

CHALLENGES FOR THE ADMINISTRATION OF JUSTICE IN HUNGARY DURING WORLD WAR I (BASED ON SELECTED DOCUMENTS)

ANTAL Tamás
associate professor

University of Szeged

At the beginning of World War I, Jenő Balogh, Minister of Justice,¹ issued several confidential instructions on the measures to be taken in the event of *an enemy invasion*. Among these, confidential Decree no. 115/38 of 25 August, 1914, which was referred to many times thereafter, was about handling and securing valuables and official documents in case of public danger. The minister himself or the chief official of the municipality (the mayor or the sub-prefect) could order this briefly with the following words: “State assets must be secured”. The material scope of the decree covered judicial presidential deposits, valuable *corpus delicti* and objects, securities, cash, documents handled as attachments to accounting logbooks (without the books), as well as the list of fortresses and secret telegraphic number keys. In case of danger, the head of the authority took the sum needed for transportation from the cash office, this sum was recorded in the book of receipts and expenditures as a separate entry, and then the assets mentioned had to be transported to the state treasury of District IX in Budapest by post, ship or rail, or by other means. In emergency, these possessions and documents had to be hidden. A similar rule applied to land registry maps, records and deposits, as well as to unproclaimed wills, in order to “protect them from destruction”, and special attention had to be paid to looking after properties which had to be abandoned. If there was no time for this and the officials were forced to hand over documents during a direct attack, an attempt had to be made to obtain an acknowledgment of receipt or other evidence (e.g. witnesses). Once the public danger had ceased, the Ministry had to be notified immediately.²

Confidential Decree (Circular) no. 115/56, regulated the conduct of criminal authorities in the event of *imminent danger*, also proved to be important in practice. In case they were compelled to leave their office, they had to try to prevent the detained “criminals dangerous for the public” from deserting to the enemy, and for this reason they had to be transported to a secure detention facility. If this was not possible, at least persons in pre-trial detention, those convicted in an accelerated criminal procedure,³ work-shirkers dangerous

¹ BÓDINÉ BELIZNAI Kinga: *Balogh Jenő életútja* [The Life of Eugen Balogh]. In: *Jogtörténeti Szemle*, 2016:1, 1–9.; STIPTA István: *Balogh Jenő és a büntető perjog* [Eugen Balogh and the Criminal Procedural Law]. In: *Jogtörténeti Szemle*, 2016:1, 31–40.; STIPTA István: *Balogh Jenő, az igazságügy református minisztere* [Eugen Balogh, a Calvinistic Minister of Justice]. In: *Jogtörténeti Szemle*, 2017:4, 40–45.

² Hungarian National Archives (Magyar Nemzeti Levéltár = MNL OL) K578, 115/38.

³ Regulations of the accelerated criminal procedure: Decrees of the Hungarian Minister of Justice no. 12.002/1914. I.M.E. (*Igazságügyi Közlöny*, 1914:7, 321–338.), 9.550/1915. I.M.E. (*Magyarországi rendeletek tára* 1915,

who presented a danger to the public (Act XXI of 1913), those interned by the authorities as “unreliable or suspicious persons”, as well as those convicted for more than six months, if more than one month was left from their imprisonment, had to be transported; the others, however, had to be released and a statement was to be prepared. In order for this to happen, up-to-date records of these two groups of prisoners were to be kept in advance. In the prison where they were taken, all the suitable rooms could be used, not just cells. It was the prison governor’s duty to ensure that the persons who had served their sentence in the meantime were released; as regards pre-trial detainees, it was the territorially competent Royal Prosecutor who decided whether to extend pre-trial custody, of which the competent Chief Royal Public Prosecutor was to be informed in a report.⁴

