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## CRIMINAL REGULATIONS RELATED TO ILLEGAL MIGRATION ONCE AND NOW

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*In 2015 Europe had to face with a huge society crisis. Numerous people left behind their homeland for the safer life conditions. The problem started right here, foreign people arrived without legal documents, they identification were unimaginable. Immigrants have brought together all the social, economic, and health problems as well. This situation makes uncertainty in the host countries. Hungarian legislator had to create new regulations, which can protect our borders. . In this context, new criminal offenses have been introduced such as blocking the border lock (Btk.352./A), damaging a deadline (Btk. 352./B) and obstructing the construction work on the border guard (Btk.352/C). Actually, is that sections are recent in C of 2012 Act, or just revivification of some acient law from the past?*

*KEYWORDS: illegal migration / regulations / Hungarian criminal law / cases in Hungary / foreign people / border*

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## INTRODUCTION

Protecting the borders of countries has been the foremost activity of people for millennia and the development of various methods has helped to secure these areas. During the Hungarian conquest this was the purpose of the turf system, in the Turkish times the special supervisor system, then the XX. century Soviet-type totalitarian guarding.<sup>1</sup>

Historical times have always had a great influence on the rule of law in the States, a good example of any political turnaround in the country is one of the first steps to modify, repeal or repeal some of the provisions of criminal law or to develop new facts.<sup>2</sup> The ideas and solutions have evolved in line with their age requirements.

The refugee wave experienced in 2015 and its statistical data have made it clear that we are facing another major challenge in Europe. Immigrants have brought together all the social, economic, and health problems as well as the specific legal problem of having no documents, their identification is impossible and they do not pursue any legitimate conduct.

The current Criminal Code (Act C of 2012) had to create the criminal law responses generated by the immigration crisis. In this context, new criminal offenses have been introduced such as blocking the border lock (Btk.352./A), damaging a deadline (Btk. 352./B) and obstructing the construction work on the border guard (Btk.352/C). Previously, there was a type of offense that was defined as a prohibited border crossing. As a result of the nearly fifty-year period, it will be repealed as a forbidden passage of a restricted lock in 2015 (Btk.352./A). However, the crime became fully effective with other legitimate aims, content and perpetrators. In connection with this study, I try to modify the criminal law section of the illegal border crossing and try to analyze it, right up to the current law.

### 1. INITIAL STEPS

The earliest regulation of the prohibited border crossing dates back to the 1900s. At that time, the IV of 1903. Act the illegal entry of border crossing was still a violation. Our First Criminal Code, The Csemegi Code did not contain the statutory definition of border crossing i (Law No. 1878). Thus it can be proved that for many years it was not a criminal offense, to cross the state border in an unauthorized or unauthorized manner. Earlier, only the use of passport was regulated, but the rules for this are already contained in the Additional Code of Csemegi Code. The first of the prohibited border crossing is the 18th century of

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<sup>1</sup> Ritecz György: Piros vonal helyett. In: Gaál Gyula-Hautzinger Zoltán: A modernkori magyar határrendészet száztiz évé, Magyar Rendészettudományi Társaság Határrendészeti Tagozat, Budapest, 2013. 115.o.

<sup>2</sup> Nagy Zoltán: A tiltott határátlépés dekriminalizációjának lehetőségeiről, Magyar Jog 2/92:91-94.

1940 on the punishment of certain acts that threaten the security and the international interest of the Hungarian State. Article 10 of the Law.

He commits an offense and is punishable by a prisoner for a term of one year who is using a false or other passport or other document authorizing the crossing of the border, releasing it for another use, making false announcements about himself or his companion, seeking to mislead the authority with regard to his or her border crossing or limit it passes in an unacceptable manner.<sup>3</sup>

The category of offenses was replaced by a form of wrongdoing, referring to the fact that the domestic and foreign political interests of the state are endangered by certain offenses.

It was apparent from the regulation that, due to the flood of refugees following the outbreak of the Second World War, our country had to better protect its borders.

