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Criminalisation and decriminalisation of active bribery of public officials in Hungary – an empirical analysis of knowledge and opinions about penal law¹

1. INTRODUCTION

1.1. THE RESEARCH PROJECT

The primary aim of the three-year long project ‘*Novelties of Criminal Law in Legal Consciousness*’ was to map the knowledge and opinions of everyday people towards criminal law including regulatory novelties by means of a questionnaire-based survey.

The questions were related to 12 criminal law topics which are more commonly encountered in everyday life and in the media. These ranged from the age of criminal responsibility in crime against property, through cruelty to animals, to the acceptance of gratuity.

In the course of the choice of the subject, the primary selection criterion – in line with the objective of the research – was that the criminal law regulations on the given topic have changed in the last decade(s). Within this, we have chosen topics which the population encounters more often in everyday life and that appear more frequently in the media. Thirdly, we also took into consideration to be able to fall in line with previous Hungarian research (mainly Kulcsár and Sajó’s research), so that we would be able to measure not only the awareness of changes in criminal law, but also the change in legal knowledge.

There were two to four questions related to each topic (in proportion to the complexity of the regulation) which related to the criminal judgement of a well-defined case. One of the cases always concerned a regulatory element the legal judgement of which had changed. However, we also asked a question or more about a ‘control case’ which measured the knowledge of an element the regulation of which remained unchanged.

Respondents always had to answer a pair of questions for each case. In one respect, they had to decide whether or not the act described was criminalisable. Furthermore, they were also able to give an answer whether or not they would have declared the act a criminal offence, if they were the legislators.

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The questionnaire was conducted between 12 and 17 October 2018 – with the involvement of a public opinion research company (Median Public Opinion and Market Research Institute) – on a nationwide sample representative of the adult Hungarian population. The data collection took place at the respondents' apartment, using a structured questionnaire, within the framework of omnibus data collection. The interview was conducted under the supervision and assistance of the interviewer, using a self-completion procedure on a sample of 1,200 people representing the adult population (over 18 years of age) in the country.²

1.2. SUBJECT MATTER OF THE STUDY

Regarding active bribery of public officials, respondents were asked to pass their judgement on the following two cases:

1. Someone presents a gift worth HUF 30,000 to the public official when he or she applies for permission to run a buffet at a government office.
2. Someone presents a gift worth HUF 30,000 to the public official after he or she has received the permission from the government office to run a buffet.

The second of these situations concerns a regulatory novelty, since based on the Criminal Code, the granting of an advantage to an official afterwards (and without the intention of further influencing) no longer constitutes a criminal offense.³

2 . CRIMINAL LAW AND PRACTICE

In the following, we review how our criminal law regulated active bribery of public officials at the time of previous similar research (in the early 1960s) and at the times relevant in respect of this present research (in 2008 and in 2018, respectively).

2.1. ACT V OF 1961

Based on Act V of 1961 (the Criminal Code of 1961), (among other things) a person who 'gives or promises to an official person or through him to someone else, in connection with his official capacity such advantage which may injuriously influence the official activity of the official person in regard to the public interest,' was criminalisable.⁴ According to the legal literature, these facts may include 'not only activities which are not related to the specific duty and which seek to obtain the future benevolence of the official, but also, subject to certain conditions, remuneration for the performance of the duty.' (Wiener 1972 p. 303). In the application of this fact, the legal explanation also prevailed that 'in addition to gaining future benevolence, a benefit given as a token of gratitude may have a detrimental effect on the public interest if the custom of presenting an official with a gift becomes well known among the persons concerned'. (Wiener 1972 pp. 287, 303).

² The sampling method was a multi-stage stratified random procedure. During data processing the minor biases in the sample resulting from the random procedure were corrected by four-dimensional weighting based on gender, age, education, and settlement type based on census data. The weighted data file was also used for the present analysis.

³ cf. study title 4

⁴ paragraph 1 of § 153 in the Criminal Code of 1961.

