

RESEARCH RESULTS – 2009

(Summaries of completed research)

Content

Aggression amongst detainees and prisoners: causes and consequences. Analysis of depth interviews with 50 problematic detainees and prisoners	1
Statistical peculiarities of homicides from the 1960s until today.....	2
Prevention Strategies in Europe: from early intervention to repressive prevention	2
Media and Justice – 2: Children and Crime in the Media	2
Prostitution and connected crimes in Europe (Comparative legal aspects; main dilemmas and questions).....	3
E-reporting and e-registering of crimes: opportunities granted by the Internet to get to know illegal and harmful acts better	3
The characteristics of foreign victims in Hungary between 2000 and 2007	4
Social and Criminological Character of International Human Trafficking in Hungary	4
Effectiveness in Crime Prevention	5
Examining corruptive offences by applying the method of case analysis.....	5
Legislative instruments for combating corruption, organized crime and economic crime from 1988 to 2008.....	5
The role of local government in environmental protection.....	6
The organ of the prosecutor's office and its functions III. The Hungarian model	6
ISRD2 – Family bonding, discovery and sanctioning of deviances in Czech Republic, Portugal and Hungary	7
Forensic biobanks in light of the crimes against medical intervention, the order of medical research and medical autonomy	8
Die aktive Legitimation des Verletzten.....	8
Statistical research of the felonies against consumers and competitors	9
School violence as a phenomenon – risk factors, potential preventive measures	9
The European Arrest Warrant	9
Effective methods and tactics in proving corruptive criminal offences	10
The role of prosecutors in the process of mediation	10

I. RESEARCH PROJECTS IN THE MAIN FIELDS OF RESEARCH

THE FIRST MAIN FIELD OF RESEARCH: VIOLENT CRIME

Ágnes Solt:

Aggression amongst detainees and prisoners: causes and consequences. Analysis of depth interviews with 50 problematic detainees and prisoners

The purpose of this research is to help manage aggression in penal institutions, to propose solutions to tackle violence, and above all, to identify the causes and background factors that lead to aggressive behaviour by captives. The research aims to reveal the typical motives for aggression in the dimension of the penal system itself, the values of this special subculture, and the personality of the aggressor. Based on the knowledge of these motives, we can then suggest changes that can help reduce aggression among prisoners.

I conducted interviews with 50 problematic prisoners in Vác Strict and Medium Regime Prison, then sociologically analysed the content using the ATLAS.ti content analysis program.

László Tibor Nagy:

Statistical peculiarities of homicides from the 1960s until today

The trends in homicides in Hungary show no correlation with other crime trends, nor with the development of crime in total, nor with violent criminality. The prevailing attitude in criminal practice influences the number of cases which are considered as attempted manslaughter to a considerable degree. Until the political change in 1989 the number of actual homicides was around 200 a year, but this increased in the course of the 90s to a level of 300 cases annually. Astonishingly, in recent years fewer criminal offences of this kind have been registered than earlier. Whilst the number of homicides is decreasing conspicuously, these are carried out with methods which are far more brutal, cruel and base than ever before. Amongst the reasons for such deviant acts can be seen an unequivocal increase in loss of emotional control (no premeditation), financial gain and escaping debts.

THE THIRD MAIN FIELD OF RESEARCH: PROTECTION OF SOCIETY AND CRIME CONTROL – REACTIONS TO THE CRIMES COMMITTED

Andrea Borbíró:

Prevention Strategies in Europe: from early intervention to repressive prevention

In the last decades of the 20th century, European societies witnessed a major shift in crime control policies. As a consequence, crime prevention efforts have become characteristic elements of both national and international crime policies. The role attributed to prevention in eliminating the social and individual cost of crime is unchallenged in contemporary European societies; however, the ways and means of prevention, as well as the underlying assumptions about crime and responsibility for crime prevention, vary considerably. The research gives an account based on the three major European models (the British, the French and the Nordic models) of crime prevention.