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XLVIII of 1948 Act on the Elimination and Supplementation of Certain Disabilities of Criminal Laws, contained Section 48 stating the provisions on banned passports and prohibited border crossing. Offenses against the external security of the state included illegal border crossing and abusive passports for offenses. It has punished the attempt of the offense in paragraph 1, and the provision of assistance to acts also entails criminal prosecution. As a classified case, he assessed group commitment and classified false or falsified passport use in the category of falsification. The borderline was discussed in the 1948 issue of counterfeiting, crimes affecting public order and public security. On the basis of this section he was ordered to punish those who intentionally or unlawfully damaged the sculpture, the stone or the wood column, the tomb for marking the border of the country, or made the inscription of the borderline in whole or in part unreadable.<sup>4</sup>

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<sup>3</sup>A Magyar állam biztonságát és nemzetközi érdekét veszélyeztető egyes cselekmények büntetéséről - 1940. évi XVIII. Törvényeikk

<sup>4</sup> A hatályos anyagi büntetőjogi szabályok hivatalos összeállítása, Jogi és Államigazgatási Könyv és Folyóirat kiadó, Budapest, 1952., 75.o.

## 2. V. OF 1961 ACT

A new change was introduced in the regulation Act 203 of Act V of 1961 on the Criminal Code of the Hungarian's Republic.<sup>5</sup> The regulation prohibits the illegal entry of border crossing: Title XII, entitled "Public Security and Public Order Criminal Offenses". section. The other sections of this section are closely related. Including borderline counterfeiting (Section 202), human trafficking (204 §), denial of return (205§), and the failure to report illegal border crossing and smuggling of human beings (206§).

### **Article 203**

(1) Anyone who passes the border without a permit or misrepresentation of the authority or otherwise unauthorized, shall be punished by imprisonment of six months to five years.

(2) The punishment shall be two years to eight years imprisonment if the offense is committed (a) armed; (b) three or more persons jointly pursued.

(3) Penalty shall be from five years to twelve years of imprisonment if the offense is committed by an unlawful alienation of an aircraft.

(4) Any person who commits a preparatory action for a prohibited border crossing shall be punished by imprisonment for a period of two years in the case of paragraph 3 from six months to five years.

(5) A term of imprisonment of up to one year shall be punishable by the perpetrator of the offense provided for in paragraph 1 if, given the cause, purpose and other circumstances of the case, the offense is smaller.

The specific legal subject of the offense is the social interest in the inviolability of the frontier. The borderline borders an area where the state exercises the main power. More specifically, it is an imaginary vertical plane and a coherent sequence that separates each other from each state and determines the extent of the territorial power of the state.<sup>6</sup>

The offense is completed if the perpetrator has left the territory of the country or entered the territory of the country.<sup>7</sup> This act was only legally permissible for those wishing to travel. Travel opportunities abroad have become narrower and subject to specific conditions. A 53/1978. (XI.10.) MT. s. and 6/1978. (XI. 10.) BM. It contains restrictions on the release of the transfer. It is very easy for the police to refuse to issue a passport on the basis of these regulations, claiming that "their departure is in the public interest." He also faced further difficulties in obtaining permission to go outside the shuttles, such as the common language used for "windows". In connection with the exit permit, there was a difference

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<sup>5</sup> Hauztinger Zoltán: A migráció bűnügyi hatásai, Magyar Rendészettudományi Társaság Migrációs Tagozat Budapest, 2016, 190.old

<sup>6</sup> Bodrogi Károly: Magyar Büntetőjog II., Különös rész, BM. Tanulmányi és Propaganda Csoportfőnökség, Budapest, 1973. 330.o.

