294), and when it caused particularly serious damage to public property, public nuisance (Art. 190), and robbery (Art. 299). According to the new Code, these crimes were just as dangerous to society as the previously listed crimes. The reason behind this was attempted to be explained in the reasoning of the Code that said these crimes deserved punishment by death, as they undermined the basic socialist structures.³⁴

32 1961. V. Act on the Criminal Code of the Hungarian People's Republic.

33 Tóth (2010): p. 300.

34 Zoltán J. Tóth: A büntetőjog normalizálódása és az abolíció eszméjének térhódítása Magyarországon: a halálbüntetés szabályozása a '60-as évek elejétől a '80-as évekig, *Debreceni Jogi Műhely*, 3/2007.

In Hungarian criminal law, this was the first Code to include military crimes. Twelve of these crimes involved punishment by death. These were absconding during war (Art. 312), classified cases of absconding abroad (Art. 313), abdication from performing military service during war (Art. 315), certain cases of mutiny (Art. 316), insubordination to an order during war (Art. 317), violence against a superior and the environment during service (art. 318), violation of the guard during a war situation (Art. 326), violation of the rules of standby during a war situation (Art. 327), misconduct on behalf of the commander during war situation by not providing a capable resistance (Art. 331), abdication from performing a battle obligation in a serious manner (Art. 332), jeopardising battle readiness resulting in a particularly serious disadvantage (Art. 334) and violence against a military envoy (Art. 338).

6. The softening of the dictatorship

Finally the last period to discuss is how the totalitarian regime began to turn away from the use of capital punishment. The two laws that represented this theoretical change were 28/1971 Decree-law,³⁵ which amended the 1961 Criminal Code and the 1978 new Criminal Code. The first step in the process was the 28/1971 Decree-law. This amendment repealed six crimes and introduced one that could be sanctioned by death; from this point onwards, 26 crimes were punishable by death. The biggest achievement of this legislation was that it repealed those provisions of the Code that allowed capital punishment for the crimes of theft, embezzlement, fraud, misappropriation, public nuisance, and robbery. This significant move represented both ideological and economic changes in the country. However, this amendment not only removed obsolete ideas but also reflected the new challenges of life. As a result, the unlawful seizure of an aircraft was introduced as a new crime that could be punished by death if it resulted in someone's death (Art. 192).

Even though the 1961 Criminal Code, at its adoption, provided adequate protection to society, it later became increasingly evident that there was a need for a large-scale overhaul of criminal law as times were changing.³⁶ The new sanction system of the 1978. IV. Act³⁷ was more refined than the previous Code but still included the death penalty.³⁸ Leading legal scholars of the time, such as József Földvári and Tibor Horváth, believed that the general preventive function of capital punishment was not a sufficient reason why it could not be abolished.³⁹ Nevertheless, capital punishment remained, and an explanation for this can be found in the reasoning of the Code. Accordingly, the socialist system aims to abolish capital punishment, but this is currently not

35 28/1971 Decree-law on amending and supplementing the criminal code.

36 Ferenc Nagy (1981): *Az új Büntető Törvénykönyv szankciórendszerének egyes kérdései*, A Szegedi József Attila Tudományegyetem Állam- és Jogtudományi Kara, Szeged, p. 5.

37 1978. IV. Act on the criminal code.