THE FOURTH MAIN FIELD OF RESEARCH: GLOBAL CRIME

Szilvia Gyurkó – György Virág:

Media and Justice – 2: Children and Crime in the Media

The study contains the main findings and conclusions of a study of the media's representation of crime, criminal deviancy, and crime victimisation, with a special focus on juveniles. During the research, conducted in April 2008, researchers investigated five media sources for the above terms. According to the most impressive findings, both violent crimes and juveniles as victims or offenders are presented in the media with disproportionate frequency. Children under the age of 18 were mentioned in 7% of media news/articles and every third mention was related to criminal deviancy.

Lenke Fehér:

Prostitution and connected crimes in Europe (Comparative legal aspects; main dilemmas and questions)

The research aimed to study and analyse the legal regulations concerning prostitution in the member countries of the European Union. It discussed the questions of migrant prostitution and problems of child prostitution. The research was extended to the regulation of crimes connected with prostitution. Comparing the legal regulation of prostitution and connected crimes, as well as their main problems, the research primarily studied the type of regulation of prostitution and the circle of prostitution-related offences, as well as trafficking in human beings.

According to the regulatory model, prostitution itself, as well as its background, namely providing the infrastructure for sexual services, consists of a part of a legalised business activity. Pimping and procuring, as well as trafficking in human beings, however, are criminalised.

All kinds of abolitionist and prohibitionist models criminalise abetting entry into prostitution, procuring and pimping (as well as trafficking in human beings). The abolitionist type of regulation however criminalises prostitution itself, too. The abolitionist solution traditionally tolerates, (but does not regulate) prostitution, while the Swedish neo-abolitionist approach addresses the demand and stigmatises the clients of the prostitutes without criminalising the service-providers (prostitutes).

Legal regulation frequently differs, even in the countries applying similar types of approach; moreover, there can be differences even in the same country, concerning issuing a permit to practice different forms of providing paid sexual services (individual prostitution, sex-clubs, etc.).

Analysing the background and solutions in Hungarian regulation, the research showed the controversial elements of the present system and their negative effects on the phenomenon and on the actors, as well as on its social environment. The paper refers to the data and results of some previous empirical researches.

Finally, a comparative approach to the applied legal technique and practice, primarily, in Europe, was provided.

The research material will be published as a part of a monograph.

Katalin Parti:

E-reporting and e-registering of crimes: opportunities granted by the Internet to get to know illegal and harmful acts better

The original research titled „*E-mediation of justice: Internet crime reporting*” began in 2008 and has been initiated as an international research project. However, Hungary was not eligible for application grant from the European Science Foundation, so I have continued the research on a national level. This national level research consists the following three main parts.

The’ aim of the awareness raising presentations are to draw attention to the dangers of young people’s online leisure activities, such as making friends, talking about sex, forwarding pictures of themselves to strangers online and meeting strangers offline who they met online. The presentations’ audience is 11-18 year-old pupils and carers such as teachers and parents. The latter group is being told about the possible means of prevention (see the free downloadable software from the Hungarian „Safe Surfing Programme” – Biztonságos Böngészés Program) and the techniques for getting to know about dangerous situations and how to stop them as well. However, this awareness-raising programme cannot be complete without measuring the national internet usage habits of the young. In this respect, in the course of 2009 we have been developing an empirical research project, studying Hungarian pupils’ internet-using routines,

the volume of online sexual disclosure and their ability/experience to tackle online sexual insults. In the next couple of years (2010-2011), the research data will be analysed in order to fit the awareness-raising programme to the (special?) needs of young Hungarians and will be compared with the outcomes of other European empirical studies.

The education needs of internet service providers (ISPs) turned out to be an equally indispensable element of preventing indirect sexual abuse. Online sexual abuse can take place by displaying harmful content on internet websites or forwarding it to underage internet users as well. I therefore created a study for ISPs to spread around the latest best practices for handling harmful internet content. This material is to be used for developing the Hungarian ISPs' central hotline for reporting harmful internet content (see more at <http://www.internethotline.hu/>).