<sup>7</sup> Az 1981. Évi V. törvény (BTK) kommentárja I.

between the socialist and the capitalist countries. The former were accompanied by a red passport, while the latter had a blue passport.<sup>8</sup>

About this 40/1974. (XI.1) MT Decree no. (1): The state border must be crossed only with valid travel documents and possession of a valid entry and exit permit in accordance with the provisions in force.<sup>9</sup> These provisions also reflect the fact that Hungary became a closed society after 1949, which more precisely meant that the defense line of the Iron Curtain was established.<sup>10</sup> There was a multitude of explosive cannons, watchtowers were built, and wreckers and patrols crossed the 24-meter wide wire barriers.<sup>11</sup> The term iron curtain is linked to the name of many Winston Churchill, when he expressed the isolation of the socialist countries in his speech in Fulton, beyond that speech, even after this speech, public life and politics were more widely used, but first appeared in theatrical life in 1889 when defense from the point of view, the iron curtain was raised between the stage and the auditorium. What is the Iron Curtain? It is a barrier to the hermetic closing of the Hungarian border to the west, "said the number of Hungarian-language journals published in Canada in 1953 on Hadak street."<sup>12</sup>

The right to freedom of movement was extremely limited.<sup>13</sup> Practically there was a permanent oversight over the citizens, examples of which are immigration, prohibition of moving abroad or permission to move abroad. Most of the socialist countries introduced these strict rules because they were afraid that if a large part of the society knew the conditions in the western countries, then mass emigration would start from the country or in the words of the era: many would have dissipated. Border control was therefore characterized by "reverse border surveillance". Accordingly, it did not primarily try to prevent illegal but incoming traffic.<sup>14</sup>

Anyone who committed the offense of illegal border crossing could commit, but we must emphasize the difference for soldiers. In the case where a soldier has crossed the border illegally, he fails to go abroad (§ 313), but if his actions were classified inward at the prohibited border crossing point. Section 203 (5) defines the privileged case of the act, on the basis of which it was punishable by a term of imprisonment of up to one year on whose motivation, purpose or other

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<sup>8</sup> Horváth Attila: Az emberi jogok sorsa Magyarországon a szovjet típusú diktatúra időszakában, In: Rendészet és Emberi jogok 2011/1. 30.o.

<sup>9</sup> Élő Előd: A tiltott határátlépés és a határrendészeti szabálysértés jogértelmezési problémái In: Rendészeti Szemle, XXXI.évf. 9. Szám, Belügyminisztérium, 1993. Szeptember, 21.o.

<sup>10</sup> Dunavölgyi Szilveszter: A migráció magyar intézményeinek jelenlegi jogi szabályozása, In:Póczik Szilveszter- Dunavölgyi Szilveszter: Nemzetközi migráció-nemzetközi kockázatok, HVG-Orac Lap-és Könyvkiadó KFT., Budapest, 2013., 193.o.

<sup>11</sup> Fehérvári István: Börtönvilág Magyarországon. München, 1978. 119. Csapody Tamás: Határvédelem aknával (1949–1970). In: Belügyi Szemle, 2000. 66–67.

<sup>12</sup> Sallai János: Egy idejét múlt korszak lenyomata, A vasfüggöny története, Hans Seidel Alapítvány, Budaörs, 2012.,8.o.

<sup>13</sup> Hautzinger Zoltán Büntetőjogi válaszok a tömeges bevándorlás okozta válsághelyzetre Magyarországon 70. o. In: Tálás Péter: Magyarország és a 2015-ös európai migrációs válság, Dialóg Campus, Budapest, 2017

<sup>14</sup> Horváth Attila: Az emberi jogok sorsa Magyarországon a szovjet típusú diktatúra időszakában, In: Rendészet és Emberi jogok 2011/1. 26. o.

circumstances of the case the offense is of lesser weight. In practice, the legislator has highlighted those cases that are less dangerous to society. It is considered to be someone's way of crossing the border illegally because he wants to visit his sick mother.<sup>15</sup>

### 3. IV OF 1978 ACT

From the point of view of criminal law, a new turn was introduced in the 1978 IV. which brought about a change in the system of legal status of migration. The borderline counterfeiting came into existence with another name, similar wording remained, but the defect of the border was changed (§ 220). In the case of illegal border crossings, however, there were significant changes.