The Criminal Code of 1978

The original regulation of the Criminal Code of 1978 also provided for the punishment of ‘any person who gives or promises unlawful advantage to a public official or to another person on account of such official which may affect the official in his official capacity to the detriment of the public interest’.⁵ According to the legal literature, in respect of this situation cases in which ‘when [the advantage] is granted or promised the person giving the advantage has no case pending or in prospect with the public official’ are relevant. The advantage is therefore linked to the operation of the public official through a completed act (procedure, measure) in which the person giving the advantage was a client’. This element thus emphasizes “not the purpose of the person giving the advantage, that is to say, a subjective motive belonging to the actor’s aspect, but the objective specificity of the advantage: Namely, how the promise and/or granting of the advantage in time relates to the official connection between the public official and the person giving the advantage’.⁶

Act CXXI of 2001 amended the regulations set forth in the Criminal Code of 1978, so that the culpable person was ‘any person who gives or promises unlawful advantage to a public official or to another person on account of such official’. This basic case of active bribery could also be established (to the extent relevant to our study) “if the giving or promising of an advantage occurs after the substantive completion of the case, without the prospect of the opening of another case”.⁷

2.2. THE CRIMINAL CODE

Under Act C of 2012 (the Criminal Code), official bribery is effectuated by anyone who “attempts to bribe a public official by giving or promising unlawful advantage”. Pursuant to the ministerial justification of the proposal in the Criminal Code, ‘the legislator thus indicates that [...] the purpose of the advantage is to influence the public official’.⁸ The new legal facts thus constitute an intentional criminal offence (Sinku 2012, p. 435).

The Supreme Court of Justice also noticed that the legislator [...] changed the regulation in two places. In one respect, the Criminal Code attaches importance to temporality and, contrary to the timeless, prevailing expectation of the previous law, excluded the conduct remunerating or compensating an official operation already completed in the past subsequently (however, without and precursory promise) and limited the prohibition of the criminal law only to the remuneration or compensation aiming at any current, consequently, ongoing, as well as future, consequently, prospective official operation. In another respect, it has assigned an additional intention to this and that legislative intention to be achieved, that is to say, an objective which, by definition, has to be proved’.⁹ The legislature supplemented the legal facts with ‘the factual element »aiming at influencing«, with an objective referring to the future.¹⁰

⁵ The Criminal Code of 1978 Paragraph (1) in § 253.

⁶ Bócz 1986 pp. 738-739.

⁷ Vida 2005 p. 415,

⁸ The justification added to § 293 of the Criminal Code.

⁹ Supreme Court of Justice, Bhar. III. 396/2017., EH 2018. 13., Justification [72].

¹⁰ Supreme Court of Justice, Bhar. III. 396/2017., EH 2018. 13., Justification [72].

The essence of the change in the act in substantive law is therefore that the granting of an unlawful advantage after the closure of the administration has become the subject of a differentiated judgement. Following the closure of the administration, the granting of an unlawful advantage may constitute a criminal offense or, although active but - not criminalisable conduct, depending on whether the intention can be established or not. Giving the unlawful advantage subsequently, solely by the transferor, is not a criminal offense if it cannot be inferred that it is provided by the client for the purpose of influencing the current or future activities of the public official”.¹¹

The ‘regulation for the crime of official bribery in the Criminal Code in force differs from the special partial facts of the [Criminal Code] of 1978 relating to the same criminal offenses’. Previously, “the transferor and acceptor of the unlawful advantage committed a criminal offense by the transfer of the unlawful advantage in itself without any temporal limit”.¹² Whereas, „in conformity with the [...] Criminal Code, the acceptor of the unlawful advantage still commits a criminal offense – both in the cases of accepting the unlawful advantage during his or her official operation or subsequently, however, the transferor of the unlawful advantage only commits a criminal offense after the completion of the operation of the public official, if the determination for influencing the activity of the public official is proved.”¹³

According to a legal proposal critical to the current legislation, the intentional regulation of active bribery should be abolished *de lege ferenda*. Namely, the protection of trust in the functioning of the office also requires the ordering of the criminalisation of granting benefits that are capable of creating the appearance of influencing an official (and are therefore unlawful) (Hollán 2014: 81).

3. RESEARCH QUESTIONS AND HYPOTHESES

3.1. NATURE AND LEVEL OF LEGAL KNOWLEDGE

Based on research history, we presumed that average people also have gaps in their knowledge of regulating the active bribery of public officials. Compared to other criminal law issues, we expected a lower level of knowledge, given that these questions were aimed at an act the moral condemnation of which is not so clear from that of other criminal offences (theft, sexual violence, robbery).

