Witness Protection from the Aspect of Defence Attorney

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Abstract

One of the possible instruments of the criminal procedure in the fight against organized crime and high-level conspiracy is witness protection.
Witness protection, like any law enforcement measure, has some limitations. The use of the specially protected witness in the procedure of proof raises serious problems of the rule of law, as it reduces the defendant's freedom of defense, as the principle of the classical adversarial principle is violated.
He sets foot on the barren ground, giving up the classic rule of law prosecution in the hope of real or perceived law enforcement success.

Keywords*: witness protection, rule of law, fair trial, human rights, closed data management.*

I. Introduction

Due to the increase of the risk factors of criminality and global dangers, governments considered benchmarks in world politics see the solution to the challenges of crime in tightening[1] criminal law, based on arguments not proven scientifically and on preconceptions.

This criminal policy intending to increase severity and called „law and order" in the Anglo-Saxon terminology has sacrificed several unquestionable processual principles which have developed in the criminal proceedings for centuries on the altar of the rule of law with reference to 'security'. We should consider that based on the demonized and phantomized threats of terrorism[2] and organized crime[3] described as

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[1] Nagy, Ferenc, *Új fejlődési irányok, avagy a tradicionális jogállami büntetőjog eróziója* [New directions of development or the erosion of the penal law of the traditional rule of law]. Magyar Jog 1997/6, p. 333.

[2] See: Nagy, Melánia, *A terrorizmus új irányvonalai* [New trends of the terrorism]. In: (eds.) Bendes, Ákos – Nagy, Melánia – Tóth, Dávid: Lépést tud-e tartani a jog a XXI. század kihívásaival? Pécsi Tudományegyetem Állam-és Jogtudományi Kar Doktori Iskola, Pécs, 2019. pp. 91-95.; Gál, István László – Nagy, Melánia, *Terrorist financing with special attention ISIS*. In: (ed.) Velisav, Markovic: Sprečavanje i suzbijanje nasilja: IX naučni skup Mreža 2018. Valjevo,Univerzitet Singidunum, Fakultet zdravstvenih, pravnih i poslovnih studija, 2018, pp. 27-29; Tóth, Dávid, *The history and types of terrorism*. Law of Ukraine 2014/1, pp. 1-12.

[3] See: Gál, István László, *Organized crime in Hungary*, Journal of Eastern European Criminal Law 2015/1, pp. 22-25.; Nagy, Zoltán – Tóth, Dávid, *Computer related economic crimes in Hungary*, Journal of Eastern European Criminal Law 2015/1, pp. 22-25;

a postmodern nightmare[4], guaranteed principles such as the principle of immediacy, the right of defence, 'fair proceedings' etc. have been breached.[5]

Ignoring the principle of contradiction, at least from certain points of view, and the legal institution of the witness protection considered as a magic substance against organized crime, at least at the beginning, both fit into this deflation of the principles of criminal proceedings.[6]

In the topic of witness protection numerous studies have been published both in the international and national scientific literature, although the number of those studies which attempt to approach the problem from the standpoint of the accused who the witness is defended against, is insignificant.

Below we would like to contribute to the question of witness protection with some reflections based on the standpoints and interests of the defence attorney[7].

II. The rules of witness protection in the code of criminal proceedings de lege lata

According to Csaba Fenyvesi[8] in the Hungarian criminal proceedings witnesses can be divided into four big groups concerning their protection and the defence:

- the so-called general witness
- the witness with closed data management
- the witness with closed name and data
- the specially protected witness.[9]

Those belong to the category of the so-called *general witness* who do not request and do not get any protection. (Csaba Fenyvesi places the victim in this group also.)

The witness with *closed data management* is the witness whose personal data [Criminal Procedure Code 85.§(2) par] with the exception of his or her name cannot be revealed to the defence attorney. The closed data management of the witness' can be requested the witness, by the lawyer representing the witness' interests or can officially be ordered [Criminal Procedure Code 96.§(1) par].

The witness with *closed name and data* is the witness whose personal data and whose name are also handled in a closed way. It can be ordered only in exceptional, justified cases.

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[4] Kertész, Imre, *A tanú védelemre szorul [a büntető eljárásban]* [The witness needs protection (in the criminal proceedings)]. Magyar Jog 1993/4, pp. 193-199.; Bócz, Endre, *A tanúvédelem és az Európa Tanács* [Witness protection and the Council of Europe]. Rendészeti Szemle 1993/8, p. 7.

[5] See: Stănilă, Laura, *Specific aspects ont he right to a fair trial in the recent caselaw against Romania*, Journal of Eastern European Criminal Law 2019/1, pp. 166-169.

[6] See: Stănilă, Laura, *To punish or to torture? About inhuman treatment in the recent view of the Strassbourg Court*, Journal of Eastern European Criminal Law 2017/2, pp. 256-259.

[7] Fenyvesi, Csaba, *A tanúvédelem és a védőügyvéd* [Witness protection and the defence attorney]. In: A tanúvédelem útjai Európában, Elméleti és gyakorlati szempontok a tanúvédelemben (ed.: Róth, Erika), Bűnügyi Tudományi Közlemények 4., Bíbor Kiadó, Miskolc, 2002, p. 81: Csaba Fenyvesi suggests the use of the phrase 'defence attorney' for the lawyer who undertakes the defence of the accused.

[8] Fenyvesi, Csaba (2002) *cited*, pp. 84-85.

[9] Herke, Csongor, *Büntető eljárásjog* [Penal procedural law]. Jogi Szakvizsga Segédkönyvek, Dialóg Campus Kiadó, Budapest-Pécs, 2007, pp. 76-77.

Provided the closed management of the witness' data is ordered, the witness remains anonymous during the whole criminal proceedings[10] although theoretically it cannot be excluded that the witness himself or herself requests the closed data management be uplifted.[11]

The witness' data, which are to be managed in a closed way, the document containing the closed data have to be put in an envelope stamped and marked with the round rubber stamp of the court and placed among the other documents of the folder separated person by person. The fact of the closed data management has to be written on the cover of the folder, on the envelope containing the closed data and in the register [Rules of Procedure of the Court 41.§ (1) par].[12]

The envelope containing the closed data can be opened only by the judge, the judge deciding over the request for legal remedy or the person following the judge's order, providing revealing the data is necessary to effectuate the act of proceedings. To the request of another person entitled to get to know the closed data, the envelope can be opened by the judge or the office. The fact, cause and time of the opening of the envelope have to be marked on the envelope containing the closed data [Rules of Procedure of the Court 41.§(3) par].