#### **Article 217**

(1) Whoever (a) passes the state border of the Hungarian's Republic without permission or in an unauthorized manner; (b) permanently resides abroad by circumventing the rules of travel abroad, thereby violating the interests of the Hungarian's Republic, and shall be punishable by imprisonment of up to three years.

(2) Whoever commits the offense provided for in paragraph 1 (b) by serving him or serving him with an official mandate shall be punished by imprisonment of up to five years. (3) The punishment shall be imprisonment from one year to five years if the offense provided for in paragraph 1 (a) is: (a) armed; b) are grouped together.

(4) The punishment shall be punishable by five years to ten years if the offense provided for in paragraph 1 (a) is committed by unlawful alienation of an aircraft.

(5) A person who commits a ban on a border crossing or for the purpose of circumventing the rules of travel abroad shall be punished by imprisonment for one year to five years for a crime for two years, for a crime in the case of paragraph 4.

(6) The perpetrator of a criminal offense provided for in paragraph 1 shall be punishable by imprisonment, corrective work or fine, for a period of up to one year, if the act is less weighty in view of the motive, purpose and other circumstances of the case.

(7) The perpetrator of a criminal offense set out in paragraphs 1 to 5 may also be subject to confiscation and bribery as a minor offense.

Act V of 1961 regulates the crimes against public safety and endangering offenses, whereas the 1978 IV. law has already been listed as a law enforcement crime in order to ensure the unrestrictedness of law enforcement. It is clear that

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<sup>15</sup> Bodrogi Károly: Magyar Büntetőjog II., Különös rész, BM. Tanulmányi és Propaganda Csoportfőnökség, Budapest, 1973. 333.o.

significant changes have brought the illegal border crossing into the new code. The wording of the subtitle or the sections is different from the one before. The subject of the crime was the smooth operation of the border police.

One of the ways of perpetration was ruled out, and even a travel document obtained by misleading the authority. A typical offense is an unauthorized perpetration. It will be harder to confine ourselves to what is to be done in an unauthorized manner. In such cases, the offender may have a real travel document, but the border is not passed in the authorized manner. The other way of doing is staying permanently abroad. In this case, the perpetrator crossed the border in a lawful and permissible manner, but stayed longer than the permitted period of stay abroad, permanently abroad. In this circle, there is a need for persuasion, some explanation. Clearly, it is not a few days away, but the longer the approx. The law is punishable by 6 months if this is a serious violation of the interests of the Hungarian's Republic.<sup>16</sup> Significant interest in appears as a new conceptual element in the regulation and will be determined by a person who indirectly represents the prestige of the Hungarian's Republic<sup>17</sup>

The direction of crossing the border was in the previous regulations, and here it became indifferent that the border would go unlawfully or outwardly. The perpetrator circle has been modified and paragraph (b) of paragraph 1 is to be considered a delictum proprium. In this case, an unauthorized residence abroad has been evaluated so that this crime can only be committed by a Hungarian citizen.

The period of great regime change was noticeably apparent in criminal law. It was introduced in the XXVIII. Law - Provision for travel abroad and passport. Paragraph 1 of this law stipulates: The right to travel abroad, to go home and passport is a fundamental right of a Hungarian citizen who can only be limited in exceptional cases in the cases specified in this Act. Accordingly, the forbidden border crossing has again significantly changed.

#### Unauthorized Crossing of the Frontier

The person who crosses the frontier of the Republic of Hungary

- a) without authorization,
- b) in an unauthorized manner

by force of arms, commits a felony, and shall be punishable with imprisonment of up to three years

Between 1994 and 2001, the legislation was not affected by the amendment, but in 2001 there was a significant change in the 2001 CXXI. Act repealed the

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<sup>16</sup> Erdősy Emil - Földvári József - Horváth Tibor: A Magyar Büntetőjog különös része II., Tankönyvkiadó, Budapest, 1989.,5.0.

