



REGULATORY EVOLUTION OF TRAFFIC ENDANGERMENT OFFENSES IN HUNGARY

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ABSTRACT

This paper explores the historical development and evolution of legal regulations addressing traffic-related endangerment crimes in Hungary. Beginning with the foundational Act V of 1878, the analysis highlights the distinction between intentional and negligent acts, with a focus on the heightened accountability associated with occupational and professional obligations. The study examines the significant legislative milestone of the Deficiency Act of 1948, which established the independent offense of endangering within the scope of an occupation, criminalizing immediate exposure to danger irrespective of material harm. Through an in-depth review of judicial practices, ministerial reasoning, and scholarly contributions, the paper elucidates the progression of key legal concepts, including negligence, causality, and occupational liability. By tracing these developments, the research underscores the dynamic interplay between evolving societal needs and legal frameworks, offering insights into the historical and legal foundations of contemporary traffic law in Hungary.

KEYWORDS Traffic-related endangerment crimes, negligence, causality, occupational liability, Deficiency Act of 1948

1. Introduction

This study delves into the historical evolution of legal regulations concerning traffic-related endangerment crimes in Hungary, focusing on the key milestones and principles shaping this field of law. By providing a detailed account of legislative and doctrinal developments, this work aims to offer insights into the interplay between evolving societal needs, legal theory, and judicial practice in addressing traffic-related endangerment crimes. The study is intended to contribute to a deeper understanding of the historical and legal foundations of current Hungarian traffic laws.

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2. Act V of 1878 the Hungarian Criminal Code on Crimes and Misdemeanours

2.1. Legislation in general

The first Hungarian Criminal Code (CC, 1879, § 486)² on one hand differentiated the equally intentional homicide and murder, and it ordered the punishment of manslaughter committed by negligence, and it ordered more serious punishment, if the death originated from the inexperience of the perpetrator in respect of his profession or occupation, his gross negligence or the violation of the related rules (CC, 1879, §§ 60, 90)³. At the same time it also differentiated intentional bodily injury (CC, 1879, §§ 301, 302)⁴ and intentional harm connected to serious bodily injury (CC, 1879, § 310)⁵, and in this respect it punished more seriously, if the serious bodily injury was due to the inexperience of the perpetrator in respect of his profession or occupation, his gross negligence or violating the related rules (CC, 1879, § 310)⁶, and in this case with increasing the rigour it also allowed prohibition of the perpetrator from a profession or occupation (CC, 1879, §§ 60, 310)⁷.

It is noteworthy that the Act fails to use the possessive case in one of the four occurrences – three times it states “in his occupation” or “in his profession,” but once only “in the occupation.” This may suggest either a slip of the pen by the author or a typesetting error introduced in later versions of the law; however, both explanations remain speculative. If the legislator, failing to notice the original slip, incorporates it into the law, then the error becomes part of the

² The minister of justice is assigned with implementing this Act, as the effective date and the transitional measures are regulated by a separate enacting Act. Section 1 of Act XXXVII of 1880 on enacting the Hungarian criminal codes (Act 1878:V. and Act 1879:XL.) The Hungarian criminal code on criminal acts and misdemeanours, and the Hungarian criminal code on petty offences will come into effect on September 1, 1880. Note: there is a point after the § symbols, in line with the law.

³ § 60: Those cases are defined in the special part of this Act, in the case of which the person judged to be guilty must be banned from exercising the occupation that requires professional education. § 291: [...] In the cases of this section, the person found to be guilty may be banned from exercising the profession or occupation according to its decision for good or for a defined period and it may allow his exercising again depending on a new audit or another evidence that certifies the acquiring of the appropriate qualification.

⁴ § 301: The person, who assaults the body of another person intentionally, but without the intention of killing him, or who violates the health of another person, if the injury, illness or mental condition caused by him lasted for a period longer than twenty days: committed the criminal act of serious bodily injury, – if it did not exceed twenty days, but lasted longer than eight days: he committed the misdemeanour of serious bodily injury, – and if it did not last longer than eight days, he committed the misdemeanour of light bodily injury. § 302: The criminal act of serious bodily injury must be punished with prison up to three years, – the misdemeanour of serious bodily injury is to be punished with jail up to one year and with fine up to five hundred forints, – and the misdemeanour of light bodily injury is to be punished with jail up to six month and a fine up to two hundred forints.

⁵ The person, who caused a serious bodily injury to another person is to be punished with jail lasting up to three months, and with fine up to two hundred forints. [...]

⁶ [...] However, if the serious bodily injury was due to the inexperience, gross negligence or the violation of their rules in his own profession or occupation of the perpetrator, he must be punished with jail lasting to one year and a fine of maximum five hundred forints.

⁷ § 60: Those cases are defined in the special section of this Act, in three cases of which the person convicted to be guilty must be banned from exercising the occupation that required vocational education. § 310: [...] The resolutions of Section 291 that refer to banning from an occupation and allowing it again, have to be applied also in the case of this section.

legislation itself. Moreover, the first edition of the Act rules out the possibility of later typesetting errors, as Section 291 includes the following wording: “If, however, death [occurs], in the profession or occupation of the perpetrator [...]” (CC [Zilahy ed.], 1879, § 291)⁸.