3.2. SOCIO-ECONOMIC FACTORS

Based on the professional literature, we presumed that, similarly to other criminal law issues, bribery would not really differ based on the usual socio-demographic variables (gender, age, education, type of settlement, occupation, ideological position, religiosity, financial situation, household composition).

3.3. KNOWLEDGE OF LATEST REGULATIONS

In harmony with our general research hypothesis, we also presumed in respect of active bribery of public officials, that the regulations which were in force earlier would be more well-known among people. Namely, in this respect, the respondent was more likely to have heard of the regulation or to have come into contact with it in some other way.

¹¹ Supreme Court of Justice, Bhar. III. 396/2017., EH 2018. 13. Summary part III, Justification [85].

¹² Supreme Court of Justice, Bhar. III. 396/2017., EH 2018. 13., Justification [73].

¹³ Supreme Court of Justice, Bhar. III. 396/2017., EH 2018. 13., Summary part [72].

4. ANALYSES OF THE KNOWLEDGE

4.1. ACCURACY OF KNOWLEDGE

When asked about giving an unlawful advantage in advance, nearly half of the respondents (47 percent) answered (correctly) that this is criminalised by current laws. This is somewhat lower than the average rate of the correct answers (56 percent) for all legal knowledge questions.

In comparison with this, more respondents (58 percent) knew (correctly) that it was not a criminal offence for someone to give a gift of HUF 30,000 to the official in charge after receiving permission to operate the buffet from the government office. This corresponds to the average of the correct answers established for the whole questionnaire.

Table 2

Someone presents a gift worth HUF 30,000 to the clerk <i>when</i> he or she applies for permission to run a buffet at a government office. Is it criminalised? (percentage)	knowledge
<i>is criminalised</i>	47
is not criminalised	51
does not know	2

* without those who (N=29) did not answer any of the situational questions

Table 3

Someone presents a gift worth HUF 30,000 to the clerk <i>after</i> he or she received the permission to run a buffet at a government office. Is it criminalised? (percentage)	knowledge
is criminalised	40
<i>is not criminalised</i>	58
does not know	2

* without those who did not answer any of the situational questions (N=29)

Only 11 percent of all respondents were fully informed about the current criminal law judgement of active bribery of public officials.

In contrast, nearly half of the population (48 percent) know that none of the acts listed in relation to active bribery of public officials is a criminal offence. Conversely, the other large group, more than a third of the respondents (37 percent), believe that both acts are criminal offences. It could be established then, that those who only answered one question correctly (85 percent in total) actually followed a pattern: they either did not consider either situation to be a criminal offence or considered both to be criminal offences.

Table 4

Someone presents a gift worth HUF 30,000 to the clerk from whom he or she applies for permission to run a buffet at a government office. Is it punished? (percentage)

		after he or she received the permission	
		punished	not punished
when he or she applies for the permission	is criminalised	37	11
	is not criminalised	4	48

* without those who answered any of the questions like 'I do not know'.

Table 5

The different combinations of the correct answers (percentage)

	knowledge
they only know that it is criminalised if someone gives a gift during	37

the administration	
they only know that it is not criminalised if someone gives a gift after the administration is completed	48
they know both	11
they do not know either of them	4
TOTAL	100

* without those who answered any of the questions like ‘I do not know’.

Table 6

Number of correct answers (percentage)

	%
none	4
one	85
both	11
Total	100

Only 15 per cent of respondents think that a gift given at the time of applying for a permit or after the permit has been granted is judged differently, so few people are aware of the difference in time (as assessed in the currently effective law).

4.2. KNOWLEDGE OF NOVELTIES

The novelty of official bribery regulation is rightly known to more people (58 per cent) than its unchanged element (47 per cent). However, this is presumably explained by the schematic nature of the responses, since four-fifths of those whose responses reflected regulatory novelty also said (erroneously) that the other situation would not be criminalised.

If we look at legal knowledge in relation to the regulation of active bribery of public officials as a whole, there are more than three times as many respondents whose answers reflect the old regulation (37 per cent) than those who reflect the new one (11 per cent). However, this was not necessarily due to their actual knowledge of the older regulation, since the proportion of those who believe that neither type of act is criminalisable is even higher, at 48 percent, and this does not correspond to any statutory law.