Otherwise, Government Decree no. 7.364/1914 governed the case if a judicial authority *was forced to cease* its normal operation due to the war. In this case, its seat was to be left “in a calm, orderly manner and not in a fleeing-like way”. If possible, the retreating organ remained in the vicinity of the occupied area to reclaim its seat as soon as possible. “When leaving and returning to the seat, the two important aspects to be reconciled are: on the one hand, to prevent the enemy from exploiting the authorities for their own benefit and, on the other hand, to make sure that the population in the authorities’ territory is deprived of the operation of the Hungarian authorities for the shortest time possible” – the decree stated. The organ forced to leave was obliged to continue supporting the population in the occupied territory, reassuring them in the knowledge that “they are not completely abandoned by the Hungarian authorities”.⁵ However, there were some special circumstances: the Ministry of Justice found several supplementations desirable for the areas of the tribunals of Brassó (Brasov), Csíkszereda (Miercurea Ciuc) and Kézdivásárhely (Târgu Secuiesc). First, prosecutor’s offices were supposed to handle the documents of crimes of political nature separately for ease of transportation; second, the confidential circulars by the Minister of Justice and the Chief Public Prosecutors regarding the war, the secret telegraphic number markings and the documents of the Hungarian-Romanian Joint Committees were also to be collected for security purposes.⁶

Simultaneously with sending the first declaration of war, on July 28, 1914, the Minister of Justice instructed the chairmen of the tribunals how to proceed in the matters of mobilization and the resulting *staff shortages*,⁷ yet soon after the outbreak of war, from October 1914, the administration of justice wavered in the counties afflicted by the invasion of the enemy forces. Reports kept coming from the north-eastern and southern regions of the country about district court judges being forced to leave their places of service [e.g. Ungvár (Uzhhorod), Óradna (Rodna), Kevevára (Kovin), Beszterce (Bistrița), Naszód (Năsăud),

956–971.), 41.900/1917. I.M. (Magyarországi rendeletek tára 1917, 2004–2010.); Decrees of the Hungarian Royal Government no. 5.488/1914. M.E. (Magyarországi rendeletek tára 1914, 1434–1437.), 6.082/1914. M.E. (Igazságügyi Közlöny, 1914:8, 473–474.), 2.060/1915. M.E. (Igazságügyi Közlöny, 1915:6, 309–312.). For information on bourgeois criminal procedure law see: Tamás ANTAL: *Das Strafverfahrensrecht (1867–1944)*. In: Gábor Máthé (Hrsg.): *Die Entwicklung der Verfassung und des Rechts in Ungarn*. Budapest, 2017, 565–595.

⁴ MNL OL K578, 115/56., 115/124., 490/17.

⁵ Decree of the Hungarian Royal Government no. 7.364/1914. M.E. on the behaviour of state, municipal and communal authorities (offices) in the case of occupation by the enemy (Igazságügyi Közlöny, 1914:12, 629–631. p.).

⁶ MNL OL K578, 490/17.

⁷ MNL OL K578, 137.

Pancsova (Pančevo), Antalfalva (Kovačica), etc.]. The chairmen of the royal tribunals (*kir. törvényszékek*) and appeal courts (*ítélőtáblák*) concerned gave dramatic reports on the commotion caused by the war, for instance, in the district of the appeal court in Kassa (Košice) or in the area of the Máramarosziget (Sighetu Marmăției) tribunal. The work in prosecutor's offices also faltered: from Transylvanian reports, the Ministry was informed of temporary "closing procedures", particularly for the purpose of saving files and the managed funds.⁸ Real heroes were involved in this activity, not only prosecutors and judges, but also administrative office staff, junior clerks and prison guards, who stood their ground and made it possible for the administration of justice to continue working. Many of them were nominated for the highest class of the Civil Military Cross of merit.⁹

