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A Special Professional Authority of Cartel Supervision in Hungary: the Cartel Committee¹
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Abstract:

The Hungarian Cartel Act of 1930 regulated the cartel supervisory authorities, with the primary task of making sure that the operations of cartels were on the right path in order to protect public interests and public well-being. Cartels should provide customers with public needs goods at an affordable price. The government of Hungary wished to ensure this by creating cartel supervisory authorities in cartel matters. Amongst the specialized cartel supervisory authorities, one must emphasize the Cartel Committee, with its primary task of establishing whether or not the agreements formed by cooperating companies contain cartel-like competition-limiting clauses. In my essay, I wish to describe the establishment, the organisation and the practices of the Hungarian Cartel Committee, based on the one of the most important archival sources related to the bakery cartel.

Keywords: cartel law, Hungary, Cartel Committee, cartel supervisory authorities, bakery cartel, archives sources

The reasoning of the Cartel Act reasoned that the operation of cartels affects a wide range of society, especially those working in industrial areas. Lawsuits against cartels could concern both cartel members and people in connection to them, therefore the legal action affected the economic branch in question as a whole. This is why the law-maker might have thought that unlike in general, a cartel case might take more circumspection and expertise to get to the bottom of. In every case, the ministry had to act upon the notion of protecting public interests. This is why the need to establish a national authority with the primary task of drafting expert opinions arose.³

The formation of the Cartel Committee was also proposed on the 1930 conference of the Interparliamental Union, where it was stated that all nations should create a Cartel Committee separate from the government, representing both consumers and employers, in order to conduct examinations, and make the results public.

We can find authorities with similar scopes of duties in European cartel law, for example, in the Bulgarian law accepted on 16th December, 1931 on the inspection of cartel and monopoly prices, and in the Act No. 141 that was accepted in Czechoslovakia on 12th July, 1933 on cartels and private monopolies. According to the act on the examination of monopolistic companies and associations that was accepted on 16th July, 1925, Sweden established a separate authority. Contrary to this, Spain had a separate committee for this specific task according to the edict ratified on 3rd December, 1926 (that regulated gross national product, on the topic of establishing a committee), just like in Denmark, specified in the act accepted on 28th April, 1931. In Norway, the supervisory body was organised as a separate council (monitoring council and monitoring office), according to the act accepted on

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³ DOBROVICS, KÁROLY, *A kartellek helyzete és működése Magyarországon*. [The Situation and Operation of Cartels in Hungary] Hellas Print Ltd., Budapest, 1934. Pages 131-132. STIPTA, ISTVÁN, *A gazdasági versenyt szabályozó megállapodásokról szóló 1931. évi XX. tc. hazai előzményei*. [Domestic Predecessors of the 20th Act of 1931 on the Agreements Regulating Fair Trade], *Versenytükrök*, [Competition Mirror], special issue, Volume XII. 2016. Pages 53-63.

12th March, 1926 (on monitoring competition limitations and price sharking), in Belgium, according to the royal edict accepted on 13th January, 1935 (on the institutional economic regulation of production and circulation), the permanent committee on economic council in Holland, according to the act accepted on 24th May, 1935 (on the mandatory and non-mandatory registration of entrepreneurial contract), and in Romania, in the cartel edict that was accepted on 8th May, 1937.⁴

The president and the deputy of the Cartel Committee were appointed by the head of the government in accordance to the suggestions of the government for three years. As for the members, the minister of trade provided suggestions from the representatives of the manufacturing industry, smaller industries, trade and agriculture. The other two members of the Committee were suggested by the Home Secretary. The members were also appointed for three years, and could be nominated again. Not only the members, but even the president could be relieved of their duty, even before their tenure was over. Why is this so vital to examine? This regulation endangered the independent actions and free speech of the Committee. This meant nothing more and nothing less than the government's chance to validate its political interests, especially in the field of commercial policies. This system resulted in a dependant relationship between the government and the Committee, and by looking at it from another perspective, it made much easier for the government to validate its new economic policies. Therefore, the opinion of Károly Dobrovics is valid, according to which the "Cartel Committee [...] is not an adjudicating judicial forum, but a consultant institution, that has to accommodate to the controlling economic policies of the time."⁵