According to Zoltán Varga although in the Criminal Procedure Law 96.§ (1) item there is no reference to the Criminal Procedure Law 213.§ (2) par, it is evident that the last sentence of this paragraph orders about the placement of the copy of the record about hearing the specially protected witness as well.[13]

The *specially protected witness* is the person whose data and person are not known by the defence attorney. The witness can be declared specially protected, if:

- his or her testimony refers to the circumstances of a case of special importance
- the proof expected from the testimony cannot be substituted
- his or her person, abode, and the fact that the prosecuting attorney and the investigating authority want to hear him or her as a witness is not known for the accused and the defence attorney
- in case of revealing his or her person, either the witness' or his or her relative's safety, personal freedom would be subject to serious threat.

Declaring a witness specially protected creates a *special procedural situation* as the witness cannot be subpoenaed [Criminal Procedure Law 280.§ (3) par], cannot be heard in the trial [Criminal Procedure Law 280.§ (3) par] and cannot be directly questioned [Criminal Procedure Law 263.§ (3) par and cannot be confronted [Criminal Procedure Law 124.§ (2) par].

The legislator defined the conditions of declaring the witness specially protected conuctively. The legislator does not define the concept of a case of *special importance***,** neither in the code of proceedings nor in its justification. To decide what can be considered as a major circumstance in a case of special importance always requires

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[10] Varga, Zoltán, *A tanú személyi adatainak zárt kezelése* [The closed management of the witness' personal data]. In: Kiss, Sándor – Lassó, Gábor – Szepesi Máziné, Erzsébet – Ruzsás, Róbert – Szebeni, László Székely, Ákos – Varga, Zoltán – Vaskuti, András: A büntetőeljárási törvény magyarázata [Interpretation of the penal procedural law] 1. kötet, KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2003, p. 189.

[11] Farkas, Ákos, *A bizonyítás* [Proof], In: Farkas, Ákos – Róth, Erik: A büntetőeljárás [The penal proceedings]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2004, p. 117.

[12] 14/2002 (VIII.1.) Ministry of Justice decree about the rules of judicial conduct of affairs.

[13] Varga, Z., *cited,* p. 189.

concrete discretion. According to Zoltán *Varga* it does not necessarily mean the graver classification of the criminal act or more serious penalty, but it refers to *the circumstances, reason, motive of the criminal act* and its offender's and the involved others' *person.*[14] In general it can be said that those criminal acts can be considered of special importance which are designated in the Criminal Procedure Code 16.§ (1) and the Act XXXIV about the police of 1994 article 97.§ (1) paragraph i) par. Based on these two places in the mentioned laws, we can say that mostly those crimes are of special importance where the law imposes a punishment *more serious than a five-year imprisonment,* independently of whether the case is litigated at first level by the local court or it belongs to the jurisdiction of the county court. Furthermore, the case can be considered of special importance if it *continuously occupies the public opinion or it disturbs public order*. Thus, some bases can be provided to declare special importance but, sharing Zoltán Varga's opinion, it can only be decided by examining the circumstances of the concrete case.

The testimony has to refer to the *essential circumstances of the case*, which can be relating to financial law and/or procedural law, i.e. the legal judgement of the action, the question of guilt.

According to the Criminal procedure Code 97.§ b.) par, another precondition is the **i***rretrievability* of the testimony. (The old Criminal Procedure Code – Act I about criminal procedure of 1973 – was slightly inconsistent[15] to use the concepts of 'proof' and 'means of proof' almost as synonyms, which inconsistency was corrected by the in force procedural code.[16]) From the point of view of irretrievability, the testimony of another witness is out of question, as in this case, although it is possible to disregard declaring the witness specially protected, the other may have to be declared specially protected due to it. Nevertheless, such a case cannot be excluded either where there are two witnesses available for the same fact, data or circumstance, but in case of one of them the preconditions of being declared specially protected are not given, because his or her name and abode have already been known by the accused and the defence attorney, as states Zoltán *Varga*.[17]

A special case of the irretrievability of the testimony can appear when there is a hearing of a *witness of child age*. The Criminal Procedure Code automatically restricts it, as a person under fourteen can only be heard as a witness if the evidence expected form their testimony cannot be substituted with anything else. [Criminal Procedure Code 86.§ (1)]. However, in accord with Gabriella *Kulcsár*, in the case of a **specially protected child-witness** we have to pay attention even more to the dangers of the distortion of information.[18]

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[14] Varga, Z., *op. cit.* p. 192.

[15] Tremmel, Flórián, *Magyar Büntetőeljárás* [Hungarian criminal proceedings]. Dialóg Campus Kiadó, Budapest-Pécs, 2001, p. 216.

[16] Tremmel, Flórián, *A büntetőeljárás alapelvei* [The principles of criminal proceedings]. In: Fenyvesi, Csaba Fenyvesi – Herke, Csongor – Tremmel, Flórián: Új magyar büntetőeljárás [New hungarian criminal procedure], Dialóg Campus Kiadó, Budapest-Pécs, 2003, p. 219; Varga (2003) *op. cit.*, p. 144.

[17] Varga, Z., *cited,* p. 193.

[18] Kulcsár, Gabriella, *A gyermek-tanúvallomások információtartalmának torzulási lehetőségei* [Possibilities of the distortion of information of child testimonies]. In: Informatika és büntetőjog (eds.: Gál, László István – Nagy, Zoltán András), PTE Állam-és Jogtudományi Kar Büntetőjogi Tanszék, Pécs, 2006, p. 119-132.

The **person, abode** of the witness ought to be **unknown**[19] for the accused and the defence attorney, otherwise the declaration of special protection would lose its purpose and sense. The aim of this decree is that the witness will not be identifiable or accessible. László *Korinek* draws attention to that unidentifiability may be a serious problem for the **notaries** as the notary can give information about the facts assessed in their official proceedings only after obtaining the client's statement exempting him or her from the duty of secrecy. Due to this exemption as a preliminary procedural act, his or her personality cannot remain concealed.[20]

The name can refer to surname, first name, nickname, by-name etc. From the abode it is indifferent whether that is the witness' permanent or temporary address, temporary (occasional) abode e.g. a hotel, a holiday home lent by a friend to use free of charge etc.

Provided the person of the witness is revealed, the *witness' or their relative's life, health, corporal inviolability, personal freedom* would be subject to *serious threat*. Revealing the person of the witness may mean that his or her data got exposed, furthermore it also includes the case when not the witness' data, but other distinctive feature such as their photo, portrait, or the fact they are lame in the left leg becomes known, and with possessing this information the witness can be identified.