As World War I and the occupation of certain territories of Romania progressed, the obstacles to the work of civil courts there multiplied if one of the parties was a Hungarian native. The Minister of Justice was continuously informed about this, and eventually he notified the Prime Minister that action had to be taken against the functioning of the Romanian courts in order to ensure impartial judgment. The analogy of the Austro-Hungarian consular jurisdiction was raised as a possibility,¹⁰ but it was rather the organizational solutions applied in the Romanian, Serbian and Polish territories occupied by the Germans which were considered as a guiding example. Accordingly, in June 1917, with the mediation of the joint Ministry of Foreign Affairs of the dual monarchy, it was agreed that Hungarian and Austrian natives would be subordinated to the German civil courts to be established besides ordinary tribunals, which would apply Romanian substantive law but German procedural law, while Romanian citizens could continue proceeding before their own courts. If, nevertheless, the Hungarian party litigated before a local court, the so-called General Governor (*főkormányzóság*) appointed a commissioner officially to protect his or her interests.¹¹

Similarly in 1917, the Minister of Justice called upon the chairmen of some appeal courts to propose *judges speaking Romanian* to be sent to the occupied Romanian territories. The transcript reveals that similar measures had already been taken in Serbia. Upon the proposal made by the chairmen of the appeal courts in Szeged and Temesvár (Timișoara),¹² Béla Suszter, chief district court judge in Karánsebes (Caransebeș) and dr. Rezső Wanie, tribunal judge in Szeged were assigned to the Romanian economic staff of the military administration in Bucharest, where they were appointed economic high commissioners in August, whereby they were classified in a lower official payment category than in their courts. As they found

⁸ MNL OL K578, 150., 439.

⁹ MNL OL K577, L.b. 1917., 233–249. f.

¹⁰ Tamás ANTAL: *History of the Institutions of Austrian-Hungarian Consular Jurisdiction*. In: East European and Russian Yearbook of International and Comparative Law 2008–2009, Vols. 2–3, California (USA), 2010, 129–142.; Tamás ANTAL: *A Historical Institution: Consular Jurisdiction with Special Regard to the Austro-Hungarian Monarchy*. In: Radu I. Motica, Lucian Bercea, Viorel Pasca (eds.): Conferința Internațională Bienală / Biennial International Conference Timișoara, Universul Juridic. Bucharest, 2011, 15–29.

¹¹ MNL OL K578, 431.

¹² Tamás ANTAL: *Organisation of the Appeal Court in Timișoara (1890–1891)*. In: Studii și Cercetări Juridice Europene. Conferința Internațională a Doctoranzilor în Drept. Timișoara – aprilie 2010. Eds.: Ioana Mogoș, Monica Stoian. Timișoara, 2010, Vol. II. (Drept public), 44–55.; Tamás ANTAL: *A Hundred Years of Public Law in Hungary (1890–1990): Studies on the Modern Hungarian Constitution and Legal History*. Novi Sad, 2012, 37–53.

it injurious, the chairman of the appeal court in Temesvár asked the Minister to reclassify their position as civil commissioner, thereby receiving the same remuneration as their colleagues sent to Serbia or, if this was not possible, to enable them to return to their original place of employment. The imperial and royal military headquarters, contacted in the meantime, declared that they had no objection to the reclassification. However, a few weeks later, at the end of September, Andor Sólyom, chairman of the appeal court of Temesvár, informed the Ministry that Béla Suszter wished to return home, an initiative that he himself also found to be worth supporting in the interest of the administration of justice, so Suszter was relieved of external service in early December.¹³ A similar event happened later: in October 1918, the Romanian Compensation Office (*Kártalanítási Hivatal*) needed trustworthy judges or scribes with a good command of the German, Romanian and French languages as civil commissioners sent from the districts of Szeged, Nagyvárad (Oradea) and the Transylvanian appeal courts on a voluntary basis. It is not known whether this eventually happened, but each appeal court chairman suggested a suitable candidate.¹⁴

Meanwhile, in order to coordinate border measures made necessary by the worsening war and by the Romanian attack against Transylvania, in April 1917 the Minister of the Interior requested that a royal prosecutor who could speak Romanian be summoned to him, and dr. Kristóf Fehér, the chief prosecutor of Lugos (Lugoj), was appointed to this role in a short time. However, there was dispute over the legal way of achieving this, because his summoning to the Ministry of Justice and then his transfer to the Ministry of the Interior would have ceased his actual service as prosecutor and thus his leadership supplement as well, so eventually he was assigned to the royal prosecutor's office in Budapest – formally in so-called support service – whereby he could retain his previous remuneration.¹⁵