<sup>17</sup> A Büntető Törvénykönyv magyarázata, Második kötet, Közgazdasági és Jogi Könyvkiadó, Budapest, 1986.642-645.0.

statutory phase of illegal border crossing. On the basis of the spirit of the age, administrative and criminal sanctions were regarded as sufficient against illegal border crossings and, according to some findings, "the time has passed over the fact of the illegal border crossing."<sup>18</sup>

#### 4. C OF 2012 ACT

The 2015 migration crisis has become a whole new challenge in Europe's life. Act C of 2012, in force, has expanded with new criminal offenses. According to a detailed statutory justification, the criminality associated with illegal migration has to face even the most stringent public means, that is through criminal sanctions, with the more serious offenses of illegal behavior.<sup>19</sup> Again, the forbidden border crossing, which was previously regulated, was introduced, the new statutory designation of which was formulated as a forbidden crossing of the border guard, from 15 March 2015.

#### Unlawful Crossing of Border Barrier

##### 352/A. §

(1) Any person who enters the territory of Hungary by unlawfully crossing the barrier deployed for the protection of State borders is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the criminal offense described in Subsection (1) is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) by participating in civil disturbance.

(3) Any person who commits the criminal offense defined in Subsection (1) by displaying a deadly weapon or by carrying a deadly weapon, by participating in civil disturbance shall be punishable by imprisonment between two to eight years.

(4) The penalty shall be imprisonment between five to ten years if the criminal offense defined in Subsection (2) or (3) results in death.

The Hungarian legislator wants to achieve this by introducing the present facts, not to migrate to the country by using the legal possibilities provided by the law on the "green border" but by the technical limit. The analysis of the criminal offense is primarily concerned with the examination of the protected legal

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<sup>18</sup> Nagy Zoltán: A tiltott határátlépés dekriminalizációjának lehetőségeiről, Magyar Jog 2/92:94.o.

<sup>19</sup> Egyes törvényeknek a tömeges bevándorlás kezelésével összefüggő módosításáról szóló 2015. évi CXV. törvény, 27. §

subject, which has not changed much since the first act of the offense, namely the crossing of the state border, the social interest in the enforcement of the established rule of border traffic. It is added that the preservation of the border guard is also apparent in public for the further criminal offenses introduced, such as the obstruction of the construction of a border guard (352§ / B). Conduct Behavior Hungary's entry into a protected area by the establishment of the state border protection regime, in other words the forbidden crossing of the technical limit. The way of perpetration differs from the previous regulations, since the law does not allow or disallows the act, but then the act will be factual if the perpetrator enters the technical boundary without unauthorized access. Accordingly, the offense will not be realized if it is not through the facility, but in the event of entry. The subject of the offense can be anyone, but in practice non-Hungarian citizenship is relevant. I would like to refer here to the subjects of the previous regulation, where a typical Hungarian citizen was present in the subject. As a qualified case, it is judged by the legislator as a participant in armed, armed or bullying. The latter two can be considered as a new factual element.<sup>20</sup>

*352/B. §*

(1) Any person who destroys and vandalizes the barrier or the means deployed for the protection of State borders is guilty of a felony punishable by imprisonment between one to five years, insofar as the act did not result in a more serious criminal offense.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Subsection (1) is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) by participating in civil disturbance.

(3) Any person who commits the criminal offense defined in Subsection (1) by displaying a deadly weapon or by carrying a deadly weapon, by participating in civil disturbance shall be punishable by imprisonment between five to ten years.

(4) The penalty shall be imprisonment between ten to twenty years if the criminal offense defined in Subsection (2) or (3) results in death.

The legal object is a social interest in the inviolability of an institution or instrument that protects the state border regime. The subject of the offense is the border guard itself.