Szandra Windt:

The characteristics of foreign victims in Hungary between 2000 and 2007

There were many crimes which were committed against foreign citizens in Hungary in the last few months. The distortion of the media was shown in these cases: the polarised statements suggested that the foreigners are (also) in danger. The picture of Hungary could be destroyed with these messages. Are there really too many foreign victims in Hungary? The total number of all known victims was 263,225 in 2001, which decreased by 30,000 (-12%) in 2007. The incidence of total foreign victims was around 4% on average (and was 3% in 2007), indicating that the proportion of foreign victims among the total of known victims is very low. Forty-two per 100,000 foreigners (who arrived in Hungary) became victims in 2001, as did "just" 18 per 100,000 in 2007. While the numbers of foreign offenders were similar over the last eight years, the numbers of foreign victims decreased greatly. According to the distribution of the countries of the foreign victims, it can be said that most of them were from European countries (mainly from Germany), but the number of them fell very rapidly in the last two years.

György Virág – Lenke Fehér – Szilvia Gyurkó – Ágnes Solt:

Social and Criminological Character of International Human Trafficking in Hungary

The sociological and criminal phenomenon of International Human Trafficking was analysed in this research from a special 'victim support' point of view. The empirical survey dealt with the character of criminal procedures, the attitude and working methods of experts working in any field of victim support or in the criminal justice system. The researchers also were interested in protocols, good practices, case management models and innovations in this area. A handbook, titled 'Emberpiac' was published from this research in 2009 by the Ministry of Social and Labour Affairs.

THE FIFTH MAIN FIELD OF RESEARCH: RISKS – PREVENTION

Andrea Borbíró:

Effectiveness in Crime Prevention

This review, being the first stage of a long running research project, gives account of the current state of the art in the international field known as “evidence-based crime prevention”. The first part of the review provides information on the methodology of systematic reviews and meta-analyses, both broadly seen in contemporary literature as the most reliable methodological tools in effectiveness research. The second part of the research, mainly based upon the database of the Campbell Collaboration, reviews the key empirical results of the “what works” discourse. The general pattern of these results indicates that, in every field of crime prevention, interventions focusing on involvement and cooperation, informal control and cognitive skills are likely to be more effective in reducing crime than those solely involving measures of formal control and repressive surveillance. Recent developments in evidence-based crime prevention could be important sources for Hungarian crime prevention policy, and it is hoped that this review will give a road for a more widespread application of effectiveness research.

Géza Finszter – Ádám Mészáros – Dávid Vig:

Examining corruptive offences by applying the method of case analysis

A successful fight against corruption requires, in addition to making clear the concepts of criminal law, renewing the recommendations of criminalistics. The introductory study is followed by presentation of three bribery cases resulting in convictions. All the three support the conclusion that the main precondition of detection is cutting the alliance of interests between active and passive bribery actors, by providing impunity for the person reporting the crime. Among recommendations related to taking evidence, we have analysed the importance of witness statements, catching in the act as a means of unveiling criminal intention, and some methods of covert information gathering.

THE SIXTH MAIN FIELD OF RESEARCH: ECONOMIC CRIME AND CRIME AGAINST PROPERTY

Dávid Vig:

Legislative instruments for combating corruption, organized crime and economic crime from 1988 to 2008

The research aims to examine the approved legislative tools of the last twenty years for combatting corruption. The research examined documents of a strategic nature (e.g. Strategy against corruption of 2001 and 2007), as well as institutional changes, in particular the coordination of the fight against corruption in the government and the planned legislation by the so-called ‘Agency for Public Procurement and the Protection of Public Interest’.

The anti-corruption measures are divided into three main pillars: criminal legislation, other legislation and non-legislative instruments. The criminal legislation of the period (six modifications of the Criminal Code) can be characterised by criminalisation tendencies and

harsher punishments. The examination of the legal environment included the fields of incompatibility in public administration, public procurement, lobbying, freedom of information, relevant taxation issues, transparency in public funds and money laundering. The fields of future legislation (whistleblower protection, party and campaign-funding rules, protection of fair trial, etc.) were also reviewed.