The battlefield events in the autumn of 1918 prompted Gustav Töry, Minister of Justice, to contact the judicial authorities again on 3 October, regarding the procedures to be followed in the event of *the arrival of the enemy forces*. The district courts had to prepare themselves again for safeguarding the land registry documents by using their experience acquired so far, and to this end they had to send reports to the chairman of the appeal court in Marosvásárhely (Târgu Mureş) and to the Ministry on the exact content of the boxes as well as other information. Their actual transportation could be ordered by the Minister himself or by the Government Commissioner for Transylvania, who also named the destination (Arad, Nagyvárad or Debrecen). The above-mentioned confidential instructions of 1914–15 governed the securing of other valuables.¹⁶ The files from the courts of the already occupied southern part of the country had to be taken to Szeged, but on 9 November only 38 boxes from the Oraviczabánya (Oravița) district court and 17 boxes from the Fehértemplom (Bela Crkva) courts arrived there. Their handing over is known to have happened in such a way that the office manager of the tribunal received the official boxes together with the list of their content from the escort employee and arranged for their placement, the transportation and delivery costs were advanced by the chairman of the appeal court himself from the general office expenses, the reimbursement of which he specifically requested later.¹⁷

¹³ MNL OL K578, 461/8–15.

¹⁴ MNL OL K578, 461/24–27.

¹⁵ MNL OL K578, 467. (document no. 4329.)

¹⁶ MNL OL K578, 490/1.

¹⁷ MNL OL K578, 490/43.

In November 1918, in the midst of inevitable defeat, the government had to take measures on what should generally happen concerning the *work of the Hungarian courts* in parts of the country already occupied or to be occupied by the enemy. According to the decision made in the Council of Ministers and communicated through the chairmen of the appeal courts, all the judges and the officials had to remain in their place of service and, as far as possible, “to endeavour” to cooperate with the Romanian and Czechoslovakian national councils, but they could take an oath or pledge to them only if there was no way out, under pressure. According to the ceasefire agreements of 3 and 13 November 1918, the Hungarian organs (would have) performed the official tasks until concluding the peace treaty, thus the occupation itself did not qualify as a specific reason for stopping their work, what is more: public administration and the administration of justice had to be maintained to prevent the occupying powers from taking them over on the ground that the Hungarian organs were not functioning. If the circumstances did not allow this – particularly if the officials’ lives were endangered when remaining in their office – the provisions described above applied to securing valuables and various files as well as to the transportation of prisoners. The reports made by the chairmen of the appeal courts in Szeged and Nagyvárád revealed that some of their employees had already left for an unknown place, and furthermore, the occupying troops regularly prevented the continued operation of the Hungarian organs despite the ceasefire agreement. The situation was further aggravated because the various ministries gave different instructions to the subordinated offices, and also because no order that could be enforced in all parts of the state could be issued.¹⁸

Therefore, the Minister of Justice took the view that, despite the capitulation, the operation of the Hungarian government organs *had to be coordinated* as much as possible. However, there were different views in the Ministry as to how this should be done. There were some who regarded the so-called ceasefire committee of the Entente to be most suitable for dealing with these tasks, while others did not find it appropriate because of its composition. According to the knowledge of Vilmos Pál Tomcsányi, undersecretary of state in the Ministry, the head of the French committee arriving in Budapest to determine the details of the ceasefire held out the prospect of remedying the grievances caused by the obstruction of the work of the Hungarian judicial authorities, and thus he assumed that there would be no need to take specific action about the existing disturbances. However, Dávid Rosnyai, rapporteur, held the view that an interdepartmental meeting was needed to decide in the Ministry the following: 1. how the provisions in force for the event of occupation should be amended; 2. exactly what public goods should be secured under the given circumstances; 3. what official standpoint the authorities should take in the event of actual occupation by enemy forces or internal disturbances; 4. whether the relocation of the seats of authorities temporarily unable to work is desirable; 5–6. under what circumstances the employees should leave their posts of service and where they should go; 7–8. how these office employees should receive their salaries; 9–10. what daily allowances for the officials forced to flee should be paid; 11. where and how the persons returning from the front should report for judicial service; 12. what the office employees’ legal status should be until they can take their posts (e.g. leave, non-active status).¹⁹

¹⁸ MNL OL K578, 490/40., 490/54.