38 Mihály Tóth: *Az új btk bölcsőjénél*, *Magyar Jog*, 9/2013, p. 526.

39 József Földvári (1970): *A büntetés tana*, Közgazdasági és Jogi Könyvkiadó, Budapest, p. 107.

possible.⁴⁰ Looking back at the previous legislation of the socialist era, it is evident that this explanation remains the same. Although the regime has been moving towards the future abolition of capital punishment for the last 30 years, real action was not taken until the regime changed. The number of crimes punishable by death did not change; however, the crimes themselves did. As in the 1961 Code, it is expedient to classify crimes into groups. The first group of crimes punishable by death included the nine crimes against the state. These were ordinary cases of support of the enemy (Art. 146) and of committing the crimes in this chapter against any other socialist state (Art. 151). In addition to these, there were the classified cases of conspiracy (Art. 139), rebellion (Art. 140), damage (Art. 141), destruction (Art. 142), assassination (Art. 143), high treason (Art. 144), and espionage (Art. 147). Regarding these classified cases, most of the crimes remained the same, but the number of classified cases punishable by death was significantly reduced compared to the 1961 Code. From this point onwards, only the most dangerous acts to society were sanctioned by death. In contrast, crimes against humanity have changed more significantly. Instead of the previous two crimes that were sanctioned by death, this Code included four, namely genocide (Art. 155), violence against civilians if it caused death (Art. 158), criminal warfare (Art. 160), and violence against military envoys (Art. 163). As we can see, compared to the times before the Codex, the crime of war atrocity was repealed, but three new crimes were introduced in this group. The next group consists of three common crimes, which were classified cases of murder (Art. 166), the new crime of terrorism (Art. 261), and the unlawful seizure of an aircraft (Art. 261). It is worth noting that the previous crime of prison mutiny was removed from crimes punished by death, as it was transformed into a different crime. Finally, the last group of crimes that were punishable by death included ten military crimes compared to the previous twelve. Some of them, such as absconding (Art. 343), mutiny (Art. 352), insubordination to order (Art. 354), violence against a superior and the environment of service (Art. 355), and abdication from performing a battle obligation (Art. 365), mostly remained the same. The crimes of abdication from service (Art. 346), refusal of service (Art. 347), misconduct in service (Art. 348), jeopardising battle readiness (Art. 363), and misconduct on behalf of the commander (Art. 364) were either newly introduced or significantly reworked.

III. MEANS OF EXECUTION AND OTHER FACTORS

1. Csemegi Codex

According to the 21st article of the Csemegi Codex, the execution had to be carried out in a closed space by hanging. If we look at the reasoning of the act, we can see that it

40 Ágnes Gócza (2015): Gondolatok az 1978. évi IV. törvényben szabályozott büntetések előkészítéséről – különös tekintettel a halálbüntetésre, in István Koncz, Ilona Szova (ed.): *PEME XI. Ph.D. – Konferencia*, Professzorok az Európai Magyarországiért Egyesület, Budapest, p. 62. Available at: <https://dea.lib.unideb.hu/server/api/core/bitstreams/c2582005-7cdb-4430-9ef9-9cad0f5ffbe5/content> (accessed on 29.12.2022).

proposes that the execution should be performed by guillotine.⁴¹ Károly Csemegi, the author of the Codex, as opposed to previous practices in Hungary, proposed the use of guillotines in the drafts.⁴² This idea was rejected by the Parliament as they deemed it unnatural to Hungarian practice, so subsequently, we stayed with hanging,⁴³ and this, with some exceptions, remained the same until death penalty was abolished. Another contested issue was whether the execution should be performed in a closed space or in front of a crowd. The reasoning of the Codex mentions that abolitionists argue that the only reason for keeping the death penalty in place is its deterrent force; thus, if the execution is carried out behind closed doors, it loses this force. This reasoning provides the answers to this question. First, it states that it is inhumane to make someone's death a public event; second, public humiliation would make the already most serious punishment even more severe, this not being the aim of the legislator; and third, the argument of the abolitionist is flawed, as it would mean that only those are affected by a deterrent nature who are there, and those who are not present will not be affected. The reasoning points out that physically witnessing the execution is not crucial, as the deterrent effect of capital punishment is achievable by making the execution public knowledge. With this Codex provision, the period when executions were public events ended.⁴⁴ The process of execution is further regulated by the attachment of the 2106/1880 Decree of the Minister of Justice and the 1896 XXXIII. Act,⁴⁵ which is the procedural act of the criminal Code. According to this legislation, the day of the execution is decided by the royal prosecutor, followed by a public announcement. Following this, the prison doctor examines the condition of the person on death row and stops the execution if there is something that hinders the process; if the person is not deemed unfit for execution, then he gets 24 hours to say his goodbyes. The next morning at the execution, the royal prosecutor or its deputy assigned to the case, the high court judge, the administrative body's representative, the prison officer, the priest, and the two doctors had to be present. Another provision of the Procedural Act that tries to make the execution as humane as possible prohibits the individual facing execution from seeing the individual who is next on the death row and prevents the individual who is next in line from seeing the individual facing execution. In addition, there were possibilities for others to be present during the execution. With the permission of the royal prosecutor, males other than the already eligible family members and attorneys could be physically present to witness the execution.