In spite of all this, based on two decisions of the Curia, it is also clear that the conduct constituting both criminal acts – namely, the negligent causing of death under Section 291 and the negligent causing of serious bodily injury under Paragraph 2 of Section 310 – constitutes a violation of the rules of the perpetrator’s own occupation (or profession)⁹.

Two additional decisions of the Curia further restricted the interpretation of the terms occupation and profession. In a decision from 1891, the court stated:

“Under the expressions ‘profession’ and ‘occupation’ as used in Section 310¹⁰, only those life careers may be understood for which a permit from the state is required, and which are subject to specific conditions. Therefore, the ‘cab driver business’ does not fall into this category [April 3, 1891. 8553/90. J. Sz. V. 197.]” (Márkus, 1893, p. 460).

In a subsequent 1892 decision, the Curia elaborated:

“The concept of ‘profession’ and ‘occupation’ as indicated in Point 2 of Section 310 refers to a permanent activity carried out by an individual, based on his professional education. Consequently, the service-providing role of the accused as a cab driver cannot be considered a profession or occupation within the meaning of the referenced section [March 1, 1892. 7996/91. J. Sz. VI. 460.]” (Márkus, 1893, p. 460).

⁸ Naturally typesetting (or mistyping) errors may occur even this way. One example can be found in Sótónyi & Busch (2006, p. 227): “According to Section 291 ‘if however, it [...] in the profession or occupation of the perpetrator’. This is not the same as the text of the Act („in occupation”). A single letter (foglalkozásban vs. foglalkozásában) appears to have been added later – either as an unintentional error or as an attempt to correct a perceived deficiency. While the correction is grammatically sound, it nonetheless constitutes an unauthorized modification of the original legal text.

⁹ „The accused caused injury to J.J., which lasted for more than twenty days, through negligence. However, since the accused was not a professional authorized to extract teeth from individuals suffering from tooth pain, and acted solely with the intention of helping, his liability could only be established under the first paragraph of Section 310 [September 16, '91, 2164.]” (Márkus, 1891, p. 673). „F. Pál, the accused person, as a patient guard, in spite of the strict prohibition effective in the St. Rókus Hospital, left alone for a few moments Anna G., whom he was to guard, who had asked him for water, and Anna G., using these minutes, threw herself down to the courtyard through the 2nd-floor open window of the corridor [...]. Anna G. died after a couple of days; her death was caused by this fall. Since the accused person was strictly told [...] not to leave Anna G. without supervision, who was often in an insensible state, and since the accused violated this prohibition and, through this omission, negligently caused the death of Anna G., he had to be declared guilty of the misdemeanour of killing a person by negligence, in violation of Section 290 of the Criminal Code [June 2, '96. 6468/95.]” (Márkus, 1897, p. 460).

¹⁰ It was an occasional practice under the Criminal Code of 1878 to apply multiple paragraphs within a single legal provision. At the time, judicial practice typically referred to these as “paragraph one,” “paragraph two,” etc., while the use of Arabic numerals was rare. In contrast, the Code itself occasionally used Arabic numbering in other provisions. This observation has no substantial legal relevance; it is merely a technical note. Similarly, the period placed after the section symbol (§) was once common, but over time, this usage gradually disappeared.

The Criminal Code of 1878 therefore regulated negligent manslaughter and negligent serious bodily injury as offenses subject to more severe punishment when committed in connection with the perpetrator's profession or occupation – specifically due to inexperience, gross negligence, or violation of the relevant rules. This interpretation was also confirmed, with some nuance, by a Law Unification Decision issued in 1930:

“K. 24. J. D. A person's act must be qualified and punished under Section 291 and Paragraph 2 of Section 310 of the Criminal Code if they caused the death or serious bodily injury of another by negligence while driving a vehicle—provided the person was qualified to drive the vehicle, even if they were not doing so professionally [June 13, 1930 – B.H.T. IX. 936.]” (Szentkuthy & Térfy, 1942, p. 357, see also Térfy & Térfy, 1948, pp. 1573-1575).

From the above, it can be observed that—since the law at the time did not recognize or regulate direct exposure to danger, as later legislation did—it excluded such situations from the scope of general duty of care applicable to everyone. Instead, it assigned liability to the specific rules governing the perpetrator's own occupation or profession. The act was thus evaluated under these professional rules, with particular emphasis on the perpetrator's inexperience, gross negligence, or rule violations. In retrospect, this step laid the groundwork for the future legal classification of the offense of endangerment committed within the scope of an occupation.