Conduct behavior is mutilation, destruction. In the event of a mutilation, the thing is not limited to the proper loading of its original function, and in case of

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<sup>20</sup> Blaskó – Hautzinger – Madai – Pallagi - Polt- Schubauer: Büntetőjog Különös rész II., Rejtjel Kiadó, Budapest, 2015.

destruction, the damage is irreversible. I would be relieved of the factual situation of the falsification of the borderline because of the act that the offense is the same, and the two legislators have tried to punish the defeat. Certified cases are the same as the prohibited crossing of the boundary block. However, it is important to emphasize the subsidiary nature of the act, which refers to "if no more serious crime is realized".<sup>21</sup>

### *352/C. §*

Any person who obstructs the construction or maintenance of the barrier deployed for the protection of State borders is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in another criminal offense.

Legal Subject: The social interest in the construction and maintenance of a border guard. Conduct Behavior: Preventing work on the construction or maintenance of a technical limit stop. The result of the legislature as a criminal offense did not determine the mode of perpetration, but any conduct could lead to the completion of the crime.

Actually, the legal system has been detailed above, which shows the current problem in Hungary. Furthermore we would like to highlight the practical side too of migration in connection with one of the most wellknown case: the Ahmed H Case.

In the past 5 years (2012-2017) an average of 3 terrorist acts took place in Hungary. However, these cannot be seen as terrorist acts in "classic" criminological terms, but as criminal offenses, which have been declared as terrorist acts by the increasingly spreading scope of criminal law. Pursuant to the Hungarian criminal law the common criminal offenses listed in the section "Acts of Terrorism" of the Criminal Code have been declared as terrorist acts, when e.g. the objective of the perpetrator is to intimidate the general public, coerce a government agency, another State into doing, not doing or countenancing something; or to disrupt e.g. the operation of an international organization.

One of the cases attracting huge interest in the press has been the criminal proceeding against Ahmed H. Due to the "situation caused by mass immigration" in Hungary, the state of emergency was declared on 15 th September 2015 and on the same day new rules in asylum and criminal law became applicable. This reform on the Asylum Act obliges refugees to file their asylum requests within one of the newly established transit zones along side the Schengen external borders. The transit zones on the Hungarian-Serbian border - Röske and Tompa - opened on 15 th September 2015, but in the beginning only hundred requests were allowed per day. The border crossing at Röske, where thousands were previously able to enter the EU per day, was basically closed

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<sup>21</sup> Blaskó – Hautzinger – Madai – Pallagi - Polt- Schubauer: *Büntetőjog Különös rész II.*, Rejtjel Kiadó, Budapest, 2015.

overnight. As a consequence thousands of people were trapped; not able to move forward anymore and not knowing what was happening.<sup>22</sup>

After declaring the state of emergency as a consequence of mass immigration hundreds of migrants assembled on the Serbian side of the road border crossing Röszke-Horgos on the 16th of September 2015. The peaceful minded groups of people with the aim to enter Hungary became aggressive over time, trying to tear down the fence, some of them throwing stones at the policemen on the Hungarian side. Many policemen were injured during the confrontation. According to the judgement of the Court of First Instance Ahmed H. threatened with breaking down the cordon and attacking the police. The suspect has addressed the mass several times with a megaphone, threw stones at the police three times himself and has illegally entered Hungary after opening the gate closing down the crossing point. Ahmed H. then returned to the Serbian side and could only be detained 3 days later. According to prosecution this act has to be considered a terrorist act because the suspect did use force against the representative of public authority in order to force the police to let him enter the country.