Another interesting issue is the limitations of the people who could be executed. The 22nd article of the draft proposed postponing the execution of a pregnant woman until she gave birth; however, this was not eventually included in the Codex, as the Parliament deemed it too obvious to be included. In contrast, what was included in the Act was the 87th article that prohibited the execution of people under the age of 20. Here,

41 1878. V. Act reasoning.

42 Judit Kisnémet: A halálbüntetés története Magyarországon, *Magyar Rendészet*, 6/2015, p. 110.

43 Tóth (2010): p. 247.

44 Péter Balázs: Szemelvények a halálbüntetés történetéből, *KRE-DIT*, 1/2018. Available at: <http://www.kre-dit.hu/tanulmanyok/balazsy-peter-szemelvények-a-halalbuntetes-tortenetebol/> (accessed on 29.12.2022).

45 1896. XXXIII. Act on the criminal law procedure.

the 1896 Procedural Act has to be mentioned again as, in addition to those under 20 years old, it also outlaws the execution of mentally ill and pregnant women.

Finally, two factors that could alter the use of capital punishment are worth mentioning. First, the Code provided the king with the opportunity to grant a pardon to an individual who had been sentenced to death. Obviously, with the change in power, this also changed, and this right was granted to persons who held other positions. Second, criminal liability lapsed in the case of the two crimes after 20 years, and the enforcement of the sanctions lapsed after 25 years.

2. The period after the Second World War

As mentioned previously, the interim national government adopted the 81/1945 Decree on People's Courts, the 1.440/1945 Decree, and the 5.900/1945 Decree. The initial 81/1945 Decree was silent on the means of execution. However, the 1.440/1945 Decree that modified it stated that the death penalty should be carried out either by hanging or by firing squad in a closed space, but this must be done without excluding the public. Thus, the rope and closed space are similar to those in the Csemegi Codex, but the firing squad and the opportunity for the public to attend are different. The idea in the latter probably lies in the fact that these crimes were considered highly condemned by the interim government so that these executions could be regarded as a victory to them. However, by still keeping this behind closed doors did not make it a public humiliation. If the appeal was not possible or the pardon was not granted, then the execution had to be carried out within two hours. The method of execution was later refined by the 1.750/1946 Decree⁴⁶ which stated that if the execution by hanging faces difficulties, then it has to be done by a firing squad.⁴⁷ This Decree can be considered a step back to the traditional means of execution defined in the Csemegi Codex.

The limitations on the people who could be executed also differed from the regulations of the Csemegi Codex. Initially, the 81/1945 Decree stated that juveniles could not be executed for the crimes listed in the Decree. This changed with the 1.440/1945 Decree, and from then on anyone older than 16 years (when committing the crime) could be punished by death.

Concerning pardons, the 81/1945 Decree states that capital punishment pronounced by people's courts can be changed to 10–15 years of imprisonment by pardon. This was later changed with the 1.440/1945 Decree, and from then on, the convict or their attorney had to seek pardon, and a death sentence could only be changed to lifelong forced-labour or, if physically impossible, life imprisonment. In addition, the appellate court of the People's Court could decide not to grant the convict pardon if they did not find sufficient basis; this provision made the pardon system rather void.

46 1.750/1946 Decree on the death penalty by a bullet.