The operation of the Cartel Committee was mainly regulated by the Cartel Act and the M. E. edict No. 5382/1931.⁶ The minister of trade could pronounce his opinion on his own, or per the request of a different authority, if a question arose on the implementation of the Cartel Act. The former was stated by the edict, interpreting the regulations of the Cartel Act (Paragraph No. 5) in an extensive manner, which was significant, because henceforth the Committee was granted a more pronounced role in cartel lawsuits, despite the fact that it would have had administrative rights. The practical application of the viewpoint of the committee expressed in its opinion meant that the government significantly appeared amongst its members.⁷

The president of the Committee appointed a member to be the presenter to a specific case. The sessions of the Committee were summoned by either the president or his deputy. In case the latter was unavailable, the minister appointed the individual who temporarily fulfilled the presidential duties.⁸

Per the wishes of the minister of trade, the session of the Cartel Committee had to be summoned at the specified time, and the case relegated in from of the Committee had to be put on trial. The president established the items on the agenda of the session.⁹

⁴ DOBROVICS, KÁROLY & KÓHÁZI, ENDRE, *Kartell, árelemzés, külföldi törvények*. [Cartel Price Analysis, Foreign Laws] Monopol Publishing House, Budapest, 1938. Pages 57-201. Also: SZILÁGYI, PÁL & TÓTH, ANDRÁS, *A kartellszabályozás történeti fejlődése*. [The Historical Development of Cartel Regulation] Versenytükr, [Competition Mirror] special issue, Volume XII. 2016. Pages 4-13.

⁵ DOBROVICS, 1934. Page 133.

⁶ According to Decree No. 5382/1931. M. E. of the H. Roy. Ministry on the organisation and operation of the Cartel Committee.

⁷ DOBROVICS, 1934. Page 135.

⁸ STIPTA, ISTVÁN: *Az első magyar karteltörvény (1931. évi XX. tc.) dogmatikai jellemzői*. [The Dogmatic Characteristics of the First Hungarian Cartel Law (the 20th Act of the year 1931) In: Homoki-Nagy Mária (editor.): FORVM, Volume V. Issue 1. 121., SZABÓ, ISTVÁN, *A kartellfelügyelet szervezete és hatásköre az 1931. XX. törvénycikk nyomán*, [The Organisation and Authority of Cartel Supervision According to the 20th Act of 1931] Versenytükr, [Competition Mirror] special issue No. 2, (12) 2016. Pages 70-72.

⁹ SZABÓ, 2016. Pages 72-74.

The members of the Committee, the assigned ministers and the royal legal director had to receive a notification on the assembly of the sessions by describing the agenda at least on the previous day.

After the session of the Committee was called to open, the presenter described both the cases and his opinion. After this, the members of the Committee, the assigned ministers and the royal legal director could express their opinions.

After the trial ended, the Committee made its decision. Only the members of the Committee had voting rights, the envoys of the ministry and the legal directorate only had consulting and deliverance rights. In case of a tie, the accepted opinion that became a part of the decision was the one the president supported. Decision-making needed the presence of at least five members.¹⁰ Following this, the president sent the Committee's decision to the minister of trade and the authorities that requested the opinion.

To protect economic interests, the sessions were held behind closed doors. Outsiders were not allowed to receive information on the agenda or the course of the sessions. The members of the committee were under the same NDA rules as other clerks, meaning that their actions fell under the effects of Paragraph No. 479 of the criminal code in case of a leak.¹¹

Minutes were an obligatory part of any session of the Committee, which contained the description of the documents and the course of the legal action, not to mention the accepted decisions. The minutes were put down by an appointed official of the ministry, and were authenticated by the signature of the president, the notary and two assigned members.