5. ANALYSIS OF OPINIONS

5.1. WILLINGNESS TO CRIMINALISE

Nearly three-quarters (73 percent) of respondents would criminalise giving unlawful advantage in advance if they were the legislator. Slightly less, two-thirds (67 percent) of those surveyed would criminalise it if presenting the gift took place after the permit was granted.

Table 7

Someone presents a gift worth HUF 30,000 to the clerk <i>when</i> he or she applies for permission to run a buffet at a government office. Should it be criminalised? (percentage)	opinion
criminalise	73
do not criminalise	25
does not know	2

* without those who (N=29) did not answer any of the situational questions

Table 8

Someone presents a gift worth HUF 30,000 to the clerk <u>after</u> he or she received the permission to run a buffet at a government office. Should it be criminalised? (percentage)	opinion
criminalise	67
do not criminalise	31
does not know	2

* without those who (N=29) did not answer any of the situational questions

5.2. CRITICISM OF THE LAW IN FORCE

As for opinions about whether or not the active bribery of public officials is criminalisable the majority (63 percent) would criminalise both of the listed acts, so they agree with the regulations in force previously. However, the proportion of those (22 percent) who would not criminalise either act is not negligible, either. This also indicates that the temporality of giving

an unlawful advantage as assessed by statutory law, is also irrelevant to the majority (85 per cent) of average people in terms of their opinion. There are two and a half times as many respondents (who would only criminalise presenting the gift simultaneously with the application 11 per cent) than as many as only the presenting it subsequently (4 per cent). Therefore, it is the former one-tenth of the population that is in full agreement with the current regulations.

Table 9

How many of the two acts would you criminalise? (percentage)

neither	22
one	15
both	63
total	100

Table 10

The different combinations of the opinions formed on criminalisation (percentage)

	opinion
they would only criminalise giving a gift simultaneously with the application	11
they would only criminalise giving a gift after getting the permit	4
they would criminalise both cases	63
they would criminalise neither case	22
TOTAL	100

6 . INTERACTION OF OPINIONS AND KNOWLEDGE

6.1. OPINIONS VS. KNOWLEDGE

In the following, we compare people’s opinions with the world of law according to their own idea, primarily in order to determine the extent to which respondents are characterized by a critical (conformist) attitude towards perceived law. Both situations reveal the majority of those who know the law according to their opinion (67 percent) and a negligible (3 percent) proportion of those who say the law punishes something they would not punish to their hearts.

So, there is a strong coincidence between knowledge and opinion, but we can only deduce the direction of the connection. According to our assumption, when we ask respondents about their knowledge of the current regulation it is the opinion formed about the given situation and its morality that may guide them instead of knowing the statutory law, in several cases. Scilicet for, opinions correlate most strongly with one another, then with the knowledge appertaining to the same situation and then with the knowledge appertaining to the other situation.

Table 11

Pearson correlation between knowledge and opinions
(Each correlation was statistically significant at $p = 0.01$ (2-tailed).)

		when applying for the operation of a buffet from a government office		after receiving the permit for the operation of a buffet from a government office	
		knowledge	opinion	knowledge	opinion
when applying for the operation of a buffet from a government office	knowledge	1	.419	.714	.263
	opinion	.419	1	.275	.645
after applying for the operation of a buffet from a government office	knowledge	.714	.275	1	.430
	opinion	.263	.645	.430	1

If there is a discrepancy between opinion and presumed regulation, it tends to influence towards criminalisation (30 percent in both situations).

Table 12

Opinions on criminalisation compared to presumed regulation
(only among those who also reported on the knowledge of the given regulation and their opinion on it, percentage)

	Their opinion agrees with the <i>presumed</i> regulation	would criminalise	Would decriminalise	TOTAL
Someone presents a gift worth HUF 30,000 to the clerk <u>when</u> he or she applies for permission to run a buffet at a government office.	67	30	3	100
Someone presents a gift worth HUF 30,000 to the clerk <u>after</u> he or she received the permission to run a buffet at a government office.	67	30	3	100

6.2. CONSISTENCY OF OPINIONS AND KNOWLEDGE WITH APPLICABLE LAW

Inspired by Hertogh's model,¹⁴ we compare opinions not only with the presumed but also with the actual regulation. The purpose of this is to determine to what extent the critical/conformist attitude of the respondents, which we have examined not only in relation to the law in force,¹⁵ but also in relation to the presumed law,¹⁶ is partly coupled with information or ignorance. Based on this, we find a considerable difference between the judgments of each situation.