47 Tóth (2010): p. 282.

3. First Period of the Hungarian People's Republic and the 1956 Revolution

As mentioned earlier, a new general part of the Criminal Code was adopted in 1950. This new legislation did not regulate capital punishment in detail. Nevertheless, it included some interesting provisions. Regarding people who could be punished by death, the Act stated that in the absence of special laws, instead of the death penalty, life imprisonment should be used if the perpetrator was older than 18 but younger than 20. This provision provided special protection for those between the two age groups, but it was not absolute protection. Also, this suggests that a person under 18 years could not be subjected to capital punishment. This was confirmed by the Act on the Entry into Force of the General Part,⁴⁸ as it declared that the death penalty could not be imposed on the perpetrator if he was younger than 18 years.

The second noteworthy issue that the general part discussed in its 25th article is that crimes punishable by death lapse after 15 years. But the new general part did not regulate the duration for the enforcement of sanctions. This was included in the Act on the Entry into Force of the General Part, which determined it to be 20 years. Compared to the Csemegi Codex, both periods were five years shorter.

Interestingly, the methods of execution were not defined in the Code but in the Act on The Entry into Force of the General Part. The Act, just as in the periods after the war, declared that executions should be carried out in a closed space by hanging, but where there are difficulties, then it must be done by a firing squad.

According to the 6/1956 Government Decree,⁴⁹ those sentenced to death in the show trials of the revolution had to be executed within two hours. Even though these trials very much lacked legality, there was still the possibility of giving a pardon. The judges had to decide unilaterally to decline the pardon. If they did not, the presidential council⁵⁰ decided on the matter.

4. The 1961 Criminal Code

It is worth mentioning that the Codex did not use capital punishment as an absolute sanction in any of the crimes; rather, it was always an alternative sanction. Surprisingly, there were no provisions on the means of execution in the 1961. V. Act, but in the 8/1962 Decree-law on criminal procedures. This newly adopted Decree-law did not significantly change the previous procedural rules, and the same was true in the case of mean execution.⁵¹ The execution still had to be carried out in a closed space using a rope or by firing squad.⁵²

48 39/1950 Decree-law on the entry into force of the general part of the criminal code.

49 6/1956 Government Decree on the detailed rules of the summary courts.

50 This was the collective head of state during the Soviet-type dictatorship.

51 Judit Kovács, Zsolt Nagy: A társadalmi változások hatása a büntető eljárási szabályokra a rendszerváltás után, 2/2001. Available at: <http://jesz.ajk.elte.hu/kovacs6.html> (accessed on 29.12.2022).

52 8/1962 Decree-law on the criminal procedure.

Similar to the procedural act of the Csemegi Codex, the new Criminal Code also sets the minimum age for sentencing someone to death at 20 years. The Code in the same article also mentioned the opportunity for a pardon, which, when successful, changed capital punishment to 20 years imprisonment. The rules of the pardon were further regulated in the previously mentioned procedural Decree-law stating that execution could only occur if the pardon was not granted. Moreover, those who could not have been executed were extended by the procedural act to pregnant woman or a mentally ill woman until they give birth or recover from their state.

The third interesting issue, connected to capital punishment, on which the Act contains provisions, is lapsing. According to the new Code, the criminal liability for crimes that can be punished by death lapses after 20 years. Furthermore, according to the Code, the enforcement of capital punishment lapses after 20 years.

5. The softening of the dictatorship

As mentioned in connection with capital punishment, the first sign of the softening of the Soviet-type totalitarian regime was in the 28/1971 Decree-law. Capital punishment was already an alternative sanction in the Code, but the Decree-law additionally introduced life imprisonment as an alternative to the death penalty. This can be found in the reasoning of the amendment, which states that, life imprisonment shall be used if there is still a chance that the perpetrator will change for the better, as opposed to capital punishment, which should only be used if there is no chance that this change will occur.⁵³

As explained in the last subchapter, the 1961 Code provided an opportunity for a pardon, and if it was successful, capital punishment was changed to 20 years imprisonment. With the Decree-law, possibilities were extended; from this point onwards, life imprisonment was also an option.

Most of the rules relating to capital punishment were kept from previous legislation, as they were deemed appropriate by the lawmakers. Accordingly, the new Criminal Codex did not bring about changes in the execution process. As in the past, capital punishment was carried out in closed spaces by hanging or firing squads.