The „third pillar” of the fight against corruption seems to be more effective but, in spite of this, the government did not paid much attention to it in previous years.

Szilveszter Dunavölgyi – Katalin Tilki:

The role of local government in environmental protection

The report is based on the national environmental policy situation and legal environment. It introduces the environmental situation of domestic villages, the role of local governments in environmental protection administration and the role and participation of the notary in the offence procedure. The results and the most typical cases in the research conducted in the period of 2007-2008 will be also presented.

The most typical environmental offences are the illegal dumping of building refuse and burning plastic cable coating. It is also very typical that citizens are not aware of the requirements regarding the special threat and storage of hazardous wastes. It can be also determined that citizens are not familiar with environmental law and do not have any information materials, which makes it difficult to spread environmentally-conscious thinking. Since local governments represent the closest level to the citizens, they are able to encourage them in protecting the environment.

THE SEVENTH MAIN FIELD OF RESEARCH: THE STRUCTURE OF THE STATE, PUBLIC AUTHORITY – REGIONAL ISSUES

Anna Kiss:

The organ of the prosecutor's office and its functions III. The Hungarian model

The study consists of two parts: the first part deals with the Hungarian prosecutor's department.

The second part compares the old and the new Law on Criminal Procedure in the past and in the present.

The basic question of the comparison is the extent to which and how the role and the activities of the prosecutor will change because of the new regulation.

The study deals with the situation following the reform: it examines the changes that took place in the new Law, due to the amending innovations.

II. RESEARCH PROJECTS OUTSIDE THE MAIN FIELD OF RESEARCH

Katalin Parti:

ISR2 – Family bonding, discovery and sanctioning of deviances in Czech Republic, Portugal and Hungary

The study is a part of the second round of the International Self-Reported Delinquency Study (ISR2) launched in 2005. This year, we compared family bonding and the discovery and sanctioning of violent deviances in those countries working with national representative samples.

Crucial differences have been shown between Portuguese kids and pupils in the Eastern European region. Portuguese children have the strongest family connections: they dine as a family and have family programmes more frequently than the other countries' children; they spend leisure time with family more often than weekly and they have the biggest proportion dining together with family 5-7 times a week. As expected, Portuguese children's family control is the strongest: most of the parents always know who their children are spending their time outside the home with. And in Portugal, children usually spend their leisure time with the family.

I hypothesised that this high level of control of Portuguese kids derives from the facts that (1) divorce rates are low and (2) alcohol and drugs in the family are still at a low level. I created 3 groups according to family structure and functioning. It shows that in Portugal the 1st group (intact and no problem family) is indeed the biggest. However, family control over Portuguese kids was higher in every group, independently of divorce and problems. They also spent spare time together with their family with equal frequency, regardless of divorce and problems.

There is another reason behind the Portuguese high values, namely in Portugal (and Czech Republic) there is a significant number of 11-12 year-old respondents, who are usually under greater family control.

Hungarian respondents had the best opinion of their neighbourhood: they would definitely miss their neighbourhood if they had to move out and they love their neighbourhood the most. However, fewer Hungarian respondents said that even neighbours would have controlled them (neighbours notice if they behave well and neighbours say "well done", etc.)

Family control and committing violent acts correlate in every country. Those respondents living under greater family control committed fewer violent crimes than those under lower family control. It is also indicated that parental control is higher in Portugal, even if the respondent committed numerous violent acts.

Those who committed violent crimes are less likely to live in intact, well-functioning families and most likely to be in problematic families. Parental divorce, separation or one parent's death negatively influences the healthy development of members of the young generation.

There is a correlation between family structure and functions and experiencing violent acts as well. Violent acts were found to be least likely in those families where parents are suffering from alcohol and drug problems and / or frequently fighting at home.

Surprisingly, violent acts are the most likely to be detected not in intact, well functioning families, but in divorced families or families where one parent died and only one parent takes care of the children.