The legislator expands the circle of those potentially endangered to the relatives of the witness. A relative is a relative of direct descendent and their spouse, a foster and adoptive parent, a foster or adopted child, a sibling, a spouse, a common-law wife/husband and, betrothed, the direct descendant and sibling of the spouse and the sibling's spouse. [Criminal Code 137.§ 6.]

For the concept of threat, the Criminal Code gives a declaratory statute, in accordance which when applying this law, in the lack of a different decree, threat means anticipating severe detriment which can evoke serious fear in the threatened person. [Criminal Code 137.§ 18.].

In the practice of law there is a known view, which we also think requires consideration, according to which the witnesses with closed data management and those with closed name/data in fact mean one single case group.

Providing the witness requests the closed management of his or her data, though it must seem heresy at first glance, the court is essentially bound to order it, as it could be hard to explain why to refuse a decree ordering closed data management.

III. Provisions of the Witness protection in the dimension of European legislative

We can read more about the issue of witness protection from a European point of view in the domestic literature[21], but briefly summarize the legal background in this

[19] The Procedure Code uses the denotation 'unknown'. [97.§ c. par.]

[20] Korinek, László, *Tanúvédelem, a közjegyző, mint védett tanú* [Witness protection, the notary as a protected witness], Közjegyzők Közlönye 2000/1, p. 10.

[21] See: Fenyvesi, Csaba, *Védő és tanú* [Defender and witness], Ügyvédek Lapja, 2001/1, 44-45. o.; Gáspárdy Gergely: *A tanúvédelem eszközei, modelljei* (I. rész) [Tools and modells of witness protection 1. Part]. Collega 1999. december-2000. január (III. évf. 12. szám), p. 16-25.; Karsai, Krisztina: *Az európai büntetőjogi integráció alapkérdései* [Fundamental questions of the european criminal law integration]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2004, pp. 123-124.; Róth, Erika: *A*

regard, trusting that there are some readers for whom we can serve some novelties.

Convention on the Protection of Human Rights and Fundamental Freedoms, concluded under the auspices of the Council of Europe. Article 6 of the international legal instrument, entitled 'Right to a fair trial', contains the following provisions:

"1. Everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, and to give judgment… on the merits of the criminal charges against him. „

'(3) Any person suspected of having committed a criminal offense has the right – at least - to... (d) to question or put questions to witnesses in the prosecution and to summon and question witnesses on his behalf under the same conditions as summoned and questioned witnesses to the charges.[22]

According to the Convention there is a conflict between the interests of investigation (and those of witness protection) and *fair trial*. "Fair trial"[23] involves[24] allowing the witness or his counsel to ask questions to the witness, thus ensuring the principles of immediacy and publicity.

Several judgments of the European Court of Human Rights[25] have dealt with the right of the defendant to question and anonymous witnesses [e.g. Bönisch v. Austria (1985)[26], Unterpertinger v. Austria (1984), Delta v. France (1990), Kostovski v Netherlands (1990), Lüdi v Switzerland (1992), Doorson v Netherlands (1996)[27], and Van Mechelen and Companions v. The Netherlands (1997), Cheeses v. Greece (2002)[28]].

From the case law of the Strasbourg it is clear that a court basing a conviction solely on the testimony of anonymous witnesses who cannot be heard by the defense is in violation of Article 6 § 3d of the Convention.

Examining the jurisprudence of the European Court of Human Rights, Károly Bárd asks: "Should different standards be applied to the fairness of proceedings and other

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büntetőeljárás garanciái [Guarantees of the criminal procedure]. In: Emberi jogok [Human rights]. (eds.): Halmai, Gábor – Tóth, Gábor Attila. Osiris Kiadó, Budapest, 2003, pp. 703-735.; Marton, Melitta, *A tanúvédelem büntető eljárásjogi eszközrendszere Magyarországon* [Criminal procedure means of the witness protection in Hungary]. Diskurzus 2015/2, pp. 11-15.; Takács, Dóra, *Mit véd a tanúvédelem?* [What protect the witness protection?]. Börtönügyi Szemle 2011/4. pp. 49-53.; Tremmel, Flórián, *A tanúvédelem hazai körképe* [Inland panorama of the witness protection]. JURA 2008/1. pp. 144-149.; Rajmon, Balázs, *A tanúvédelem útja Európában* [The way of the witness protection in Europe]. Magyar Jog 2004/1, pp. 61-62.; Szabó, Krisztián, *A tanúvédelem eszközei a magyar büntetőeljárásban* [Tools of the witness protection in the hungarian criminal procedure]. Collectio Iuridica Univwersitatis Debreceniensis 2004/4, pp. 223-235.

[22] Szabó, Győző – Nagy, Gábor (eds.), *Emberi Jogi Füzetek* [Human rights books]. A Bírósági Határozatok Melléklete, 1999/1, Hvg-Orac Lap-és Könyvkiadó Kft. Budapest, 1999, p. 86.

[23] Trechsel, Stefan, *Why Must Trials be Fair?*, Israel Law Review, Volume 31, No. 1-3, Winter-Summer 1997, pp. 94-119.

[24] Gáspárdy, Gergely, *A tanúvédelem eszközei, modelljei* (II. rész) [Tools and modells of witness protection 2.Part]. Collega 2000.június-július (IV. évf. 3.szám), p. 16.

[25] See: Stănilă, Laura: *Artificial intelligence and human rights: a challenging approach ont he issue of equalitiy*, Journal of Eastern European Criminal Law 2018/2, pp. 19-23.

[26] See: Arlay Adrienn: A tanú szerepe a jelen büntetőjogában, avagy hogyan védi az 1998. évi XIX. törvény a tanút, In: Gellér Balázs-Hollán Miklós (szerk.): A Szervezett bűnözés arcai (Fiatal büntetőjogászok tanulmányai a szervezett bűnözésről), Rejtjel Kiadó, Budapest, 2004, p. 156.

[27] Tóth, Mihály: *A magyar büntetőeljárás az Alkotmánybíróság és az európai emberi jogi ítélkezés tükrében* [The criminal procedure in the mirror of the Constitutional Court of Hungary and the european human rights trial]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2001, p. 178.