The easiest method to follow the course of the legal action is by referring to the surviving minutes of the Cartel Committee available in the Hungarian National Archives.

The series of topics on the 24th February, 1933 session of the Cartel Committee were as follows: Ferenc Löwinger crude oil salesman's complaint against the dumping of the crude oil cartel and an inspection against the crude oil cartel; a complaint against the timber cartel of Kecskemét; the complaint of Gyula Bakk and the farmers of the Győr area against the scrap metal cartel and the case of the milk cartel of Sárvár.¹²

According to the records of the session, namely the minutes the Council accepted the presenters' suggestions. In all of the aforementioned cases, the debate was over the institution of legal action against the cartels, to be more precise, examining crude oil prices, disbanding the timber cartel of Kecskemét, examining the scrap metal cartel and disbanding the milk cartel.¹³

As the final point of the series of topics, the president of the Committee, Béla Ivády made a suggestion on the operation program of the Cartel Committee. The reason behind this was that the minister of trade expressed his opinion on the operation of the committee in his 1932 transcript (66.210/1932). The "price of the (so-called) manufactured goods circulated at a set price inflated, even in the midst of a general price reduction, however, the non-cartelled ones reduced, therefore unhealthy price formation can be presupposed at every presented

¹⁰ DOBROVICS, 1934. Page 131.

¹¹ DOBROVICS, 1934. Page 131. Paragraph No. 479 of the 5th Act of 1878. Any functionary who shows a third party or distributes any official Discussion, commission, report or any document they officially received, knowing that its contents are an official secret capable to harm the state or private individuals shall receive imprisonment up to a year.

¹² The National Archives of the Hungarian National Archives, the Archives of the Ministry of Agriculture, general documents, (henceforth: MNL. K-184.) 1932. Batch number: 41. Radix: 51140. Registry book number: 88298., MNL. K-184. 1932. Batch number: 41. Radix: 51140. Registry book number: 53726.

¹³ In the case of the raw leather purchasing, or so-called "leather cartel", it was found out that it endangered public interests. MNL. K-184. 1932. Batch number: 41. Radix: 51140. Registry book number: 53726. Even in the case of the fruit syndicate of Kecskemét, the Committee determined that it was against Paragraph No. 6 of the Cartel Act. It reached the same verdict in the cases of the crude oil, petrol and sugar merchants' cartels. MNL. K-184. 1932. Batch number: 41. Radix: 51140. Registry book number: 88298., MNL. K-184. 1932. Batch number: 41. Radix:31105. Registry book number: 31405.

cartel.”¹⁴ Therefore, the minister suggested that the only way to effectively enforce the law is by having the Cartel Committee examine every cartel *ex officio* on the matter of price formation. “This is why the prime cost and operational outcomes of every important cartel should be examined *ex officio*, and if, according to the examination, a higher than usual price can be stated, the most imperious of lawsuits should be instituted against such a cartel, even if there is no charge against it.”¹⁵ This would have widened the scope of *ex officio* actions of the Committee, because they usually initiated requesting an opinion from the Committee according to the complaint of an interested party.

In the following, I wish to elaborate upon the minutes of another meeting, an extremely significant one on the operation of the Cartel Committee. On its 20th October, 1933 session, the Committee discussed the suggestion of the Ministry of Agriculture in connection to the legal action against cartels containing isolation. In connection to the case, the president asked Károly Dobrovics, the secretary of the ministry to summarize past actions. Some cases reached the Cartel Committee (for example, the petroleum and liquid soluble glass) in connection to which they established clauses against non-paying customers in the cartel contracts. The minister of agriculture reached out to the minister of trade in connection to contracts that contained clauses of isolation and exclusion. Some members of the Cartel Committee (for example, Miksa Fenyő), due to the unpreparedness of the legal practice, suggested that the Committee should not make any statement but rather suspend the decision. The Cartel Committee examined case by case which matters fall under Paragraph No. 6 of the Cartel Act. They brought up Paragraph No. 9 of the German Cartel Act as an example. The minister of agriculture suggested that the Hungarian cartel law should be modified according to Paragraph No. 9 of the German cartel act. According to the Hungarian law, public interests are in the forefront every case, and this is what the Committee primarily examines, and grievances of private interests are always secondary.