2.2. Negligence

The formal regulation included in Section 75 of the Criminal Code of 1878 states: only those acts are considered criminal if they are committed intentionally. The same applies to misdemeanours, except in cases where an act committed through negligence (*culpa*) is explicitly defined as a misdemeanour in the special part of the law. However, neither intentionality nor negligence is defined in the statute itself or in the ministerial reasoning. Intentionality is identified – albeit only with difficulty, based on the ministerial reasoning – as an expression of will¹¹ (MR of CC, 1878). Therefore, one can only conclude that negligence was regarded as the absence of will.

From two decisions of the Curia made in 1890, it can be observed that the judicial practice of the time elaborated the concept of negligence in terms of its legal definition:

¹¹ According to the Ministerial Justification of the Criminal Code of 1878: “However, it is necessary for an attempt to be intentional. The will of the perpetrator must be unconditionally directed toward committing a criminal act or misdemeanour. Therefore, the first and absolutely essential element of an attempt is intent; for this reason, an attempt to commit a ‘delictum’ by negligence cannot be considered. Just as we cannot recognize the attempt of a criminal act or misdemeanour committed through negligence, the primary governing element of an attempt is intent: this must determine the legal assessment.”

“Negligence means such an act or omission where the harmful impact on another person, or the ‘possibility’ of its unlawful result, was not known to the individual in question, even if this possibility was on his mind at the time he committed the unlawful act, and it allowed the omission to occur either by suppressing or failing to recall the otherwise known consequence. [January 23, 1890. 6310/89. M. I. 297.]” (Márkus, 1891, p. 675)¹².

“[...] the unlawful nature of the act may not be known in advance ‘it may not be foreseeable or intentional’ although the perpetrator could have recognized, with due attention or care, the possibility of the unlawful nature of the situation resulting from it [June 11, 1890. 917. Dt. XXVIII. 267.]” (Márkus, 1891, p. 527).

One of the prominent figures in the field of criminal law, Ferenc Finkey, wrote the following in 1914: “With regard to negligence, the rules of the general part must be applied.” This sentence may appear somewhat out of place and is difficult to interpret; however, the continuation is more readily understandable: “Foreseeing the possibility of the result (death) and not wanting the result to occur are usually its main characteristics.” (Finkey, 1914, p. 589) Naturally, this also applies to cases involving bodily injury.

In this era¹³, another outstanding figure in the field of criminal law, Pál Angyal, wrote in 1928 – while differing in approach, though not contradicting Ferenc Finkey – the following:

“Negligence, in connection with the actual or potential knowledge of the causal link of the act, relates to the will directed at the act. In my view, from the perspective of motivational theory, negligence occurs when the perpetrator is driven by the hope associated with the non-occurrence of the result that ultimately does occur due to the commission of a criminal act in breach of their duties, or when the belief in the potential result fails to deter

¹² I note here that I deliberately sought out decisions of the Curia from this period. By that time, the Criminal Code of 1878 had already been in force for several years, and thus judicial practice had become well-established. Between 1879 and 1893, Károly Csemegi served as a judge of the Curia from the age of 53, without any precedent. He was also president of its Second Council and the creator of the Criminal Code, making him its most knowledgeable interpreter. As Hajnal recounts, “during these fourteen years, the decisions issued by the Curia were, without exception, submitted to voting after his lectures, without any changes.” When county judge Majláth once asked how the council operated, Csemegi reportedly replied, “In the Council, only I have an opinion.” He omitted mentioning that Majláth had replied, “I didn’t know there was a one-man judicial body at the Curia.” Csemegi’s intense focus on examining the factual details of cases is also noted. On one rare occasion when his fellow judges overruled him, he was so affected that he became ill and had to be escorted to his apartment in a semiconscious state (Hajnal, 2003, pp. 78–81, 93). Tóth offers a similar personal perspective on Csemegi’s character and judicial role (Tóth, 2020).

¹³ From the perspective of the criminal law scholars of this era, I have chosen to limit my investigation to Ferenc Finkey and Pál Angyal, as they provided a comprehensive elaboration of substantive law. They not only clarified the correct interpretation of the written law, but in some respects even developed it further through their doctrinal insights. Their intellectual contributions – *mutatis mutandis* – remain relevant and continue to offer valuable guidance today.

them – not because it was confronted and dismissed, but because it was absent, although it should or could have been present” (Angyal, 1928, p. 41).

Later, in 1943, he repeated this formulation verbatim: “Negligence occurs [...] he was not refrained from it” (Angyal, 1943, p. 16).

2.3. Causal relationship

From the Ministerial Reasoning related to Paragraph 2 of the Criminal Code of 1878:

“In the case of homicide, according to one opinion, not only the intention to kill and the actual killing of a person are required, but also the existence of a causal relationship between the intent and the resulting death. [...] This causal link is not broken by a mistake regarding the identity of the victim, any more than it would be in the case of *aberratio ictus*. The perpetrator’s intent was directed at depriving a person of life, and the outcome of the act is that a person was indeed deprived of life. This result arose from the perpetrator’s conduct as a foreseeable and typical consequence, and thus the *causalis nexus* is fully established. [...] It is not necessary for the injury itself to be the sole direct cause of death; it is sufficient if, according to the ordinary course of events, it is an indirect cause – but nevertheless the cause of the fatal outcome. This occurs when the injury sets in motion those forces and factors, or contributes to the emergence or intensification of influences, which in turn become the effective causes of other contributing factors. These combined causes, all originating from the injury, jointly result in death. However, there must be a causal relationship between the intermediate causes and the original injury” (MR of CC, 1878).