[28] Bán, Tamás: *Az Emberi Jogok Európai Bírósága határozataiból* [Decisions of the European Court of Human Rightss]. Fundamentum, 2002/2, p. 109.

fundamental rights, depending on the gravity of the crime being prosecuted?"[29] The Court does not allow derogations from 'the general standard of the fair trial due process on grounds of the interest of the community in the security of the prosecution of particularly serious criminals. The weight of the charge (accusation) cannot justify weakening the protection promised by the fair trial. However, the acceptable degree of restriction of other substantive rights is independent of the gravity of the criminal proceedings in question, provided, of course, that the right may be restricted at all.'[30]

Before Hungary became a member of the EU, it had to comply with several witness protection standards included in the mandatory acquis list. These were, to name but a few:

● *Council Resolution* of 23 November 1995 on the protection of witnesses in the fight against international organized crime[31]

● *Council Resolution* of 20 December 1996 on individuals who cooperate with the judicial process in the fight against international organized crime[32].

● *Council Framework Decision* of 15 March 2001 on the position of the victims in criminal proceedings[33].

[It is also worth noting the general proposal for a Council Decision establishing the specific Program "Prevention of and Fight against Crime" for the period 2007 to 2012 as "Non-legislative action" {SEC (2005) 436} Communication from the Commission to the Council and the European Parliament - Developing a strategic concept on tackling organized crime {SEC (2005) 724}.

IV. Some problems concerning witness protection

Imre Németh states the scruples concerning the credibility of the protected witness[34] as follows.[35] According to his opinion, it can happen that a previous offender appears as a witness in later proceedings. The protected witness (the collaborating suspect) is under duress when concluding the bargain of the investigation: „one of the possibilities is that the investigation against him or her goes on with accusation and is convicted of committing a crime, while the other possibility is that he or she provides

[29] Bárd, Károly, *Demokrácia – tisztességes eljárás – megismerés a büntető perben* [Democracy – fairt trial – recognition in criminal procedure]. In: Emlékkönyv Kratochwill Ferenc (1933-1993) tiszteletére – Tanulmánykötet (ed.: Farkas, Ákos) Bűnügyi Tudományi Közlemények 5. Bíbor Kiadó, Miskolc, 2003, pp. 83-84.

[30] Bárd, K., *cited,* pp. 86-87.

[31] Resolution of the Counsil of 23. November 1995. on the protection of witnesses in the fight against international organizem crime, Official Journal C 327, 07/121995 P. 0005-005.

[32] Coumsil Resolution of 20. December 1996. on individuals who cooperate with the judicial process in the fight against international organized crime.

[33] See: Róth, Erika, *A sértett szerepe a büntetőeljárásban – avagy mit kíván az Európai U*nió [Role of the victim in the criminal procedure – or what want the European Union]. In: Emlékkönyv Kratochwill Ferenc (1933-1993) tiszteletére, Bűnügyi Tudományi Közlemények 5., tanulmánykötet. (ed.): Farkas,Ákos. Bíbor Kiadó, Miskolc, 2003, pp. 43-45.

[34] Bócz, E., *cited,* p. 10.

[35] Németh, Imre: *A tanú nevének és személyes adatainak zárt kezelése a gyakorlatban és az ezzel kapcsolatos kérdések* [The closed management of the name and personal data of the witness in practice and referring questions]. In: (eds.) Gellér, Balázs – Hollán, Miklós: A Szervezett bűnözés arcai (Fiatal büntetőjogászok tanulmányai a szervezett bűnözésről), Rejtjel Kiadó, Budapest, 2004, pp. 111-113.

information and the prosecution against him or her stops, though on the basis of the information he or she provides there is prosecution going on against their accomplices."[36]

The judicial practice has given evidence of appropriate wisdom concerning the assessment of the testimony of the protected witness. The Supreme Court expresses in connection with the formal Criminal Code that „the cellmate's testimony incriminating for the accused has to be treated with increased foresight, as he or she may have an interest in making a testimony which, according to his or her judgement, can be advantageous for the investigator and may hope advantages for himself or herself; therefore it is reasonable to accept the cellmate's testimony as credible evidence if it is proven by other data or else it contains facts that could be gathered exclusively from the accused".[37]

During the criminal proceedings the authority may get in a difficult situation if the hearing of the protected witness is proposed. As the authority cannot reject the proposal referring to that the person of the witness to be heard is the same as the protected witness, thus how can the rejection be explained?

The *„principle of the equality of the arms"* expresses[38] the demand[39], according to professor Mihály *Tóth,* that on one hand the accuser and on the other hand the accused (and their defence attorney) have the same rights in the proceedings, the same possibilities, and the same means in the lawsuit to express their standpoint.[40] It may be unnecessary to expound how much the principle of the equality of the arms is breached in case of a protected witness.

The in force Criminal Code[41] does not contain expressis verbis the wording of *the principle of immediacy,*[42] but according to professor Tremmel, whose interpretation we share, it is possible to induce that with an inductive approach[43] and generalization form the details, with abstraction.[44] Applying the decrees of witness protection results in the damage of this principle which gives this essence of the trial, as clashing the

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[36] Németh (2004), *cited,* p. 111.

[37] BH 2000. 192

[38] Misi, László: *Európai mérce a rendőrségi eljárásokban, a büntetőeljárások nyomozati szakaszában* [European standard in police procedures, in the investigating phase of the criminal proceedings]. Rendészeti Szemle 2007/2, p. 104.

[39] Spitz, János: *Korreferátum Bánáti János „A védő szerepe a bizonyítási eljárásban" c. előadásához* [Supplementary paper to János Bánáti's lecture entitled 'The role of the defence attorney in the evidentiary procedures]. In: Huszonkettedik Jogász Vándorgyűlés, Sopron 2005.május.19-20. (ed.: Beninsné, Győrffy Ilona), Magyar Jogász Egylet, Budapest, 2005, p. 158.

[40] Tóth, Mihály: *A büntetőeljárás alapelvei* [The principles of criminal proceedings]. In: Bánáti, János – Belovics, Ervin – Csák, Zsolt – Sinku, Pál – Tóth, Mihály – Varga, Zoltán: Büntető eljárásjog, második, átdolgozott, hatályosított kiadás, (ed.: Tóth, Mihály), HVG-ORAC Lap-és Könyvkiadó Kft, Budapest, 2006, p. 43.

[41] Lőrinczy, György, *Gondolatok a bizonyítási eljárás törvényességéről a büntető eljárásban* [Reflections on the lawfulness of the evidentiary procedures]. Acta Universitatis Szegediensis De Attila József Nominatae, Acta Juridoca et Politica, Tomus III., Fasciculus 15., Különnyomat a Szabó András Emlékkönyvből, a szegedi József Attila Tudományegyetem Állam-és Jogtudományi Karának tudományos bizottsága, (ed.: Tóth, Károly), Szeged, 1998, p. 217.

[42] Krecsik, Eldoróda: *Tanúvédelem a különösen védett tanúvá nyilvánítási eljárás szemszögéből* [Witness protection form the standpoint of the proceedings of declaring a person specially protected witness]. In: Kriminológiai Közlemények, Különkiadás, Budapest, 2001, p. 150.