IV. COURT PRACTICE

1. Csemegi Codex

As previously mentioned, in the case of the Csemegi Codex, the legislature aimed to use only capital punishment in the most serious cases. This was reflected in the competencies of the courts, as not all of them were competent to decide on cases where the death penalty could be applied. If we take a look at the 1897. XXXIV. Act on the entry into force of the Criminal Procedure Code, we can observe that trials of crimes that are

53 Kálmán Györgyi (1984): *Büntetések és intézkedések*, Közgazdasági és Jogi Könyvkiadó, Budapest, p. 209.

punishable by death must be held in front of a jury.⁵⁴ The lowest level at which these cases were decided was the high court, where juries were established. According to the 1897. XXXIII. Act on the jury; the jury consisted of three judges and 12 juries.⁵⁵ Also, in line with the legislator's aim, the Csemegi Codex provided several opportunities for courts to use less serious sanctions instead of the death penalty. In Articles 91 and 92, the Codex states that capital punishment can be changed to life imprisonment if the extenuating circumstances are dominant. Moreover, if the extenuating circumstances are so predominant that even the previous case is too harsh, then capital punishment can be changed to 15 years of imprisonment. As a result of the aim of the Code, the few crimes that could be punished by death, and the possibility of the courts not imposing a death penalty, it was very rarely used. The data that found predates the scope of the article, but I believe it is still important to mention this, as it represents the attitude of the courts until the introduction of martial courts.⁵⁶ Between 1880–1899, according to Fayer Laszló's research, there was, on average, no more than one execution per year.⁵⁷ Furthermore, no individual was sentenced to death between 1885 and 1900.⁵⁸ This peaceful climate changed before the war and new legislation like the 1912. LXIII. Act on Exceptional Measures in the Event of war⁵⁹ that responded to the dark clouds on the horizon, made capital punishment a lot more common. Subsequently, this practice was then carried on. However, still, counting in these different times in the 30 years before the war, only 38 people were executed.⁶⁰

2. The period after the Second World War

During World War II, the ideological climate changed in Hungary, which brought about some changes in the courts. The 1945 Ministerial Decree introduced people's courts. From then onwards, two types of courts—regular and people's courts—functioned simultaneously.⁶¹ However, only the latter could sentence a person to death for a war crime. If we look at the position of the courts in these cases, it is interesting to observe that the 81/1945 Decree states in the 5th article that less serious sanctions can be applied if the previously mentioned 91st and 92nd articles of the Csemegi Codex

54 1897. XXXIV. Act on the entry into force of the criminal procedure code.

55 1897. XXXIII. Act on the juries.

56 Kisnémet (2015): p. 112.

57 Ádám Békés (2020): A Csemegi-kódex büntetéstani tételei tovább élnek-e a jelenlegi büntetékiszabási gyakorlatban?, in Attila Horváth (ed.): *A Csemegi-Kódex megalkotásának 140. évfordulója tiszteletére*, Dialóg Campus, Budapest, p. 70.

58 Tibor Horváth (2001): Az Első Magyar Büntető Törvénykönyv és Kodifikátora: Csemegi Károly, in Barna Mezey (ed.): *A praxistól a kodifikációig. Csemegi Károly emlékére (1826–1899)*, Osiris Kiadó, Budapest, p. 31.

59 This legislation gave the government the chance in case of a war or in case of a situation of a potential war to implement new legislations that are necessary to combat the war crisis without asking the opinion of the parliament.

60 *A Büntetési Eszközök (Formák) és Végrehajtásuk Története*, p. 67. Available at: https://jogikar.uni-miskolc.hu/files/5956/Tansegedlet_Kriminologia%20mesterkepzes_Ponologia_2.pdf (accessed on 29.12.2022).