According to Miksa Fenyő’s opinion, the Cartel Committee proceeded correctly in connection to specific cases to protect the attacked parties. He described the severity of the situation through the following ironic example. “I know that on one day, His Excellency, the minister of agriculture spotted a milk merchant in a doorway who sold his milk cheaper than allowed. Therefore the merchant was locked up. If boycott is practiced at such a rate on the other side, then the esteemed minister of agriculture shall rightfully say that economic life is brutalised to its fullest.”¹⁶

Despite this, most of the committee members supported that the Committee should embrace a statement on principle. According to Farkas Heller, the vice president of the Committee, apart from the examination of individual cases, the Committee should take matters of principle into consideration, “to serve as measures [...] for specific cases.”¹⁷ This is especially significant due to the fact that the available tools of enforcement could interfere with other legal directions. Such as the industry act (12th Act of 1922) which stated that everyone is free to pursue an industry in the country. Even the reasoning of the 5th Act of 1923 on banning unfair trade established that “categorical imperatives of morals should be implemented even in conflicts on the fields of trade and industry, if we do not want to dump selfishness all over sales and if we do not want to exterminate the last scrap of belief in fair prosperity on the field of commerce.”¹⁸

¹⁴ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

¹⁵ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

¹⁶ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

¹⁷ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

¹⁸ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

According to my humble opinion, the assessment of the problem is far more complex than simply examining the industry act and the mandates of the act on unfair trade and cartels, but we should turn to judicial practices for help, as well.

In its decree No. 4936/1927, the Curia stated that a clause that compromises competition is against good morals, it is null and void. "According to financial laws, free practice of the industry, especially in cases of business transfer and not with unreasonably long time constraints, the participants shall limit via a contract with the caveat that if it severely, unethically or overly impedes another parties' occupation, even if for its own economic interests, it shall be considered morally harmful, therefore null and void."¹⁹

Going back to the documents of the Cartel Committee, Farkas Heller stated that he supports the Committee's statement of principle, and should say that exclusion and boycott should not be ruled out of cartel contracts in general, but only in cases where their aim is to destroy the participants' livelihoods. In other words, the vice president made a legally sound argument that the Cartel Committee does not possess legislative powers, but could only express its opinion in a moral declaration which turn affect business life towards a rightful path.

Antal Seryl, vice attorney general of the Treasury also expressed his opinion on the topic, for the legal directorate had an important role to play in the execution of the law. According to his point of view, there is no such a cartel contract that did not contain an edict of exclusion of boycott, implicitly or otherwise. His opinion states that such a statement of principle should be made that is acceptable by Hungarian courts.

Apart from the acceptance of the statement of principle importance, the Committee deemed the recommendation of principle to be published due to its preventative nature. Károly Balkányi (committee member) deemed this vital for a number of contemporary press articles of the time did not paint a flattering picture on the operation of the Committee.²⁰ In Issue No. 1 of the first volume of Cartel Survey, Baron Zsigmond Perényi (the president of the Cartel Committee) expressed his opinion on the operation of the Cartel Committee.

According to the statement of principle No. 1 of the Cartel Committee on the topic of business isolation, boycott or exclusion stated the following. "Any exclusion, isolation or boycott from business contacts is an extremely pointy weapon of industrial struggle, which greatly affects not only an individual's business success, but also his livelihood. Therefore the Cartel Committee as per Paragraph No. 6 of the 20th Act of 1931, only deems this method acceptable in view of public economy and public well-being, if there is an extremely severe and valid reason in view of public interests of its appliance. The Cartel Committee deemed it against the interests of public economy and public well-being if the reason behind the isolation reached beyond economically reasonable drawbacks for the concerned party, but is enough to destroy its economic existence. Whether or not this danger is present, the Committee wishes to examine every case separately for the time being."²¹

On its 21st September, 1934 session, the Cartel Committee discussed the inquiry against the bakers' cartel. A thought arose during the session, namely that just like with the price of brown bread at that time, 22 Fillérs, it would have been desirable to establish a lower price for a type of bread rolls, as well. This would have suited agricultural interests, as well, since wheat flour would have reached even more national consumers.