[43] Tremmel, F., *cited,* pp. 99-100.

[44] Tóth (2006) *cited,* p. 41.

different testimonies is impossible and in most cases the documents of the investigation can only be used as evidence.[45] Flórián *Tremmel* thinks that „in proceedings where the preliminary proceedings have a big or bigger weight than the judicial proceedings (such a trial was i.e. the inquisitorial trial) the destiny of the evidence has often been decided in the preliminary proceedings and the judicial proceedings are there in fact only to confirm, attest the gained evidence. However, this attitude of administering evidence, this bureaucratic solution challenges the dispensing of justice, as it pushes the use of the nonverbal elements, moments, the metacommunicational processes in the background."[46]

Judit *Kovács* considers the achievement of the principle of immediacy[47] guaranteed, in contrast with other views of legal practice, in the case of interrogations in a videoconference[48] (of course the distinctive features which can help the witness' identification are technically 'distorted').[49]

In the scientific literature Zsolt *Szomora* draws attention to the so-called *„rules of the small state's evidence"*. The regulation has two purposes, on one hand it helps access to information during the investigation, on the other hand, it helps the prevention, impeachment of crimes in the stage of 'planning'.[50] In the legal practice of some countries it appears that the offender expansive and talkative with the authority may get special mitigation of punishment. [The Austrian Penal Code (StGB) 41.a § gives this mitigation to the offenders of criminal association,[51] criminal organization[52] and terrorist association[53] according to which punishment not reaching the smallest possible legal punishment may as well be imposed provided this mitigation corresponds to the proportion of the offender's crime and the revealed facts.[54]]

In case of an accomplice witness, taking into consideration that often they may be people with a criminal career i.e. when revealing a delictum connected to organized crime, what can guarantee that the person collaborating with the authority does not accuse or bear false testimony in the hope of penal mitigation?[55]

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[45] Tremmel, F., *cited,* p. 100.

[46] Tremmel, F., *cited,* p. 100.

[47] Ábrahám, Márta, *A német tanúvédelmi törvény, különös tekintettel a videotechnika alkalmazására a büntetőeljárásban* [The German Act of Witness Protection with special regard to applying video technology in the criminal proceedings]. Jogtudományi Közlöny 2001/7-8, p. 322.

[48] Csúri, András – Ligeti, Katalin, *A szervezett bűnözéselleni állami fellépés eszközeiről* [About the means of state intervention against organized crime]. In: Bűnügyi Mozaik- Tanulmányok Vida Mihály 70. születésnapja tiszteletére, (ed.: Nagy, Ferenc), Pólay Elemér Alapítvány, Szeged, 2006, p. 30.

[49] Kovács, Judit, *Tanúvédelem és személyi védelem Magyarországon* [Witness protection and personal protection., (ed.: Tóth Károly), Acta Universitatis Szegediensis, Acta Juridica et Politica, Tomus LXVI. Fasc. 13., Szegeti Tudományegyetem Állam-és Jogtudományi Karának tudományos bizottsága, Szeged, 2004, p. 23.; See: Ligeti, Katalin, *Büntetőjog és bűnügyi együttműködés az Európai Unióban* [Criminal law and cooperation criminal matters in the European Union]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2004, pp. 109-111.

[50] Szomora, Zsolt, *Az anyagi büntetőjog válaszai a szervezett bűnözésre - Európai kitekintés* [The answers of the corporeal criminal law to organized crime – European outlook]. Acta Universitatis Szegediensis, Acta Juridoca et Politica, Tomus LXVI. Fasc. 21. Szegedi Tudományegyetem Állam-és Jogtudományi Karának tudományos bizottsága, Szeged, 2004, pp. 21-22.

[51] StGB § 278 Kriminelle Vereinigiung.

[52] StGB § 278a Kriminelle Organisation.

[53] StGB § 278b Terroristische Vereinigiung.

[54] http://www.sbg.ac.at/ssk/docs/stgb/stgb_index.htm- 2007 February 6.

[55] Németh, I., *cited,* p. 112.

V. Witness protection in the new Hungarian Criminal Proceedings Code

In the regulation of the Hungarian criminal proceedings the possibility of individualization, considering the individual needs of the person participating in the criminal proceedings[56] have become more accentuated. This interpretation meets the requirements stated in both the relevant international legal documents and the scientific literature.

Since the adoption of the Hungarian criminal procedural code in 1998 the legislator has altered it 89 times and it has affected about 2000 paragraph places, thus there have been some coherence-disturbances in some cases in practice.

Due to partly these incoherences, the Hungarian legislator decided to make a new criminal procedure code. The Act XC of 2017 about the criminal proceedings will take effect on 1 July 2018. Chapter XIV of the new law with the title *'Ensuring special treatment in the criminal proceedings'* instructs about the rules of witness protection.

According to the criminal procedural law 81.§ (1) paragraph, the witness is considered a person requiring special treatment, if based on their personal features or the nature and circumstances of the crime subject to the proceedings, they are hindered in understanding, conveying, practicing the laws set in the criminal procedural code or discharging an obligation or effectively participating in the criminal proceedings.

The chapter wants to ensure with the regulations concerning special treatment on one hand the effectiveness of the individuals' rights, fulfilling their obligations, forbearance of their person, on the other hand it also contains protective means in case the life, health and personal freedom of the witness in connection with their participation in the penal proceedings may be exposed to severe danger, or that they practice their rights and obligations in accordance with the criminal procedural law without intimidation and manipulation.

Paragraphs 90-93 § of the criminal procedural code instruct about the specially protected witness. Declaring a person, a specially protected witness is possible only in case of those witnesses requiring special treatment to the proposition of the court or prosecution.

However, according to the new law it does not belong to the conditions (see 1.) that the person, abode of the witness be unknown for the accused and the defence attorney. The law extended the last condition to the state of intimidation arising from the revelation with the hearing as a witness.

In case of declaring a person a specially protected witness, provided the law does not order otherwise, the files concerning the proceedings (and proposals) with the participation of the witness have to be treated in a closed way among the files of the proceedings.

In case the declaration of a specially protected witness discontinues, the court discontinues the closed management of the referring files

The new law contains the circle of those people who can be present in the proceedings requiring the participation of a specially protected witness. Before the act of accusing, those who can be present are the prosecuting attorney, a member of the investigating authority, the court reporter, in a justified case an expert and consultant,

[56] Act XC of 2017 on the Criminal Proceedings. Reasons Chapter XV.

the assistant of the specially protected witness and other person necessarily affected in the proceedings. After the act of accusing, the proceedings are performed by a court of arbitration or by a commissioned judge, where the accused and the defence attorney cannot be present.