61 Palló (2020): p. 55.

are fulfilled, in addition to this any less harsh sanctions in the Decree can be applied too. This initial attitude changed shortly after the 1.440/1945 Decree repealed the aforementioned provision of the 81/1945 Decree. Instead, the decree stated that capital punishment can only be a sanction for those crimes in the criminal code and only if capital punishment is the only sanction proportionate to the nature of the crime and to the degree of culpability. This article, to some extent, tries to emphasise the ultimate nature of capital punishment, but as we will see later, the numbers do not reflect this. In addition, contrary to the 81/1945 Decree and the Csemegi Codex, the Decree prohibits the use of a different sanction according to the 92 article if extenuating circumstances are predominant. Also worth mentioning is the 5.900/1945 Decree that allowed people's courts to sentence someone to death when they are absent and prohibited them from appealing such decisions. Thankfully, this controversial provision guaranteed that when the "sentenced" was caught, they had to be brought in front of the People's Court to decide on a new trial or to uphold the decision. Concerning the courts, the issue of appeal is also worth mentioning. The 81/1945 Decree initially made it possible to appeal every death sentence, but the 1.440/1945 Decree changed it. This Decree made it impossible to appeal against half of the war crime cases in which the perpetrator was sentenced to death. According to the available data, the People's Court between 1945 and 1948 executed 160 people⁶²(this number is most likely much higher as court statistics did not always reflect reality).⁶³ This drastic change in the number of executions was also attributed to the structure of the People's Courts and their attitudes, as war crimes were often broadly interpreted.⁶⁴ It is also worth mentioning that these courts made decisions with government influence. The government made several lists of alleged war criminals to help the People's Courts. After four years, these courts stopped working in 1950, but the persecution of war criminals continued.⁶⁵

When we discuss the courts in this period, the usury courts that decided on the price-gouging abuse cases defined in the 6.730/1945 and 8.800/1946 decrees must also be mentioned. Special courts were regulated in the 1947. XXIII. Act on special councils of usury courts.⁶⁶ These courts consisted of five people, the president, selected by the justice minister, and four labour judges appointed for six months.⁶⁷

62 Mihály Soós (2004): A háborús és néPELLenes bűntettek feltárásának forrásai a történeti levéltárban, in György Gyarmati et al. (ed.): *Trezor 3. Az átmenet évkönyve 2003*, Állambiztonsági Szolgálatok Történeti Levéltára, Budapest, pp. 81–106.

63 Kisémet (2015): p. 113.

64 Balázs (2018).

65 Soós (2004): pp. 81–106.

66 Zoltán J. Tóth: The death penalty in Hungary following World War II, *Jogelméleti Szemle*, 3/2020, pp. 77–78.

67 At this period beside the regular, the people's and the usury courts summary courts and military tribunals functioned too.

3. First Period of the Hungarian People's Republic and the 1956 Revolution

The General Part of the 1950 Act states in its 51st article that sanctions, in general, can be mitigated if they are in line with the purpose of the penalty or if the extenuating circumstances make it necessary. In the new general part death penalty is not an absolute sanction, and it specifies that it can be changed to life imprisonment or 10–15 years in prison.

Although this overlaps with previously mentioned times, it is worth mentioning that between 1947 and 1953, at least 196 people were executed by both ordinary and special courts. This is approximately the same annual number as in the first few years after the war.

As mentioned, summary courts were set up in 1956 for many crimes in which capital punishment could be imposed. The previous rules of the summary court were deemed obsolete by the regime as they did not serve their aims. A new Government Decree, namely the 6/1956, was adopted to regulate the new summary court procedures. From this point onwards, the summary courts consisted of three judges: one professional and two lay judges.⁶⁸ During this period, the regime aimed to intimidate the public. The show trials were great tools in the hands of the leadership to achieve their goals. The decision to pursue criminal proceedings against individuals usually came from the party of Mátyás Rákosi, who admitted this himself.⁶⁹ These trials were not only directed by the party but also the cases were made up, evidence was fabricated, and confessions were forcefully extracted from the people. In summary, trials in a substantial number of cases completely lacked legality. Summary courts stopped working in 1957; however, until then, at least 70 people had been executed.⁷⁰ However, the pursuit of those involved in the revolution continued even after the summary courts ended. The tool of choice in this process was the resurrected People's Courts. These newly reinstated courts, which decided on the same crimes as those in front of the summary courts, consisted of one professional judge and two lay judges or, in higher instance cases, one professional judge and four lay judges.⁷¹ Between 1956 and 1961 (the year of the last execution connected to the revolution), 367 people were executed, of which at least 269 were directly connected to the revolution.⁷² Within the scope of this study, these were the deadliest years.