In the case of the penal code for the currently criminalisable conduct (i.e. a gift given when applying for a permit), the proportion (30 per cent) of those who consider it appropriate to order a prior claim for an advantage is criminalisable by being uninformed, i.e. (mistakenly) believing that it does not constitute a criminal offence in our current law. However, their attitude is only critical of the law they presume, but they do not actually know the law in force, but they actually identify themselves with it in their opinion.

Table 13

Someone presents a gift worth HUF 30,000 to the public official when he or she applies for permission to run a buffet at a government office. Is it criminalised? Should it be criminalised? (percentage)

	criminalise	do not criminalise
<i>is criminalised</i>	45	3
is not criminalised	30	22

* without those who answered any of the questions like 'I do not know'.

In terms of presenting a gift after the completion of the administration, however, nearly one-third of the population (30 percent) is critical and also informed. They consciously want to criminalise this type of act, that is, by being aware of it: it is not a criminal offence at the moment.

Table 14

Someone presents a gift worth HUF 30,000 to the clerk after he or she received the permission to run a buffet at a government office. Is it criminalised? Should it be criminalised? (percentage)

	criminalise	do not criminalise
is criminalised	38	3
<i>is not criminalised</i>	30	29

¹⁴ We must add that Hertogh examined identification with law with more general questions of attitudes about law, and not with ones as to how people would behave as legislators. Cf. title 2.1.1

¹⁵ Cf. Title 5.3

¹⁶ Cf. Title 5.4.

* without those who answered any of the questions like ‘I do not know’.

Just as many (11 per cent) judge a gift given at the time of applying for a permit or after receiving a permit as differently as they know that this is how the law distinguishes between the two situations (11 per cent), but the two groups do not include the same respondents. Those who know the difference correctly would largely (57 percent) treat the two situations differently themselves, but one-third (35 percent) would also criminalise presenting the gift subsequently, while 8 percent would not criminalise either case.

Table 15

Someone gives a gift worth HUF 30,000 to the public official. Should it be criminalised? (among those who correctly *know* the legal regulation of both situations, N = 115; percentage)

		after receiving the permit for the operation of a buffet from a government office	
		criminalise	do not criminalise
when applying for the operation of a buffet from a government office	criminalise	35	57
	do not criminalise	0	8

6.3. MULTIPLE VARIABLE ANALYSIS

We attempt to answer which of the opinions and socio-demographic variables contributed more to the evolution of knowledge using a multivariate analysis. The dependent variable of the binary logistic regression model was the Boolean, correct/incorrect response for each situation. Among the independent variables, in addition to the socio-demographic variables, we included the knowledge in respect of the other situation and the opinion about the given situation.¹⁷

The model explained 63 percent of the standard deviation in knowledge of the regulation of presenting a gift simultaneously¹⁸. The strongest influence was on the responses to the **knowledge** of the regulation presenting a gift subsequently,¹⁹ as well as the opinions formed about presenting a gift simultaneously²⁰

¹⁷ The following independent variables were included in the analysis: Gender (1: male; 2: female); Financial situation (1: better; 2: about the same as; 3: worse than other Hungarian families) Size of settlement (less than 1: 1000 inhabitants; 8: more than 100,000 inhabitants, 9: Budapest) Do you go to church? (1: several times a week; 6: do not go to church or religious gatherings at all); Do you have a job? (1: full-time; 8: inactive earners); Size of family; Number of persons above 60; Number of children under 18; Per capita income; Age; Educational attainment; Do you watch the news on TV? (0: do not; 1: watch RTL or TV2 Híradó at least once a week); Were you involved in a criminal offence? (0: no; 1: yes); Do you read a daily newspaper? (1: no; 2: yes); Is presenting a gift subsequently criminalised? (1: is criminalised; is not criminalised); What do you think about presenting a gift SIMULTANEOUSLY? (1: should be criminalised; should not be criminalised)

¹⁸ Nagelkerke R²=0.630.