A significant innovation is that the presence of the specially protected witness in the proceedings can be ensured via telecommunicational means, provided it does not result in the revelation of their person. In order to ensure the anonymity, the distinctive features of the witness are distorted with technical devices. It can only be proposed that those present may ask questions and the witness can refuse to make a testimony to data with which it is possible to conclude his name, address, abode.

The law instructs about the regulations of making a record of the proceedings with the participation of a specially protected witness and of managing its extract and of using the testimony as means of proof. The record has to be managed in a closed way, the extract contains exclusively the members of the court, prosecution and investigating authority present, the fact of the declaration of special protection and the description of the proceedings. These regulations strengthen those intentions that the person and availability of the specially protected witness remain concealed.

It is important to mention that the new criminal procedure code devotes a whole chapter (XV) to the protection of the data handled in the proceedings.

The specially protected witness takes part several times in the so-called *Protective Programme* as their safety can only be guaranteed with this.

VI. Final reflections

In the legal practice there is a known view that recently there have been efforts to try to get the members of the circle of the suspected criminals with compromises, bargains to testify against their accomplices in the hope of mitigation.[57] Naturally there may arise doubts with the coverage of reality of such testimonies, as in case of a serious action for the accused nothing can be expensive enough to have their delictum judged more favorably. The oppressive weight of the proceedings, the exposed situation may make the witness testify in a way that can be unpleasant for him or her in later stages of the case.[58]

For the defence the cooperation between the protected witness and the authority is not transparent as they can see only a minute when unfolding the documents. The questions that can be asked only in writing do not help check the coverage of reality of the testimonies and the interrogation via a closed-circuit telecommunicational network cannot help either. What would be preferable is if all witnesses should come before the court, and all witnesses could directly be questioned.

After the testimony, in case it is necessary, the witness could get into the witness protection program, respectively such a possibility could also appear already during the investigation.

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[57] See: Gál, László István: *Economic Bribery as a Part of Economic Criminal Law and a Concomitant of Political Corruption*. Journal of Eastern-European Criminal Law 2014.1. pp. 22-27; Tóth, Dávid, *A korrupciós bűncselekmények szabályozásának története Magyarországon* [Regulation history of the corruption crimes in Hungary]. Büntetőjogi Szemle 2015/3. pp. 107-109.

[58] See: Gál, László István: *Economic policy, criminal policy and economic crimes,* Journal of Eastern-European Criminal Law 2019.1. pp. 100-103.

In the case of the 'simple (general) witness' or the witness with closed data management, the already functioning separation of the witness and the accused would be preferable, say the witness would meet the accused only in the court-room, the witness is waiting in a separate room, arrives and leaves separately. In most of the cases this closed name and data management is sufficient to protect the witness' security.

The institution of the protected witness may result in undesired phenomena, as the investigating authority can hardly say no to a testimony promising results, especially in criminal cases occupying the citizens and the mass media and often considering and weighing what may have motivated the witness in the course of the investigation fails to come about.

In case of crimes with several perpetrators in particular legal institutions [i.e. rejecting denunciation Criminal Procedure Code 175.§ (1), (2)], at least according to some views of legal practice, now and again there can be seen efforts that a suspect would rather be exempted if he or she provides firm evidence concerning the other perpetrators.

The damning testimony against himself or herself and others may mean serious evidence. Naturally the collaborating accused may be forced to meet his accomplices as a witness. Declaring the witness protected, or the closed data management can provide security, though in case the person of the witness is revealed for the accused, and hearing the witness is submitted in the form of a proposal of proof before the court, does the court use due care if they make the person of the witness indubitable? Is it disputable if the court subpoenas and questions the witness originally declared a protected witness before the defence attorneys, and then they bring the witness who got into a difficult situation as a result, face to face with the accused? Obviously in the course of the investigation the witness wanted to reach the status of the protected witness, but the proceedings took a turn and the hearing of the witness became 'necessary'. The not thoroughly considered administration of the case can ruin the status of the witness with closed name and data, and the witness may even lose more due to the difficulty of the evidence during the proceedings. There is the danger that the witness who lost their protected status and became known makes a testimony that cannot be practically appraised and 'withdraws' their former statements.

It can also happen that the collaborating-accused witness wrongly considers himself or herself a protected witness, though he or she has been provided with only closed data management, which could later give him or her little security.

Solving witness protection suffers from a peculiar problem. According to Flórián Tremmel[59] a requirement is that the accused get to know the source of testimony, say the witness from top to toe, together with his or her personal data, as a real person; the other requirement is that the authority provide full protection for the witness in the sometimes excessive length of the proceedings (and perhaps after that as well). These two contrasting interests cannot be reconciled, the predominance of either the first or the second interest happens.

According to Zoltán Varga in recent years attempts to intimidate the witnesses have become more frequent. However, this tendency can be seen not only in case of the so-called accusing but in general that of the witnesses, as who is accusing and who

[59] Tremmel, F., *cited,* p. 240.

is a witness for the defence[60] turns out only after making the testimony, after instituting the proceedings of evidence.[61]

We still consider prevalent the statements of Ákos Farkas and Erika Róth which they published one and a half decades ago in the columns of Magyar Jog [Hungarian Law]: „We do not consider acceptable if the right of the defence to be present in questioning the witness in the course of the investigation is diminished, or if personal data are declared 'closed matter' in connection with all criminal acts, or if in the trial the testimony is read up or the interrogator of the witness is questioned. Both of them violate the constitutional right to defence and the rights to defence as stated in the Convention for the Protection of Human Rights and Fundamental Freedoms Article 6 III. paragraph d) item."[62]

References

1. Ábrahám, Márta, *A német tanúvédelmi törvény, különös tekintettel a videotechnika alkalmazására a büntetőeljárásban* [The German Act of Witness Protection with special regard to applying video technology in the criminal proceedings]. Jogtudományi Közlöny 2001/7-8.

2. Arlay Adrienn: A tanú szerepe a jelen büntetőjogában, avagy hogyan védi az 1998. évi XIX. törvény a tanút, In: Gellér Balázs-Hollán Miklós (szerk.): A Szervezett bűnözés arcai (Fiatal büntetőjogászok tanulmányai a szervezett bűnözésről), Rejtjel Kiadó, Budapest, 2004.

3. Bán, Tamás: *Az Emberi Jogok Európai Bírósága határozataiból* [Decisions of the European Court of Human Rightss]. Fundamentum, 2002/2.