68 Zoltán J. Tóth: A rögtönbíráskodás története Magyarországon a XIX–XX. században, *Iustum Aequum Salutare*, 4/2017, p. 175

69 Attila Horváth: Konceptiók perek Magyarországon, *Bonum Publicum*, 3/2015, p. 54.

70 Tóth (2010): p. 294.

71 34/1957 Decree-law on the councils of people's courts and on the regulation of certain aspects of court organisation and criminal procedure.

72 Szilveszter Csernus: Százak kivégzését, tízezrek internálását és százezrek megfigyelését hozta az 1956 utáni megtorlás, *Múlt Kor*, 2020. Available at: <https://mult-kor.hu/szazak-kivegzet-tizezrek-internalasat-es-szazezrek-megfigyeleset-hozta-az-1956-utani-megtorlas-20201104?pldx=4> (accessed on 29.12.2022).

4. The 1961 Criminal Code

The new Criminal Code declared in the 64th article that capital punishment should only be imposed if the aim of the punishment cannot be reached with alternative sanctions. The adoption of the Code was a key step toward legality. Even though the trials, in some cases, were still used as a form of revenge by the regime, the number of executions decreased significantly. Between 1961 and 1971, when the “*softening of communism*” began, approximately 70 people were executed.⁷³ This means there were approximately seven executions per year, which is much less than in the five years after the revolution, when the number of executions was 70 per year.

5. The softening of the dictatorship

With changes introduced by the 1971 amendment, the number of executions decreased. Between 1972 (entry into force of the amendment) and July 1979 (entry into force of the new Codex), only 20 executions were carried out.⁷⁴ This translates to a yearly average of 2–3 executions.

The 1978 Criminal Code carried on the previous practices, and the tendency of executions decreased. Between 1979 and 1990 (the year of abolition), 28 executions were conducted, which is the yearly average of three executions. The last executed person in the history of Hungary was Ernő Vadász, who was sentenced to death for murder.

V. ABOLITION

The issue of the abolition of capital punishment came up multiple times throughout Hungary’s history, the most substantial of which occurred during the 1848 revolution and at the beginning of the 20th century. During the regime change, the issue of abolition became a prominent question.⁷⁵ The key driver of this change was the Anti-Death Penalty League which consisted of lawyers, church representatives, and other intellectuals. The League was responsible for spreading the message that capital punishment was inhumane and obsolete. The League was trying to convince the parties in parliament to support the idea of abolition, but as this was a controversial issue, the parties did not dare to stand behind it, so the League took the matter to the Constitutional Court.⁷⁶ In 1990, the Constitutional Court declared capital punishment unconstitutional. This decision was based on the grounds that capital punishment violated Article 54

73 *Az 1945–1988 között magyar bíróságok ítélete alapján kivégzettek* (Persons executed by sentence of Hungarian courts between 1945–1988). Available at: <https://neb.hu/asset/phpFBKtvm.pdf> (accessed on 29.12.2022).

74 Persons executed following sentences of Hungarian courts between 1945–1988. Available at: <https://neb.hu/asset/phpFBKtvm.pdf> (accessed on 29.12.2022).

75 Tibor Horváth (1992): A halálbüntetés abolíciója Magyarországon, in Károly Tóth (ed.): *Emlékkönyv Dr. Cséka Ervin egyetemi tanár születésének 70. és oktatói munkásságának 25. évfordulójára*, Szegedi József Attila Tudományegyetem, Szeged, p. 231.

76 Horváth (1992): pp. 233.

of the Constitution, which declared the principle of the right to life, and that no one can be subject to torture, cruel, inhuman, or degrading treatment or punishment.⁷⁷ With this, capital punishment was abolished in Hungary.