This reasoning also applies to bodily harm resulting from negligence.

What was described in the Ministerial Reasoning regarding the requirement of a causal relationship was later incorporated into judicial practice. Given the logical foundations of the issue, it can reasonably be assumed that this approach was already generally accepted even prior to its formal articulation.

The requirements for examining the causal relationship were reflected in the following decisions of the Curia¹⁴ of the time:

- “Omission may qualify as an act falling under criminal law, provided it can be established without doubt that the negligence is causally linked to the

¹⁴ On February 1, 1861, the Hungarian division of the Vienna Oberster Gerichtshof was terminated. The Curia ceremonially resumed its operation on April 3, 1861. Later, the Curia that had been operating until then was dissolved under the 1868 law on May 31, 1869, and the reorganised body held its first meeting on the morning of June 1, 1869. The restored Hungarian Royal Curia (Magyar Királyi [m. kir.] Kúria) – maintaining legal continuity – received this formal name in legislation starting with Act XXIX of 1921 on the simplification of criminal justice. The “K” appearing in certain references indicates the Kúria (Curia) (Bódiné, 2020).

fatal outcome — even if the omission committed through negligence was merely the initial cause that led to the factor directly resulting in death, or if the omission contributed to the cause of death by accelerating the fatal result [K. 5256/1933. Jhd. II. p. 51. J.H. VIII. 172.]” (Angyal, 1941, p. 57).

- “Negligence does not exclude the negligence of the aggrieved party, and this applies even when, without the aggrieved party’s negligence, the unlawful result would not have occurred [K. 36/1922. Bj. LXXVII. p. 155. B.H.T. VII. 787.]” (Angyal, 1928, pp. 57-58).
- “This case involves a criminal offence of serious bodily injury, although the victim’s health condition lasted more than 20 days because the victim failed to seek medical treatment [Feb. 12, 1901. 6563/1900.]” (Márkus, 1903, p. 219).

This illustrates that the contribution of the aggrieved party (or another factor) generally does not negate the existence of a causal relationship. This was further emphasized in a 1922 theoretical ruling:

- “Negligence does not exclude the possibility that the aggrieved party was also negligent, and that without such negligence the unlawful result would not have occurred [K. 787. E.H.; 36/1922. B.H.T. VII. 787.]” (Szentkuthy & Térfy, 1942, p. 311).
- “If a medical expert opinion states only the probability or possibility of a causal link between cause and effect, negligence on the part of the accused cannot be established for consequences that could not have been foreseen [Feb. 10, 1885. 8226/84. Dt. XI. 85.]” (Márkus, 1891, p. 662).

It should be immediately noted in connection with this decision that even at that time, the expert was not the final decision-maker. Legal conclusions regarding the existence or absence of a causal relationship were always drawn by the judge, based on the expert opinion – if the judge accepted it (notably, this is missing from the case summary)¹⁵.

- In another case, the accused “was driving a carriage at high speed along a street where people were walking. He saw an old man in his path, at whom he only shouted. He neither slowed the horses nor steered them in another direction, and he ran the man over (...), who sustained several injuries requiring 14 days to heal. (...) Because the victim was 81 years old and had limited capacity for recovery, the same injuries would have

¹⁵ This level of precision appears in the legal case referred to as the first one by Hajdu. Since the relevant section of the text (based on the medical opinion) is not placed in quotation marks in his work, it cannot be ruled out that it may stem from Hajdu’s own knowledge of procedural law.

healed within 8 days in a person of stronger build. This does not interrupt the causal link between the act (running over the victim) and the result (bodily harm), and therefore the causal relationship between the conduct and the harm remains intact [Feb. 8, 1889. 6591/88. M.I. 225.]” (Márkus, 1891, p. 675).

In this case, the key issue is that where there is a relevant initial cause, there may at most be contributing factors (such as the actions of the aggrieved party), but not the absence of causality.

2.4. Reasoning of the regulation

The Ministerial Reasoning of the first Hungarian Criminal Code essentially – and in a way that remains relevant to this day¹⁶ – justified all of this as follows:

“A person who, due to a clear lack of professional competence, causes the loss of human life – and who may have previously caused serious injuries or permanent disability to others – cannot be permitted to continue practicing a vocation they do not know, and through which they have brought misfortune to others and suffering to families. [...] There is no more effective way to awaken the energy of the human spirit than by increasing liability for negligence. [...] We did not classify negligence – or guilty carelessness – into higher or lower degrees. [...] However, we did distinguish cases where death¹⁷ resulted from the inexperience or gross negligence of the perpetrator in relation to their vocation, expertise, profession, or occupation. On this basis, society is entitled to expect full awareness of the risks involved and the utmost care in preventing them” (MR of CC, 1878).