¹⁹ exp (B)=38.138

²⁰ exp (B)=11.070

In addition, going to church showed a significant ($p=0.05$) correlation: ²¹: the proportion of correct answers was slightly lower among churchgoers. There is a similar, weak relationship with the number of children under the age of 18 and age: there are slightly more correct answers if there is a minor in the household²², or with the advancement in age.²³

The situation was similar for presenting a gift subsequently. The model explained 67 percent of the standard deviation.²⁴ The strongest influence in this case was also the answers given to the knowledge of the regulation about presenting a gift in advance²⁵, as well as the opinions formed about presenting a gift subsequently.²⁶

In addition, the size of the settlement showed a significant ($p=0.05$) correlation: ²⁷: the proportion of correct answers was slightly lower among those living in a larger settlement. There is also a weak relationship with education: the correct answer is somewhat more likely among those having better education ²⁸, or if they have been involved in a criminal offence.²⁹

This analysis also confirms that the responses are mostly influenced by two factors: the respondents' more schematic thinking in comparison to statutory law, and their opinion on the need to order the criminalisation of the act.

7 . CHANGE IN LEGAL CONSCIOUSNESS

It is worth comparing the results of our research with that of a previous similar research (conducted forty years ago). Based on this, we can draw conclusions not only about the awareness of the changes, but also about the change of the legal consciousness. In his research, Kulcsár asked a single question of legal knowledge ³⁰ regarding the active bribery of public officials, which concerned presenting a gift subsequently. That question read as follows: 'P.V. receives a housing allocation. *He sends a watch to the public official out of gratitude. Is presenting a gift allowed in such a case?* (Kulcsár 1967:40). In this respect, however, the fact that the criminal judgement of this type of act has also changed, as in 1965 it was classified as a criminal offence, but it was no longer so in 2018 gives rise to a particularly interesting comparison.³¹

In 1965, nearly eight-tenths (78 percent) of those surveyed knew (correctly at the time) that it was a criminal offence to give a gift for administration afterwards. By 2018, the proportion of

²¹ $\exp(B)=0.776$

²² $\exp(B)=0.623$

²³ $\exp(B)=0.980$

²⁴ Nagelkerke $R^2=0,673$

²⁵ $\exp(B)=45.138$

²⁶ $\exp(B)=11.103$

²⁷ $\exp(B)=0.886$

²⁸ $\exp(B)=1.642$

²⁹ $\exp(B)=2.510$

³⁰ Kulcsár did not ask a question about the respondent's personal judgement.

³¹ Cf. title 2.1 and title 2.3.

those who think so has almost halved. Even 40 years of the population know, in accordance with the previous legislation (erroneously) this constitutes a criminal offence. However, the majority (58 percent) – in accordance with the new regulations – already know that presenting a gift subsequently does not constitute a criminal offence.

However, it would be premature to conclude from this that the change in legal consciousness would result from the knowledge of the regulations in force since 2013 onwards. Scilicet for, out of this 58 percent, 48 percent gave the same (schematic) answer to presenting a gift in advance or subsequently: is not criminalised. That is, currently 48 percent of respondents mistakenly think that presenting a gift to an official either subsequently or simultaneously is not a criminal offence.

Table 16

Assessment of the lawfulness of active bribery of public officials in 1965 (Kulcsár 1967: Tables 53 and 66) and 2018 (percentage)

	1965	2018.
	P.V. receives a housing allocation. He sends a watch to the public official out of gratitude. Is presenting a gift allowed in such a case?	Someone presents a gift worth HUF 30,000 to the clerk <u>after</u> he or she received the permission to run a buffet at a government office. Is it criminalised?
is criminalised	78	40
is not criminalised	17	58
does not know	5	2

8. CONCLUSION

8.1. SUMMARY OF RESULTS

With regard to active bribery of public officials, the level of legal knowledge of the Hungarian population is not really high on the aggregate. Very few (11 percent of the total sample) know correctly that presenting a gift simultaneously with applying for permission is criminalisable, while giving the benefit subsequently (if the purpose of further influencing is not present) is no longer that. In contrast, nearly half of those surveyed (48 percent) know that an amount of money given to a public official (if it is not intended to induce a breach of duty) is not a criminal offense in the cases of giving it in advance or subsequently. The other large group, more than a third of the respondents (37 percent), believe that these acts are criminal offences (regardless of the time and purpose of giving the advantage).