¹⁹ IV. P. 4936/1927. Curia. In: MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488. On cartel contracts: HOMOKI-NAGY, MÁRIA, *Megjegyzések a kartellmagánjog történetéhez*. [Comments on the History of Cartel Private Law] Versenytükrök, [Competition Mirror] special issue, Volume XII. 2016. Pages 45-52.

²⁰ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

²¹ MNL. K-184. 1932. Batch number: 41. Radix: 31960, Registry book number: 92488.

The contract of the Industry Protection Agreement of Bakers, also known as bakers' cartel was written down on 25th January, 1934, and was presented on 8th February.²² However, the agreement only came into effect on 26th February, and as to the pastry, only on 8th March, not to mention only on 29th March as to bread. The ministry presented the cartel contract to the Committee on its next session on 28th June. The Committee decided that the contract requires no further consideration, since the Price formation Committee kept an ever vigilant eye on bread prices.²³

The agreement was valid for our nation's capital, Budapest, and those areas which fell under the same regulations as Budapest as to clocking in and transport. However, the organisation of the bakers' cartel reached beyond these areas, and the professional bakers of other villages connected to Budapest (for example, Budakeszi and Kerepes) also joined the organisation. The point of the cartel contract was to form a unified price and establish conditions, not to mention ensuring consumer protection. On the matter of consumer protection, the contract contained strict clauses, and this was the most prevalent even in the operation of the agreement. "Luring" a customer from one member to another could only be done with the explicit permission of the consumer protection committee of the agreement, and only after the consumer protection committee's approval could another member attend to the customer's needs. The member that lost the customer received ample compensation, and if the peaceful resolution was unsuccessful, a court of arbitration judged the amount of the compensation.

The bakers' cartel organised a permanent court of arbitration that could mete out a penalty every time a contract was broken. The cartel was a relatively large operation, employed permanent inspectors who constantly checked upon the members – both on adhering to prices and customer protection.

The number of members of the agreement was around 600 in September, 1934. Due to the strict operation of the court of arbitration and the inspection in general, the members had a number of grievances, however, these were resolved peacefully.

One of the purposes of the agreement was industry rationalisation, which was attempted by buying up the shops in "weak" hands, and dissolving them after reaching an agreement with the creditors. According to the statement of the leaders of the agreement, they wished to downsize the number of bakeries in Budapest by at least 70 or 80 shops. The agreement unified wheat-acquisition, agreed with the mills, and the mills provided half a per cent as recompense for the bakers who granted this half a per cent to the agreement. Basically, this gave mills a chance to get rid of lending risks, for their demands were met due to the agreement. The agreement also provided both financial support and flour to smaller bakers.²⁴

²² Recommended readings on the topic: *Riadalom: felugrottak a zöldségárak!*, [Terror! Vegetable Prices on the Rise!] 8 Órai Ujság, [Newspaper at 8] (22) 3rd September, 1936. Page 3., *A bíróság a kereskedelmi minisztériumhoz fordul a pékkartel ügyében*, [The Court Turns to the Ministry of Trade in the Case of the Bakers' Cartel] Budapesti Hírlap, [Budapest News] (55) 7th August, 1935. Page. 6., *A gazdavédelmi javaslat csak előőrse a reformoknak*, [The Farmer Protection Proposal is Only the Vanguard of Reforms] Budapesti Hírlap, [Budapest News] (55) 28th October, 1935. Page 4., *Hírek a gazdaságból*, [Economic News] Budapesti Hírlap, [Budapest News] (53) 20th October, 1933. Page 4., *Megdöbbenő adatok, a bíróság előtt a pékkartel defenzív osztályának működéséről*, [Shocking Data Reaches the Court on the Operation of the Department of Defence of the Bakers' Cartel] Az Est, [The Night] (27) 26th September, 1936. Page 3., SZABÓ, ISTVÁN, *Jogesetek az első magyar kartellitörvény gyakorlatából (1931)*, [Legal Precedents from the Practice of Hungary's First Cartel Act] in: Homicskó Árpád Olivér – Szuchy Róbert (szerk.): *Studia in honorem Péter Miskolczi-Bodnár*: 60, Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar, [Károli Gáspár University of the Reformed Church in Hungary, Faculty of Law] Budapest, 2017. Pages 489-502. Further material on the bakers' cartel: MNL. K-184. 1934. Registry book number: 71732.