4. Bárd, Károly, *Demokrácia – tisztességes eljárás – megismerés a büntető perben* [Democracy – fairt trial – recognition in criminal procedure]. In: Emlékkönyv Kratochwill Ferenc (1933-1993) tiszteletére – Tanulmánykötet (ed.: Farkas, Ákos) Bűnügyi Tudományi Közlemények 5. Bíbor Kiadó, Miskolc, 2003.

5. Bócz, Endre, *A tanúvédelem és az Európa Tanács* [Witness protection and the Council of Europe]. Rendészeti Szemle 1993/8.

6. Csúri, András – Ligeti, Katalin, *A szervezett bűnözéselleni állami fellépés eszközeiről* [About the means of state intervention against organized crime]. In: Bűnügyi Mozaik- Tanulmányok Vida Mihály 70. születésnapja tiszteletére, (ed.: Nagy, Ferenc), Pólay Elemér Alapítvány, Szeged, 2006.

7. Farkas, Ákos – Róth, Erika, *Tanúvédelem a büntetőeljárásban* [Witness protection in the criminal proceedings]. Magyar Jog, 1992/10.

8. Farkas, Ákos, *A bizonyítás* [Proof], In: Farkas, Ákos – Róth, Erik: A büntetőeljárás [The penal proceedings]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2004.

9. Fenyvesi, Csaba, *A tanúvédelem és a védőügyvéd* [Witness protection and the defence attorney]. In: A tanúvédelem útjai Európában, Elméleti és gyakorlati szempontok a tanúvédelemben (ed.: Róth, Erika), Bűnügyi Tudományi Közlemények 4., Bíbor Kiadó, Miskolc, 2002.

10. Fenyvesi, Csaba, *Védő és tanú* [Defender and witness], Ügyvédek Lapja, 2001/1.

[60] Liziczay, Sándor, *Tanútípusok a büntetőeljárásban II.* [Types of witnesses in the criminal proceedings]. Rendészeti Szemle 2007/2, p. 78.

[61] Varga, Zoltán, *A tanúvédelem* [Witness protection]. Magyar Jog, 2001/5, p. 268.

[62] Farkas, Ákos – Róth, Erika, *Tanúvédelem a büntetőeljárásban* [Witness protection in the criminal proceedings]. Magyar Jog, 1992/10, pp. 587-588.

11. Gál, István László – Nagy, Melánia, *Terrorist financing with special attention ISIS*. In: (ed.) Velisav, Markovic: Sprečavanje i suzbijanje nasilja: IX naučni skup Mreža 2018. Valjevo,Univerzitet Singidunum, Fakultet zdravstvenih, pravnih i poslovnih studija, 2018.

12. Gál, István László, *Organized crime in Hungary*, Journal of Eastern European Criminal Law 2015/1.

13. Gál, László István, *Economic policy, criminal policy and economic crimes,* Journal of Eastern-European Criminal Law 2019/1.

14. Gál, László István: *Economic Bribery as a Part of Economic Criminal Law and a Concomitant of Political Corruption*. Journal of Eastern-European Criminal Law 2014/1.

15. Gáspárdy Gergely: *A tanúvédelem eszközei, modelljei* (I. rész) [Tools and modells of witness protection 1. Part]. Collega 1999. december-2000. január (III. évf. 12. szám.

16. Gáspárdy, Gergely, *A tanúvédelem eszközei, modelljei* (II. rész) [Tools and modells of witness protection 2. Part]. Collega 2000.június-július (IV. évf. 3.szám).

17. Herke, Csongor, *Büntető eljárásjog* [Penal procedural law]. Jogi Szakvizsga Segédkönyvek, Dialóg Campus Kiadó, Budapest-Pécs, 2007.

18. http://www.sbg.ac.at/ssk/docs/stgb/stgb_index.htm- 2007 February 6.

19. Karsai, Krisztina: *Az európai büntetőjogi integráció alapkérdései* [Fundamental questions of the european criminal law integration]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2004.

20. Kertész, Imre, *A tanú védelemre szorul [a büntető eljárásban]* [The witness needs protection (in the criminal proceedings)]. Magyar Jog 1993/4.

21. Korinek, László, *Tanúvédelem, a közjegyző, mint védett tanú* [Witness protection, the notary as a protected witness], Közjegyzők Közlönye 2000/1.

22. Kovács, Judit, *Tanúvédelem és személyi védelem Magyarországon* [Witness protection and personal protection., (ed.: Tóth Károly), Acta Universitatis Szegediensis, Acta Juridica et Politica, Tomus LXVI. Fasc. 13., Szegeti Tudományegyetem Állam-és Jogtudományi Karának tudományos bizottsága, Szeged, 2004.

23. Krecsik, Eldoróda: *Tanúvédelem a különösen védett tanúvá nyilvánítási eljárás szemszögéből* [Witness protection form the standpoint of the proceedings of declaring a person specially protected witness]. In: Kriminológiai Közlemények, Különkiadás, Budapest, 2001.

24. Kulcsár, Gabriella, *A gyermek-tanúvallomások információtartalmának torzulási lehetőségei* [Possibilities of the distortion of information of child testimonies]. In: Informatika és büntetőjog (eds.: Gál, László István – Nagy, Zoltán András), PTE Állam- és Jogtudományi Kar Büntetőjogi Tanszék, Pécs, 2006.

25. Ligeti, Katalin, *Büntetőjog és bűnügyi együttműködés az Európai Unióban* [Criminal law and cooperation criminal matters in the European Union]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2004.

26. Liziczay, Sándor, *Tanútípusok a büntetőeljárásban II.* [Types of witnesses in the criminal proceedings]. Rendészeti Szemle 2007/2.

27. Lőrinczy, György, *Gondolatok a bizonyítási eljárás törvényességéről a büntető eljárásban* [Reflections on the lawfulness of the evidentiary procedures]. Acta Universitatis Szegediensis De Attila József Nominatae, Acta Juridoca et Politica, Tomus III., Fasciculus 15., Különnyomat a Szabó András Emlékkönyvből, a szegedi József Attila Tudományegyetem Állam-és Jogtudományi Karának tudományos bizottsága, (ed.: Tóth, Károly), Szeged, 1998.

28. Marton, Melitta, *A tanúvédelem büntető eljárásjogi eszközrendszere Magyarországon* [Criminal procedure means of the witness protection in Hungary]. Diskurzus 2015/2.

29. Misi, László, *Európai mérce a rendőrségi eljárásokban, a büntetőeljárások nyomozati szakaszában* [European standard in police procedures, in the investigating phase of the criminal proceedings]. Rendészeti Szemle 2007/2.