Ferenc Finkey, in relation to Section 291 of the 1878 Criminal Code – and clearly also in relation to the second paragraph of Section 310 – expressed a similar view: “Persons who engage professionally or occupationally in activities that can easily endanger human life [...] commit a greater omission of duty and typically cause greater harm through their negligence” (Finkey, 1914, p. 589).

One interpretation from 1968 – without referencing the ministerial reasoning of the 1878 Criminal Code – also stated: “Criminal law protects human life, bodily integrity, and health not only against actual injury, but also – by moving the boundary of prohibition forward in time – seeks to protect against behaviours that endanger them” (Halász, 1968, p. 1251).

¹⁶ „Nor should we forget the reasoning behind the Code. It is an extensive study that covers the entire field of criminal law and, in some parts, elaborates on legal doctrines in monographic detail. In the early years of the Code’s application, the courts relied almost exclusively on this study” (Fayer, 1894, pp. 259–260).

¹⁷ This also applies appropriately to cases of serious bodily injury committed through negligence.

2.5. Occupation

Ferenc Finkey pointed out the following in 1914:

“The nature of the ‘profession or occupation’ is not defined by law; individuals engaged in any public or private occupation (trade) fall under the scope of Section 291 – naturally, only with respect to activities that directly and exclusively involve their vocation” (Finkey, 1914, pp. 589-590).

This means that at the time, the violation of rules pertaining to the perpetrator’s actual occupation (profession, trade, or line of work) was regarded – word for word – as constituting criminal behaviour.

Finkey further summarized in 1914 the types of acts falling within this scope:

“Recently, cases of people being run over by automobiles have emerged. A driver was convicted [...] who failed to reduce the speed of the vehicle, despite seeing children playing on the road, and ran over one of them (BJT. LVI. 115.). [...] A father was rightly convicted for allowing his 12-year-old son to drive a horse-drawn carriage, who then caused an accident due to his inexperience (BJT. LXIII. 161.)” (Finkey, 1914, pp. 590, 616)

A more developed categorization was later introduced in 1941 by Pál Angyal and Gyula Isaák, which included, among other things, cases of traffic-related negligence (e.g., railway shunting, driving electric trams or other vehicles) (Angyal & Isaák, 1941).

2.6. Differentiated Punishment

In 1928, Pál Angyal – referring to other authors, though without expressing disagreement, thus implying his support – questioned the stricter approach justified in the ministerial reasoning of the 1878 Criminal Code. He stated: “It cannot be accepted as a general rule that the culpability of an expert is greater than that of a layperson. [...] Therefore, the legislatively defined distinction in the severity of punishments is incorrect” (Angyal, 1928, p. 85).

I take a fundamentally different view. Occupational regulations define (or have defined) a standard of care – a canon – specifically for experts. Unlike laypersons, experts are, by virtue of their professional role, both expected to be aware of this standard and held accountable for observing it. Accordingly, if an expert fails to meet this standard, it is justified to impose a more severe punishment.

Later, however, as the legal relevance of whether the perpetrator acted in a professional capacity diminished – and the focus shifted instead to whether the act fell within a regulated professional domain – the situation changed to the disadvantage of laypersons. They were made accountable for a level of knowledge they did not necessarily possess.

That said, it is another matter entirely if, under certain circumstances, the layperson can still be justifiably held liable – for instance, when they recklessly cause a harmful result.

3. Act XLVIII of 1948 on the abolition and replacement of certain deficiencies in criminal law

The Deficiency Act of 1948¹⁸ – without amending the previous legislation – supplemented it by introducing separate statutory elements. It declared punishable, as an intentional misdemeanour under the dual title of “Endangering Life or Bodily Integrity” and “Violation of Occupational Rules”, the conduct of any person who, by knowingly violating the rules of their profession or occupation¹⁹, or by deliberately neglecting related obligations, directly endangers the life or bodily integrity of others (Deficiency Act, 1948, § 20 para. 1)²⁰. The Act prescribed punishment depending on whether the result was death or serious bodily injury (Deficiency Act, 1948, § 20 para. 2)²¹, and it also included provisions for negligent forms of the offence (Deficiency Act, 1948, § 21)²².

Thus, it introduced a novelty by creating an independent statutory category for the criminal offence later known as “endangerment committed in the course of an occupation.” Moreover, it “invented” the concept of intent as a defining feature: the act of directly exposing others to danger was, in itself, deemed a criminal offence. Furthermore – aside from changes in the applicable penalties – the causing of serious bodily injury “for the purpose of obtaining material gain, or repeatedly or on a continuous basis” was added as an equally aggravating circumstance alongside the previously established outcomes of death or serious bodily injury.