Committing violent crimes and the level of family bonding correlates as well. Those who committed violent acts are less bonded to their family, in every country, compared to the total sample (all cases).

While the total sample is more bonded, those who committed violent acts are less bonded, except in Portugal, where even violent kids are strongly bonded to their family.

The chance of discovering deviance is low in every country. The chances are even lower of discovering violent acts. It is most likely for petty crimes against property to be found out, as opposed to violent crimes.

My hypothesis was that the healthier a family is, the more attention they pay to their child, therefore they more likely sanction violent acts. This hypothesis was not justified, except in Hungary. In Portugal and Czech Republic it works the other way round: those parents suffering from problems are most likely to sanction violent acts, which is quite surprising with regard to serious crimes and felonies.

There is a significant correlation between committing violent crimes and the level of impulsivity. The more impulsive the respondent (the more he/she accepts violent responses in life and the less self-control he/she has), the more likely he/she is to commit violent crime in life.

In Portugal there is a slight difference from the mainstream: semi-impulsive kids were preponderant, even among those who committed more violent crimes. So in Portugal, high level impulsivity does not have a violent outcome. Impulsivity is more like just an addition to people's mentality.

Petra Bárd:

Forensic biobanks in light of the crimes against medical intervention, the order of medical research and medical autonomy

In the present research study I explore the objectives, advantages and drawbacks of biobanks from the point of view of forensic sciences. In contemporary liberal societies, forensic biobanks, as promising tools in crime prevention and prosecution, came into being simultaneously with the deepening fears over terrorism and the spread of crime. In the first part of the paper I will provide an overview of the technological developments which have been the prerequisites for the development of forensic databanks; I will explore the upcoming legal issues, and finally the permissibility of a population-wide biobank used for forensic purposes will be discussed. In the second part I will deal with whether a corresponding data protection regime has complemented the widening scope of biobanks and the exchange of information, including genetic profiles among the Member States, for crime prevention or prosecution purposes. Finally I will derive my conclusions and formulate recommendations on the basis of the research conducted over the past three years.

Anna Kiss:

Die aktive Legitimation des Verletzten

Man weiß nicht immer, wer der Verletzte im Strafprozess ist, da der Gesetzgeber zu allgemein formuliert hat. Es könnte eine Lösung bedeuten, wenn die Erklärung zum Verletzten als eine neue Rechtsinstitution eingeführt würde.

Der Verletzte soll über die ihm zustehende Rechte aufgeklärt werden. Ihm wurden darüber hinaus Informationsrechte eingeräumt, und zwar sowohl über den Verfahrensablauf. Man kann sagen, dass die Informationsrechte bei uns heutzutage besser ausgebaut sind als früher. Es wurde die Pflichten der Behörde. Es macht sich leider nicht immer geltend.

Der Kodex hat mehrere Änderungen mit sich gebracht, was die Benachrichtigung des Verletzten anbelangt. Das im Juli 2003 in Kraft getretene Gesetz sagt an mehreren Stellen aus, dass die Verfahrensbeschlüsse dem Verletzten mitgeteilt werden müssen.

In zahlreichen Staaten kann der Verletzte den Ersatzanspruch geltend machen. Die gleichzeitige Erörterung der straf- und zivilrechtlichen Folgen vor dem Strafgericht ist in Europa als Regelfall zu sehen. Bei uns wird das Adhäsionsverfahren auch praktiziert, wie in Deutschland und Frankreich, aber in den Vereinigten Staaten ist diese Möglichkeit gar nicht vorgesehen. In Frankreich ist das Institut „action civile“ insoweit sowohl theoretisch als auch praktisch sehr erfolgreich, aber in Ungarn fristet das Adhäsionsverfahren ein kümmerliches Dasein.