However, the willingness of Hungarian society to criminalise is high even in the case of the active bribery of public officials. Two-thirds of respondents (63 percent) would also criminalise presenting a gift in advance or subsequently if they are addressed to an official acting or completing the case. A significant proportion of them therefore do not agree with the

current legislation, according to which presenting a gift simultaneously does not constitute a criminal offence.

The opinion of two-thirds of the population (67 percent) agrees with what they consider to be regulation. Those who have a difference of knowledge and opinion would clearly criminalise: the proportion of those who say that active the bribery of public officials in advance or subsequently is not criminalised currently is just three-tenths as that of those who are of the opinion that it should be criminalised.

However, a significant number of those who consider it right to penalise presenting a gift before the official administration are uninformed, i.e. they (mistakenly) believe that it does not constitute a criminal offence under our current law. In contrast, nearly one-third of the population (30 percent) is critical and also informed in terms of presenting a gift subsequently the official administration. Consequently, they consciously want to criminalise this type of act, that is, by being aware of it: it is not a criminal offence at the moment.

In 1965, nearly eight-tenths (78 percent) of those surveyed knew (correctly at the time) that it was a criminal offence to give a gift for administration afterwards. By 2018, the proportion of those with such knowledge has nearly halved, with the majority (58 per cent) knowing (now also correctly) that presenting a gift subsequently does not constitute a criminal offence. However, this is presumably not primarily due to the knowledge of the change in the legal regulations in 2013: currently 48 percent of respondents still mistakenly think that presenting a gift to a public official either subsequently or simultaneously does not constitute a criminal offence.

8.2. VERIFICATION OF HYPOTHESES

Our hypotheses were only partially verified:

Firstly: The average person also has fragmentary knowledge about the legal regulation of active bribery. However, this is partly due to the fact that the respondents, in comparison to the differentiation of the legal regulation, usually have schematic knowledge on the subject: according to most of them presenting the public official with a gift is either criminalised in all or none of the cases.

Secondly: We practically have not been able to relate the knowledge of regulations to any variable which reflects the socio-economic situation. Knowledge about the criminalization of active bribery was much more influenced by respondents' opinions than by socio-demographic factors.

Thirdly: 3. If we look at legal knowledge in relation to the regulation of active bribery of public officials as a whole, there are more than three times as many respondents whose answers reflect the old regulation (37 per cent) than those who reflect the new one (11 per cent). However, this was not necessarily due to actual knowledge of the older regulation, since the proportion of those who believe that neither type of act is punishable is even higher, at 48 percent, and this does not correspond to any itemized law.

However, it works expressly against the hypotheses that the novelty of official bribery regulation is rightly known to more people (58 per cent) than its unchanged element (47 per cent). However, this is explained again by the schematic nature of the responses, since four-fifths of those whose responses reflected regulatory novelty also said (erroneously) that the other situation would not be punished.

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Abstract

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The criminalisation of active bribery of public officials – knowledge and opinions

One of the objectives of the three-year project ‘*Novelties of Criminal Law in Legal Consciousness*’ was to measure the knowledge and opinion of everyday people toward criminal law including regulatory novelties. In this paper, the authors analyse the responses to questions related to active bribery of public officials. Based on these, it may be ascertained that the average person has a fragmented knowledge even about this sector of criminal law. However, this is partly due to the fact that the respondents - compared to the differentiation of the legal regulation - usually have schematic knowledge on the topic. It was not substantiated, however, that this knowledge is considerably affected by socio-economic factors or by media consumption. The answers given to the questions about knowledge were primarily influenced by the opinions of the respondents in relation to criminalisation. The knowledge of people reflected more the regulation in force previously than the current one. However, this was not necessarily due to actual knowledge of the older regulation, but rather to the fact that it was more in line with respondents insensitivity to legal distinctions.

Keywords: novelties, criminal law, legal consciousness, survey, official bribery