VI. CONCLUSION

After a thorough discussion of capital punishment in Hungary over the last century, it is essential to draw up conclusions. Following the article's structure, the conclusion would begin with a summary of the comparisons that were discussed.

Beginning with crimes punished by death, two interesting observations can be made. The idea behind including capital punishment in the sanctions system has remained almost the same over the last 100 years of application. The reasoning of the Csemegi Codex deemed it necessary for security conditions at the time, thus implying that a change in the situation would bring about abolition (and it was not wrong, as the idea of abolition was very real at the beginning of the 20th century). This stance was carried on in the 1950 new general part, which acknowledged the fact that capital punishment would not be necessary in the future, but was necessary at the time. Then the new 1961 Criminal Code stated that the *"death penalty is not something that should be kept, but still, current situations don't allow for its abolition"*. Finally, just like all previous legislation, the 1978 Criminal Code unsurprisingly said that abolition is on the horizon, but it is now impossible. Throughout these periods, legislators had the idea of abolition, but it hasn't materialised.

The second issue worth addressing is the actual crimes sanctioned by death. The Csemegi Codex which represents the modern attitude of the period and the debate over the use of capital punishment, punished only the two most serious crimes and their most serious cases by death. The periods that followed until the introduction of the 1961 Criminal Code were represented by the proliferation of laws; the Csemegi Codex was still in place, but most of the crimes that were punishable by death were contained in separate laws, and their number was constantly changing. From 1961 onwards, the crimes that were punishable by death were only included in the codes; this period also saw the intrusion of communist ideology into the code, mostly in the form of six crimes that were against the socialist property structure. Starting with the 1971 amendment, there was a decrease in the number of crimes punishable by death and the influence of ideology in the code, as this legislation repealed the six previously mentioned crimes. The process of making capital punishment *"ultima ratio"* was started by the 1971 amendment and was later refined by the 1978 criminal Code. Thus, we can say the *ultima ratio* nature of capital punishment in terms of the crimes has a framed structure as the starting and ending point of the analysed period represents it best, and the periods in between derogated from this function of capital punishment.

In connection with other factors, the most interesting issue, in my opinion, was the means of execution. As mentioned, the draft of the Csemegi Codex planned to use guillotine, which was later deemed unnatural to Hungarian practices. From this point

77 23/1990. (X. 31.) Constitutional Court decision on the unconstitutionality of death penalty.

onwards, the means of execution remained the same, except that carrying out an execution with a firing squad became an alternative option. After analysing the period of the article, I would say that the most permanent feature of Hungarian law in terms of capital punishment was the use of hanging.

Another issue worth highlighting in connection to this chapter is how the minimum age limit of capital punishment has changed. The Csemegi Codex was set at 20 years of age. Then, during the stormy after-war period, it was set to 16; then, in the 1950 General Part, it was raised to 18, and then, with the 1961 Criminal Code, it returned to the original 20.

The final issue discussed was the position of the courts. This was especially important to discuss, as laws are one thing, but what the court does within legal limits is another. Before World War I courts rarely sentenced people to death, and capital punishment was not used for political advantage. This significantly changed after the war: capital punishment was used very often, and the influence of leadership was also relevant. However, the worst period undoubtedly occurred after the Hungarian Revolution of 1956. At that time, courts were not places where justice was served, as political directives drove the cases. This partially changed with the 1961 Criminal Code; from this point onwards, the number of executions declined, but the regime still had an influence. The real changes came from the 1971 amendment and the 1978 Criminal Code. The last 20 years of capital punishment were quite modest, and executions were not that popular.

As we can observe, the aforementioned framed structure is true for all aspects discussed in this article.

VII. FINAL REMARKS

This article discusses the last century of capital punishment in Hungary. Looking at the content of the article, it is exciting to see how different capital punishments can be in certain periods. Comparing the laws of the analysed period we could also see that these differences towards the use of death penalty were heavily influenced by the current political thought. In some cases, it was a valid means of punishment, whereas in others, it was a form of oppression. This punishment's long and changing history ended in 1990 when the Constitutional Court deemed it unconstitutional.