III. RESEARCH PROJECTS INITIATED BY THE PROSECUTOR GENERAL'S OFFICE

József Kó – Ádám Mészáros:

Statistical research of the felonies against consumers and competitors

Modern consumer protection is a complex field of law: it takes place at the border-lines between civil, public and criminal law. The research gives an overview of the analysis of felonies against consumers and competitors. The work is based on the criminal statistics of investigations between 1995 and 2008. Our conclusion is that this type of felonies has its own character among criminal offences. This can be established after taking into account the attributes of the act as much as the character of the perpetrators. However, demonstrable trends in incidence in this field of criminal law cannot be found.

Szilvia Gyurkó:

School violence as a phenomenon – risk factors, potential preventive measures

Last year, three studies were made at NIC on school violence. In the first empirical research project, we were interested in the risk factors of bullying. The main goal of our work was developing a 'school diagnosis toolkit'. The second research was dedicated to school violence as a multidisciplinary problem – and we carried out qualitative empirical research to observe and analyse different attitudes, languages, techniques and methods used by experts working in the child protection or educational sectors.

Our last research focused on the previous surveys, good practices and pilot projects in or outside of Hungary related to school violence and bullying.

Petra Bárd:

The European Arrest Warrant

The present paper is a continuation of the research conducted in 2007 on the Framework Decision on the European Arrest Warrant (EAW), a third pillar instrument. Although the EAW seems to be a major step forward compared to the traditional rules on extradition, its implementation is not without conflicts. In the present research paper, I will briefly describe the institution of the EAW (Part I) and the constitutional challenges to it since 2008 (Part II), with special regard to the Hungarian constitutional challenge against the law promulgating the Convention on the surrender procedure between the European Union on the one hand, and the Republic of Iceland and the Kingdom of Norway on the other. I will also mention the

diffidence on part of the Spanish Constitutional Court towards the criminal justice and law enforcement systems of other Member States, and the German Federal Constitutional Court's Lisbon Treaty provision or its part in the deepening of criminal cooperation in the EU respectively. In Parts III and IV of the present paper I will highlight cases which might underpin the distrust of national constitutional courts against the EAW. In Part IV I will return to a case already discussed in the related research two years ago and will explore how the Ciaran Tobin case led to changes in both the Hungarian and Irish legislation. (The English language part of the present paper only discusses the above-mentioned Hungarian Constitutional Court decision and the Tobin case.)

Szilveszter Dunavölgyi – Géza Finszter – Ádám Mészáros:

Effective methods and tactics in proving corruptive criminal offences

Some criminalistic indices of bribery make detection of these offences difficult. In addition to conspired commission of crime, it might cause concern that such offences do not have immediate victims, the acts of commission do not trigger perceptible changes in the objective world, and the possibility of taking personal evidence has also a narrow scope. In the course of discovering these offences, a decisive role is to be attributed to the internal supervision within public offices, to budgetary-financial checks, and to the processes conducted by the Competition Office. In order to prove the guilt of the offenders, using covert information gathering methods is as indispensable as thorough questioning of the person reporting the crime, and the highly detailed preparation of witness interrogations.

Tünde Barabás – Szandra Windt:

The role of prosecutors in the process of mediation

Mediation is a new opportunity that was integrated into Hungarian Criminal Procedural Law in 2006. The goal of this research is to learn the opinions of prosecutors about the second year (2008) of mediation in Hungary using two methods. We analysed the statistical data on mediation and after then, to reflect the results, we organised an expert meeting. The second year shown a positive picture: the total numbers of mediation cases increased by 21%; there were 2,977 cases (compared 2451 in 2007). According to the data, the practice shows big differences between the counties. The differences in the practice of the counties were discussed at the expert meeting. According to these conversations, there are five main problems: the problems of the legal regulations, the question of the reparation and the successful conclusion of the process; the necessity of the hearing at the prosecution; to change the police's practice in connection with referring a case to mediation; to improve cooperation between the organisations and the difficulties in the juveniles' cases.

According to the statistical data and the opinions of prosecutors, we can say that the regulations, the incorrect practice of the other authorities (especially of the police) and the subjective factor, the attitude of prosecutors themselves, influence the use of mediation. In the summary of the research there are some practical and legal suggestions which can help to use this process more effectively.