¹⁸ The Criminal Code of 1878 was amended by three so-called “criminal novels” (a term referring to amendments that incorporate a relatively large number of changes into an already existing act; abbreviated as Bn). These were: Act XXXVI of 1908 on the supplementation and amendment of the Criminal Code and criminal procedure (I. Bn); Act X of 1928 on the regulation of certain issues of criminal justice (II. Bn); Act XLVIII of 1948 on eliminating and correcting certain deficiencies of the criminal statutes (III. Bn). Section 53(1) of the Deficiency Act of 1948 states: “This Act, with the exception of Chapter I, shall enter into force on the day of its promulgation.” The relevant provision was governed by Chapter VI; therefore – since the Act was promulgated on December 7, 1948 – it entered into force on that same day.

¹⁹ From this point onward, the use of the possessive case is consistent.

²⁰ A person commits a misdemeanour and may be sentenced to up to five years of imprisonment if, by knowingly violating the rules of their profession or occupation, or by consciously neglecting related obligations, they expose the life or bodily integrity of others to immediate danger.

²¹ The perpetrator of the acts defined in Paragraph 20(1) shall be sentenced to imprisonment between one and five years if the act resulted in serious bodily injury, or if it was committed for the purpose of obtaining material gain or was committed repeatedly or on a continuous basis. If the act caused the death of the aggrieved party, the punishment shall be up to ten years of imprisonment in a penitentiary.

²² A person who commits the act defined in Paragraph 20(1) through negligence shall be punished for a misdemeanour with up to one year of imprisonment. A person who commits the act falling under Paragraph 20(2) through negligence shall be sentenced to up to three years of imprisonment.

The Ministerial Reasoning attached to Section 20 explains direct exposure to danger as follows:

“Section 20 of the proposal is based on the consideration that such an omission of duty should, in itself, be punishable; it deserves punishment even if no material consequence occurs. A vehicle driver deserves to be punished if, for example, they drive on a high-traffic road section faster than the permitted speed [...] – solely because they knowingly violated or neglected the rules of their profession or occupation – thereby creating an immediate danger to others, regardless of whether any actual harm occurred. Judicial practice, in line with the demands of life and the requirements of justice, interprets the term ‘profession’ broadly: it is not limited to activities that provide a livelihood, but also includes, for instance, so-called ‘private driving’” (MR of Deficiency Act, 1948)²³.

A striking deficiency of the Ministerial Reasoning is that it does not contain a single word on the concept of conscious negligence. Implicitly, however, it treats the conduct as intentional – as reflected in the structure of the statutory provision – since negligent commission is regulated separately under Section 21. The reasoning includes only the following clarification: “Naturally, this is not the case when the procedure or activity corresponds to the standard of care required by the individual’s occupation, even if an immediate danger to others has arisen” (MR of Deficiency Act, 1948). This implies that in such cases, there is no negligence. However, the fact that the conduct is nevertheless treated as intentional is made clear by the statement: “Paragraph (2) of Section 20 [...] qualifies the conduct as a criminal offence [...] because what is at issue here is not a negligent act, but an intentional one” (MR of Deficiency Act, 1948).

The reasoning provided for Section 21, however, contradicts this. Section 21 of the proposal imposes penalties for negligent commission of the acts defined in Section 20 and retains the same two degrees of qualification. Naturally, it does not treat negligent conduct falling under Paragraph (2) of Section 20 as a criminal offence. Moreover, it was overlooked that injury to health, although it includes bodily injury, was not mentioned in the new regulation – it was in fact omitted. Therefore, contrary to its title, the law intended to address deficiencies is itself deficient, including in the phrasing “who exposes the life or bodily integrity of others to immediate danger.” The statutory text in Paragraph (1) of Section 20 should more accurately have read: “who exposes the life, bodily

²³ As Sándor Madai notes, in some years only professional drivers were considered to have violated occupational rules when committing an offence, while in other years non-professional drivers were also included. In response to these inconsistencies, the Curia issued Criminal Law Unification Decision No. 24 in 1930, stating that a person who causes death or serious bodily injury by negligence while driving a vehicle – even if not doing so as a profession – must be prosecuted and punished under Section 291 and Paragraph (2) of Section 310 of the Criminal Code (Madai, 2020, p. 326).

integrity, or health of others to immediate danger.” The term “others” was likely intended to refer to another person or persons²⁴.

According to the 1953 commentary:

“The concept of ‘consciousness’ appears here for the first time in our criminal legislation. [...] The notion of consciousness referred to here is not identical with intent, and it must also be clearly distinguished from negligence. A person acts consciously if they are aware of the rules of their occupation or profession and, despite this, act in violation of those rules. For example, a traffic code (KRESZ) violation by a vehicle driver must always be considered conscious, since knowledge of the rules is part of their professional obligation” (Skorka, 1953, p. 20).

The “academic” explanation concerning consciousness presents a peculiar line of reasoning. It is, in effect, a wooden ring passed off as iron: a construct of negligence used to express intentionality, situated in a conceptual void between negligence and intent – a space not previously acknowledged in criminal law. More importantly, the normative text itself did not conform to the framework of criminal law at the time, which recognized only intent and negligence, and did not yet distinguish between types such as “conscious” or “gross” negligence.