¹⁹ MNL OL K578, 490/54.

According to a report by the Ministry's audit office (*számvevőség*), the salaries for December 1918 were remitted to the heads of tax offices which were located inside the demarcation line and not threatened as larger advances for receipt and subsequent settlement, who then collected these sums personally or through their representatives and distributed them themselves to judicial officials, servants, pensioners and persons entitled to military aid against a receipt [e.g. the sums due to Pancsova and Újvidék (Novi Sad) were sent to Szeged, the salaries for the employees in Nagyszentmiklós (Sânnicolau Mare) were remitted to Makó], while the salaries for those who had been forced to leave their places of service were sent to the – still – Hungarian state tax office where they had requested. Pursuant to a Council of Ministers resolution which was passed in 1915 but promulgated only much later, those who were trapped outside the demarcation line – provided that they had left their office for good reason – were to receive their salaries and travel expenses (daily fleeing allowance) similarly by means of so-called travel accounts endorsed by their office superiors. In the current phase of research it is not known whether or not this was actually effected; however, the Government of the proclaimed Hungarian People's Republic²⁰ issued official call no. 6.720. in December 1918, in which civil servants were called upon to retain their post of service if possible, and in the case of their departure, to wait for the order of their superior authorities in their new places of residence, making their salaries dependent on this.²¹

Meanwhile, Ágoston Ráth, Commissioner of Justice of *Narodna Uprava* (Serbian People's Administration)²² in Bánát (Banat), Bácska (Bačka) and Baranya (Baranja), stated in early December that he was willing to continue employing Hungarian judges and prosecutors from Délvidék (Southern Territories) in their office with "certain" reservations (and also to allow Hungarians to use their mother tongue in court) if those concerned asked for their relocation through their office heads and if they took an oath and *pledged loyalty to Narodna Uprava*. Mihály Károlyi's government protested against this, with reference to the contents of the ceasefire agreement, and instructed judicial officials not to make a statement before the eight-day deadline but to bide their time until the two states came to an agreement. In his circular dated 12 December, Dénes Berinkey, the Minister of Justice in office, ordered that in case they took an oath to the Serbian empire under direct pressure, the People's Republic would not hold it against them later.

In January 1919, István Polgár, chairman of the tribunal in Szabadka (Subotica), informed the Hungarian Government that biding time had led to no result; those who did not take the oath of allegiance could not receive their salaries in the tax office which had come under Serbian jurisdiction, and neither could they get to the unoccupied territories because

²⁰ The People's Republic of 1918–19 was proclaimed on 16 November 1918 – after the revolution in Budapest on 31 October –, and it was terminated on 21 March 1919. It used to be a democratic state and not a communist one led by count Mihály Károlyi and his government just after the end of World War I. This unfortunate period was the time of the armed intervention of several Central European states (Czechoslovakia, Romania, Serbian-Croatian-Slovenian Monarchy) onto the territory of Hungary, although the capitulation treaty by the former Hungarian Realm had been concluded and the peace treaty did not exist yet (Trianon, 1920).