On 30 th November 2016 Ahmed H. was convicted in Szeged to 10 years imprisonment on account of illegally crossing the border and a terrorist offense. In addition, he was expelled from the Hungarian state territory indefinitely. On 15 th June 2017 the appeal hearing took place in Szeged: resulting in the procedure being resubmitted to the first instance court, whilst the accused remains in pre-trial detention. Ahmed H. has been detained since September 2015 and has therefore been imprisoned for almost 2 years now. In addition to national press and 2 representatives of the international media, Amnesty International Hungary, one delegate of the Swiss Democratic Lawyers (ELDH member organization) and supporters of Ahmed H. were also present and attended the hearing.<sup>23</sup>

Pursuant to Hungarian criminal law what Ahmed H. committed is a terrorist act. The perpetrator of Syrian nationality was convicted of a terrorist act and of the illegal crossing of the border at first instance by the General Court of Szeged. As a consequence, he was sentenced to imprisonment of 10 years in a high secured prison and has been expelled from Hungary. The Court of Appeal of Szeged repealed the decision. The proceeding was finished in September 2018, Ahmed H was sentenced to 5 years in prison for committing terrorist act. Despite upholding the conviction, the regional court of Szeged reduced Ahmed H.'s jail sentence from seven to five years. The Syrian, who has already served three years, will have to stay in prison for a minimum of two-thirds of the five-year sentence, and will thus not be eligible for release until early 2019.<sup>24</sup>

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<sup>22</sup> <http://no-racism.net/article/5234> (17. 09. 2018.)

<sup>23</sup> <http://no-racism.net/article/5234> (17. 09. 2017.)

<sup>24</sup> [https://bbj.hu/news/appeals%20court%20upholds%20syrian%20rioters%20terrorism%20conviction\\_155211](https://bbj.hu/news/appeals%20court%20upholds%20syrian%20rioters%20terrorism%20conviction_155211) (27. 09. 2018.)

## SUMMARY

The essence of the short writing was essentially generated by the migrant crisis in 2015. In this connection, I felt the importance of writing a summary study that reveals the criminal law changes in relation to illegal border crossing. By examining the statutory amendments, it became apparent that the texts of the legislative texts have an extraordinary reflection on the political view of an era. The number of laws listed clearly demonstrates that I have tried to analyze a much modified law in relation to this study. In fact, the fundamental similarity, which has been drawn up for more than 100 years under this legislation, is the protection of the borders of countries. Simply, we have always protected one's own territory from someone else, only the idea was different from who and why. The introduction of new sections on this basis is not entirely new, rather the re-entry of old sections with some renaming.

It is very difficult to comment on the future regulation of illegal border crossing, on the one hand, as it will only be necessary for this legislative phase until Europe is faced with a situation of extreme crisis, and, on the other hand, if we look back on the earlier examples, will also fly the time over this regulations.

## BIBLIOGRAPHY

- (1) A Büntető Törvénykönyv magyarázata, Második kötet, Közgazdasági és Jogi Könyvkiadó, Budapest, 1986.642-645.o.
- (2) A hatályos anyagi büntetőjogi szabályok hivatalos összeállítása, Jogi és Államigazgatási Könyv és Folyóirat kiadó, Budapest, 1952., 75.o.
- (3) A Magyar állam biztonságát és nemzetközi érdekét veszélyeztető egyes cselekmények büntetéséről - 1940. évi XVIII. Törvénycikk
- (4) Az 1981. Évi V. törvény (BTK) kommentárja I.
- (5) Blaskó – Hautzinger – Madai – Pallagi - Polt- Schubauer: Büntetőjog Különös rész II., Rejtjel Kiadó, Budapest, 2015.
- (6) Bodrogi Károly: Magyar Büntetőjog II., Különös rész, BM. Tanulmányi és Propaganda Csoportfőnökség, Budapest, 1973. 333.o.
- (7) Bodrogi Károly: Magyar Büntetőjog II., Különös rész, BM. Tanulmányi és Propaganda Csoportfőnökség, Budapest, 1973. 330.o.
- (8) Csege Gyula: A Bevándorlókkal kapcsolatos hivatalos intézkedések folyamata
- (9) Dunavölgyi Szilveszter: A migráció magyar intézményeinek jelenlegi jogi szabályozása, In:Póczik Szilveszter- Dunavölgyi Szilveszter: Nemzetközi migráció-nemzetközi kockázatok, HVG-Orac Lap-és Könyvkiadó KFT., Budapest, 2013., 193.o.
- (10) Egyes törvényeknek a tömeges bevándorlás kezelésével összefüggő módosításáról szóló 2015. évi CXV. törvény, 27. §
- (11) Élő Előd: A tiltott határátlépés és a határrendészeti szabálysértés jogértelmezési problémái In: Rendészeti Szemle, XXXI.évf. 9. Szám, Belügyminisztérium, 1993. Szeptember, 21.o.
- (12) Erdősy Emil - Földvári József - Horváth Tibor: A Magyar Büntetőjog különös része II., Tankönyvkiadó, Budapest, 1989.,5.o.