Later, the reasoning accompanying the draft of the 1961 Criminal Code – which was submitted for professional debate – was critical of this approach²⁵:

“Our current law errs in attempting to distinguish between two statutory elements on the basis of ‘consciousness’ and negligence²⁶. This is already evident in the term ‘conscious negligence’ (luxuria)²⁷, which by its very name incorporates features of both categories. Such a solution creates uncertainty in determining how to classify a criminal act committed under luxuria. The current law is also unclear as to what constitutes the offense itself. Section

²⁴ Act VII of 1945 elevated to statutory level the government decrees issued by the Temporary National Government concerning the people’s courts. Section 1(1) enacted Decree No. 81/1945. (II. 5.) ME on people’s tribunals, which was issued in Debrecen on January 25, 1945, and entered into force on February 5, 1945. Section 11 defined war crimes, including the following: “War criminals (...) include persons who were the instigators, perpetrators, or participants in the unlawful execution or torture of people” (Decree 81/1945, § 11). As noted by Bojta and Róth: “The Appeal Council does not share the view of the first-instance court, which held that the accused’s actions could not be qualified as a war crime because they affected only one person, whereas the statute refers to ‘people’, implying multiple victims. However, in this context, ‘people’ does not denote plurality but is used in a general, abstract sense. [...] Had the legislator intended to require at least two victims, it would have explicitly stated so using a phrase such as ‘two or more persons’” (Bojta & Róth, 1945, p. 35).

²⁵ It was released for legal debate by Decree no. 3131/1960 of the Hungarian Revolutionary Worker-Peasant Government, published by the Ministry of Justice.

²⁶ The reference to the two criminal acts can only be understood if the dividing factor is whether the conduct was committed intentionally or negligently. Perhaps this is precisely the issue — assuming the duality refers to Sections 20 and 21.

²⁷ The reference to conscious negligence (luxuria) here is somewhat problematic, as it is a form of negligence alongside gross negligence (negligentia).

374 of the BHÖ (compilation of the criminal substantive laws in force)²⁸ suggests that the offense is the act of exposing others to immediate danger to life or bodily integrity. However, following the entry into force of Act XLVIII of 1948, judicial practice adopted the view that the offense lies in the violation of occupational rules²⁹. Guilt is tied to the breach of such rules, and the resulting immediate danger – which stems from a causal link to the violation – constitutes the material consequence outlined in the statutory definition (B. H. 323). [...] And if the offense lies in the violation of occupational rules, there is no need to insert an intermediate category – diverging from intent and negligence – namely, ‘consciousness’, into the statutory definition of the criminal act” (Decree 3131/1960).

According to the previously cited 1953 “academic” explanation:

“Immediate danger should be interpreted as a situation in which, according to average human reasoning, it can be expected that a result endangering life or bodily integrity will occur imminently. Due to the inherently dangerous nature of the act, the actual occurrence of injury is not required for the criminal offense to be complete” (Skorka, 1953, pp. 20-21).

The 1948 Deficiency Act is also problematic in that it omits light bodily injury from its structure and therefore does not punish such outcomes when caused negligently³⁰.

Despite these criticisms, I consider it a significant step forward that exposure to immediate danger was made punishable.

4. Conclusion

The development of regulations concerning traffic-related endangerment crimes in Hungary reflects a dynamic interplay between legislative intent, societal change, and judicial interpretation. The Criminal Code of 1878 laid the groundwork by addressing negligent acts within the framework of occupational obligations, emphasizing the heightened duty of care required of professionals.

²⁸ A person commits the criminal offense of endangering life or bodily integrity under Section 374 and shall be punished with imprisonment for a term of one to five years if, by knowingly violating the rules of their profession or occupation, or by consciously neglecting related obligations, they expose the life or bodily integrity of others to immediate danger.

²⁹ In the Criminal Code of 1878, the violation of occupational (or professional) rules constituted criminal conduct, and in this respect, judicial practice remained consistent prior to the enactment of the Deficiency Act of 1948. Acts resulting from inexperience or gross negligence with regard to occupational (or professional) rules were considered to fall within the scope of such violations.

³⁰ Therefore, the Criminal Code of 1878 remained unchanged in the following respect: the second paragraph of Section 310 provided exclusively for the punishment of negligently causing serious bodily injury. This provision was retained in the Criminal Code of 1961 as well: Paragraph (1) of Section 258 defined the basic case of exposure to immediate danger, while Point (a) of Paragraph (2) specified the qualified case as causing serious bodily injury. This situation changed only with the enactment of the Criminal Code of 1978. Paragraph (1) of Section 171 introduced two basic cases: exposure to immediate danger and the causing of “bodily injury”. In contrast, Paragraph (2) no longer included serious bodily injury among the qualified cases, meaning that both light and serious bodily injury were incorporated into the basic cases.

Subsequent legislative reforms – particularly the Deficiency Act of 1948 – marked a turning point by explicitly criminalizing acts that create immediate danger, regardless of material harm, thereby broadening the scope of legal protection for human life and health.