²¹ MNL OL K578, 490/54. (6.720/1918. M.E. and other documents)

²² HORNYÁK Árpád: *A Délvidék a délszláv állam közigazgatásában, 1918–1941*. [The Southland in the Public Administration of the Southern Slavic State, 1918–1941] In: *Pro Publico Bono*, 2018:1, 76–93. (especially: 78–83.); HEKA László: *Szerbia állam- és jogtörténete*. [Constitution and Legal History of the Serbian State] Szeged, 2005, 147–153.

travel certificates were rarely issued by the Serbian-Croatian authorities, moreover only overprinted banknotes were accepted in the occupied territories. Secret transfers were considered to be too risky both by the banks and by the private individuals who were possibly willing to help. In the meantime, *Narodna Uprava*'s Commissioner of Justice himself realized that the Hungarian state had only been playing for time, therefore he did not agree to any further postponement of pledging loyalty, instead, he declared that "he was going to resort to force". So, through a secret envoy, the chairman of the tribunal asked for instructions on what to do.²³

The staff and operation of the Hungarian judicial authorities which were already in *the territory of Czechoslovakia* faced similar obstacles. In January 1919 Dénes Berinkei, Minister of Justice, commissioned Ödön Polner, professor of constitutional law, Rector of the University of Pozsony (Bratislava), to negotiate on behalf of the Hungarian Government, and to intervene and confer with Ambassador Milán Hodzsa so that the provisional Ministry operating in Zsolna (Žilina) would refrain from soliciting oath-related claims from the judicial staff for the time being. By that time, however, Polner and other university professors had already been taken into police custody by the Czechoslovak authorities, its termination was requested by the Hungarian Ministry of Justice on 31 January,²⁴ but the archives do not reveal whether it was successful. According to Polner's memoirs, he was taken into custody only on 4 February, several days after he had returned home from Budapest, and it lasted for only one day in a Franciscan monastery; but it is a historical fact that the prefect (*zsupán*) there suspended the operation of the University of Pozsony temporarily and ordered police surveillance for the teachers. Polner did not mention whether he had eventually completed a special diplomatic mission for the Hungarian state at that time.²⁵

Needless to say, the *Ministry itself suffered losses* during the World War, as also known from a report written by Cyrill Karap, head of the audit office, in October 1917. Due to the high number of enlistment, the frequent assignments to the National Military Aid Office (*Országos Hadsegélyező Hivatal*)²⁶ and the implementation of several new government decrees issued in parallel, the audit office found itself in a critical situation, which was illustrated well by the fact that the closing account for 1915/16 was completed one year after the statutory deadline. The remittance of the various aids also led to regular tasks being pushed into the background and increased the arrears, therefore it was foreseeable that after the end of the war tackling the accumulated backlog would be a priority task, necessitating all the staff's work. The severity of the shortage of appropriate professionals available is also shown by the lengthy correspondence between the Ministry of Justice and the aforementioned Military Aid Office in the autumn of 1917 regarding the further assignment or summoning back of one particular auditor, Rezső Pippig, who had served

²³ MNL OL K578, 490/54. (a letter dated 24 January, 1919, Subotica)

²⁴ MNL OL K578, 490/81.

²⁵ POLNER Ödön: *Emlékeim*. [Memories] Editor: Havass Miklós. Budapest, 2008, 374–378.; István STIPTA: *Die ungarische Rechtsgeschichtswissenschaft zur Zeit des Dualismus*. In: Gábor Máthé (Hrsg.): *Die Entwicklung der Verfassung und des Rechts in Ungarn*. Budapest, 2017, 597–618. (614.)

²⁶ BABUCSNÉ TÓTH Orsolya: *A M. Kir. Honvédelmi Minisztérium Hadsegélyező Hivatala*. [The National Military Aid Office of the Hung. Royal Ministry of Defense] In: *Történeti Muzeológiai Szemle* 10. (A Magyar Múzeumi Történetész Társulat Évkönyve. Editors: Ihász István, Pintér János) Budapest, 2010, 147–168.

in the Office since March 1916, and at the time mentioned both organs considered him indispensable, and demanded his service.²⁷

The ministerial/ministry decrees, orders and other fragmented documents during and immediately after World War I, applying to the judicial organization and had not been officially published in collections and gazettes, can be found in the remaining archives of the former Hungarian Royal Ministry of Justice in the *Hungarian National Archives (Budapest)*.

²⁷ MNL OL K577, E.3. 1917. 108–109. f., 113. f., 117. f.