- (13) Fehérvári István: Börtönvilág Magyarországon. München, 1978. 119. Csapody Tamás: Határvédelem aknával (1949–1970). In: Belügyi Szemle, 2000. 66–67.
- (14) Hautzinger Zoltán Büntetőjogi válaszok a tömeges bevándorlás okozta válsághelyzetre Magyarországon 70. o. In: Tóth Péter: Magyarország és a 2015-ös európai migrációs válság, Dialóg Campus, Budapest, 2017
- (15) Hautzinger Zoltán: A migráció büntetőjogi hatásai, Magyar Rendészettudományi Társaság Migrációs Tagozat Budapest, 2016, 190.old
- (16) Horváth Attila: Az emberi jogok sorsa Magyarországon a szovjet típusú diktatúra időszakában, In: Rendészet és Emberi jogok 2011/1. 26. o.
- (17) Horváth Tibor-Kereszty Béla- Maráz Vilmosné - Nagy Ferenc- Vida Mihály: A Magyar Büntetőjog Különös része, Korona Kiadó, Budapest, 1999. 316.o.
- (18) Nagy Zoltán: A tiltott határátlépés dekriminalizációjának lehetőségeiről, Magyar Jog 2/92:94.o.
- (19) Ritecz György: Piros vonal helyett. In: Gaál Gyula-Hautzinger Zoltán: A modernkori magyar határrendészet százöt évé, Magyar Rendészettudományi Társaság Határrendészeti Tagozat, Budapest, 2013. 115.o.
- (20) Sallai János: Egy idejét múlt korszak lenyomata, A vasfüggöny története, Hans Seidel Alapítvány, Budaörs, 2012.,8.o.

#### Websites:

- (1) [https://bbj.hu/news/appeals%20court%20upholds%20syrian%20refugees%20terrorism%20conviction\\_155211](https://bbj.hu/news/appeals%20court%20upholds%20syrian%20refugees%20terrorism%20conviction_155211) (27. 09. 2018.)
- (2) <http://no-racism.net/article/5234> (17. 09. 2018.)

## KRIVIČNE ODREDBE KOJE SE ODOSE NA ILEGALNE MIGRACIJE NEKAD I SAD

*U 2015. godini Evropa se morala suočiti sa ogromnom društvenom krizom. Brojni ljudi su ostavili svoju domovinu zbog sigurnijih uslova života. Problem je započeo upravo ovde, stranci su stigli bez pravnih dokumenata, identifikacija je bila nezamisliva. Imigranti su doneli sve društvene, ekonomske i zdravstvene probleme. Ova situacija čini neizvesnost u zemljama domaćinima. Mađarski zakonodavac je morao napraviti nove propise, koji mogu zaštititi naše granice. U tom kontekstu uvedena su nova krivična dela kao što je blokiranje graničnih prelaza (Btk.352./A), skraćivanje rokova (Btk 352./B) i ometanje građevinskih radova na granici(Btk.352 / C). Zapravo, da li su te izmene nedavno objavljene u Zakonu C iz 2012. samo oživljavanje nekog ranijeg zakonskog rešenja?*

*KLJUČNE REČI: ilegalna migracija / regulativa / mađarsko krivično pravo / slučajevi u Mađarskoj / stranci / granica*