Judicial practice and scholarly contributions have played crucial roles in refining the understanding of key legal concepts such as negligence, causality, and occupational liability. These developments underscore the importance of aligning legal frameworks with societal expectations and technological advancements, particularly in areas as dynamic as traffic regulation.

By tracing the historical trajectory of these legal provisions, this study highlights the enduring relevance of foundational principles while acknowledging the need for continuous adaptation to address emerging challenges. The evolution of Hungarian traffic law serves as a testament to the legal system's capacity to balance individual accountability, public safety, and the complexities of modern society.

References

- [1] Act V of 1878 the Hungarian Criminal Code on Crimes and Misdemeanours (CC, 1878).
- [2] Act V of 1878 the Hungarian Criminal Code on Crimes and Misdemeanours. Zilahy edition (CC [Zilahy ed.], 1878).
- [3] Act XLVIII of 1948 on the abolition and replacement of certain deficiencies in criminal law (Deficiency Act, 1948).
- [4] Angyal, P. (1928). *Az ember élete elleni bűncselekmények és a párvialdal*. Athenaeum.
- [5] Angyal, P. (1943). *A magyar büntetőjog tankönyve* (9th ed., Vol. 2). Stachora K. Ny.
- [6] Angyal, P. & Isaák, Gy. (1941). *A kihágási büntető törvénykönyv (1879:XL. törvénycikk), a büntető törvénykönyveket életbeléptető rendelkezések (1880:XXXVII. törvénycikk), a sajtótörvény (1914:XIV. törvénycikk), és a büntettet, vétséget vagy kihágást megállapító külön törvények: jegyzetekkel, utalásokkal, magyarázatokkal és a bírói gyakorlattal*. Grill.
- [7] Bojta, B. & Róth, J. (1945). *A népbíráskodás jogszabályainak gyűjteménye, a Népbírószágok Országos Tanácsának joggyakorlatával: Igazolási eljárás a Népbírószág joggyakorlatával*. Feldmann-féle könyvkereskedés.
- [8] *Büntető Anyagi Jogszabályok Hatályos Összeállítása* (1952). Jogi és Államigazgatási Könyv- és Folyóiratkiadó. Budapest (BHÖ, 1952).
- [9] Decree No. 3131/1960.
- [10] Decree No. 81/1945. (II. 5.) ME on people's tribunals.
- [11] Fayer, L. (1894). A büntetőjog története. *Jogtudományi Közöny*, 29(33), 258-260.
- [12] Finkey, F. (1914). *A magyar büntetőjog tankönyve*. Grill.
- [13] Hajnal, H. (2003). *Csemegi Károly*. Gondolat.
- [14] Halász, S. (1968). *A büntető törvénykönyv kommentárja*. Közgazdasági és Jogi Könyvkiadó.
- [15] Madai, S. (2020). Foglalkozási szabály vagy közlekedési szabály?: A közlekedési veszélyeztető bűncselekmények és a foglalkozás körében elkövetett veszélyeztetés elhatárolási kérdéséhez.

- In Madai, S., Pallagi, A. & Polt, P. (Eds.), *Sic itur ad astra: Ünnepi kötet a 70 éves Blaskó Béla tiszteletére* (pp. 325-332). Ludovika Egyetemi Kiadó.
- [16] Márkus, D. (1891). *Felsőbíróságaink elvi határozatai* (Vol. 2), Grill.
- [17] Márkus, D. (1893). *Felsőbíróságaink elvi határozatai* (Vol. 3), Grill.
- [18] Márkus, D. (1897). *Felsőbíróságaink elvi határozatai* (Vol. 8), Grill.
- [19] Márkus, D. (1903). *Felsőbíróságaink elvi határozatai* (Vol. 14), Grill.
- [20] Ministerial Reasoning of Act V of 1878 the Hungarian Criminal Code on Crimes and Misdemeanours (MR of CC, 1878).
- [21] Ministerial Reasoning of Act XLVIII of 1948 on the abolition and replacement of certain deficiencies in criminal law (MR of Deficiency Act, 1948)
- [22] Skorka, G. (1953). *Büntetőjog: Különös Rész*. Jogi és Államigazgatási Könyv és Folyóiratkiadó.
- [23] Sótornyai, P. & Busch, B. (2006). *Orvosi felelősség*. Semmelweis.
- [24] Szentkuthy, I. & Térfy, B. (1942). *Polgárijogi és büntetőjogi határozatok tára: egységes szerkezetben*. Grill.
- [25] Térfy, G. & Térfy, B. (1948). *Igazságügyi zsebkönyvtár : hatályban lévő igazságügyi törvények és rendeletek gyűjteménye egységes szerkezetben, kiegészítve a m. Kúria elvi jelentőségű határozataival*. Grill.
- [26] Tóth, M. (2020). Csemegi Károly – mint ember. In Horváth, A. (Ed.), *Tanulmányok a Csemegi-kódex megalkotásának 140. évfordulója tiszteletére* (pp. 27–37). Dialóg Campus.