30. Nagy, Ferenc, *Új fejlődési irányok, avagy a tradicionális jogállami büntetőjog eróziója* [New directions of development or the erosion of the penal law of the traditional rule of law]. Magyar Jog 1997/6.

31. Nagy, Melánia, *A terrorizmus új irányvonalai* [New trends of the terrorism]. In: (eds.) Bendes, Ákos – Nagy, Melánia – Tóth, Dávid: Lépést tud-e tartani a jog a XXI. század kihívásaival? Pécsi Tudományegyetem Állam-és Jogtudományi Kar Doktori Iskola, Pécs, 2019.

32. Nagy, Zoltán – Tóth, Dávid, *Computer related economic crimes in Hungary*, Journal of Eastern European Criminal Law 2015/1.

33. Németh, Imre, *A tanú nevének és személyes adatainak zárt kezelése a gyakorlatban és az ezzel kapcsolatos kérdések* [The closed management of the name and personal data of the witness in practice and referring questions]. In: (eds.) Gellér, Balázs – Hollán, Miklós: A Szervezett bűnözés arcai (Fiatal büntetőjogászok tanulmányai a szervezett bűnözésről), Rejtjel Kiadó, Budapest, 2004.

34. Rajmon, Balázs, *A tanúvédelem útja Európában* [The way of the witness protection in Europe]. Magyar Jog 2004/1.

35. Róth, Erika, *A sértett szerepe a büntetőeljárásban – avagy mit kíván az Európai Unió* [Role of the victim in the criminal procedure – or what want the European Union]. In: Emlékkönyv Kratochwill Ferenc (1933-1993) tiszteletére, Bűnügyi Tudományi Közlemények 5., tanulmánykötet. (ed.): Farkas, Ákos. Bíbor Kiadó, Miskolc, 2003.

36. Róth, Erika: *A büntetőeljárás garanciái* [Guarantees of the criminal procedure]. In: Emberi jogok [Human rights]. (eds.): Halmai, Gábor – Tóth, Gábor Attila. Osiris Kiadó, Budapest, 2003.

37. Spitz, János: *Korreferátum Bánáti János „A védő szerepe a bizonyítási eljárásban" c. előadásához* [Supplementary paper to János Bánáti's lecture entitled 'The role of the defence attorney in the evidentiary procedures]. In: Huszonkettedik Jogász Vándorgyűlés, Sopron 2005.május.19-20. (ed.: Beninsné, Győrffy Ilona), Magyar Jogász Egylet, Budapest, 2005.

38. Stănilă, Laura, *Specific aspects ont he right to a fair trial in the recent caselaw against Romania*, Journal of Eastern European Criminal Law 2019/1.

39. Stănilă, Laura, *To punish or to torture? About inhuman treatment in the recent view of the Strassbourg Court*, Journal of Eastern European Criminal Law 2017/2.

40. Stănilă, Laura: *Artificial intelligence and human rights: a challenging approach ont he issues of equalitiy*, Journal of Eastern European Criminal Law 2018/2.

41. Szabó, Győző – Nagy, Gábor (eds.), *Emberi Jogi Füzetek* [Human rights books]. A Bírósági Határozatok Melléklete, 1999/1, Hvg-Orac Lap-és Könyvkiadó Kft. Budapest, 1999.

42. Szabó, Krisztián, *A tanúvédelem eszközei a magyar büntetőeljárásban* [Tools of the witness protection in the hungarian criminal procedure]. Collectio Iuridica Univwersitatis Debreceniensis 2004/4.

43. Szomora, Zsolt, *Az anyagi büntetőjog válaszai a szervezett bűnözésre - Európai kitekintés* [The answers of the corporeal criminal law to organized crime – European outlook]. Acta Universitatis Szegediensis, Acta Juridoca et Politica, Tomus LXVI. Fasc. 21. Szegedi Tudományegyetem Állam-és Jogtudományi Karának tudományos bizottsága, Szeged, 2004.

44. Takács, Dóra, *Mit véd a tanúvédelem?* [What protect the witness protection?]. Börtönügyi Szemle 2011/4.

45. Tóth, Dávid, *A korrupciós bűncselekmények szabályozásának története Magyarországon* [Regulation history of the corruption crimes in Hungary]. Büntetőjogi Szemle 2015/3.

46. Tóth, Dávid, *The history and types of terrorism*. Law of Ukraine 2014/1.

47. Tóth, Mihály: *A büntetőeljárás alapelvei* [The principles of criminal proceedings]. In: Bánáti, János – Belovics, Ervin – Csák, Zsolt – Sinku, Pál – Tóth, Mihály – Varga, Zoltán: Büntető eljárásjog, második, átdolgozott, hatályosított kiadás, (ed.: Tóth, Mihály), HVG-ORAC Lap-és Könyvkiadó Kft, Budapest, 2006.

48. Tóth, Mihály: *A magyar büntetőeljárás az Alkotmánybíróság és az európai emberi jogi ítélkezés tükrében* [The criminal procedure in the mirror of the Constitutional Court of Hungary and the european human rights trial]. KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2001.

49. Trechsel, Stefan, *Why Must Trials be Fair?*, Israel Law Review, Volume 31, No. 1-3, Winter-Summer 1997.

50. Tremmel, Flórián, *A büntetőeljárás alapelvei* [The principles of criminal proceedings]. In: Fenyvesi, Csaba Fenyvesi – Herke, Csongor – Tremmel, Flórián: Új magyar büntetőeljárás [New hungarian criminal procedure], Dialóg Campus Kiadó, Budapest-Pécs, 2003.

51. Tremmel, Flórián, *A tanúvédelem hazai körképe* [Inland panorama of the witness protection]. JURA 2008/1.

52. Tremmel, Flórián, *Magyar Büntetőeljárás* [Hungarian criminal proceedings]. Dialóg Campus Kiadó, Budapest-Pécs, 2001.

53. Varga, Zoltán, *A tanú személyi adatainak zárt kezelése* [The closed management of the witness' personal data]. In: Kiss, Sándor – Lassó, Gábor – Szepesi Máziné, Erzsébet – Ruzsás, Róbert – Szebeni, László Székely, Ákos – Varga, Zoltán – Vaskuti, András: A büntetőeljárási törvény magyarázata [Interpretation of the penal procedural law] 1. kötet, KJK-Kerszöv Jogi és Üzleti Kiadó Kft., Budapest, 2003.

54. Varga, Zoltán, *A tanúvédelem* [Witness protection]. Magyar Jog, 2001/5.