²³ According to the No. 1934/71723 Minutes of the Cartel Committee.

²⁴ According to the No. 1934/71723 Minutes of the Cartel Committee.

The list of aims of the cartel contract also contained agreement with the workers, and began negotiations in order to reach a collective agreement with the employees.

As for the economic operation of the bakers' cartel, according to the minutes of the 9th August session of the great-committee of the agreement, they established a non-accountable provisional fund of 40 000 Pengős which the board of directors had at its disposal. They received a monthly amount of 5-6 000 Pengős from membership fees, complemented by the half per cent of recompense from the mills which, taking the 1 000 train carriages of monthly flour consumption, came out at around 15 000 Pengős of monthly income.²⁵

During its September 1934 session, an incident at Kispest on 27th August, 1934 also received the Cartel Committee's attention, for it fundamentally questioned the validity of the operations and the methods of the bakers' cartel.

Mrs. Gyula Balázsi, a grocer filed a document of complaint to the minister of trade. According to the statement, she attempted to acquire pastries under cartel prices several times, which she succeeded at several bakers in Budapest. Later on – according to her testimony – associates of the cartel threatened her, and demanded the sales to be at cartel prices, and later on, her suppliers in Budapest ceased their supplies. After this, the complainant purchased her pastries from a baker of Kispest, also a member of the agreement for 3 Fillérs. Yet in the morning of 27 August, when her employee attempted to carry the pastries from Kispest, four people entered the shop, one of the a baker of Kispest, the other of Budapest, the third an official of the Budapest Bakers Trade Association, and took the pastries by force, not to mention they assaulted her employee and threw her out of the store. Later on, her supplier, the baker of Kispest compensated her for the price of the pastries.

After the grocer pressed charges, even the police began an investigation. The information gathered through the investigation corroborated the charges. According to the documents of the investigation, the Budapest Bakers Trade Association sent out the committee in order to check up on early deliveries. However, according to the enquiries of the investigation, the committee also called the baker of Kispest to terms for selling under the established cartel price.

In its defence, the bakers' cartel pointed out that the Trade Association sent out the committee in order to check up on the early deliveries, and denied any order calling for the use of excessive force. Such a thing must have been the delegates' individual action.

During its session on 21st September, 1934, the Cartel Committee decided that it will establish a separate committee to examine the emerged complaints about the Bakers Trade Association.

Apart from the specific complaint in question, a number of complaints arose about the fact that the pastries made from wheat flour are also more expensive, therefore no matter how much poorer customers wished to consume these types of pastries, they could not afford them. Therefore the Cartel Committee reached out to the royal minister of trade of Hungary to order the aforementioned committee and the Price Analysing Committee as well to examine and work out a type of bread roll that is also made of wheat flour, but would be affordable to poorer classes.

Now I wish to elaborate upon the defence of the representatives of the Bakers Trade Association, submitted in accordance to the complaint that served as the foundation of the inquiry against the bakers' cartel- The incident of the Kispest bakery occupied the headlines for weeks, such as "*The Siege of Cartel-Bakers on the Small Bakers and the Community*" or "*The Terror of the Bakers' Cartel on Cheap Pastries*". This press coverage did not paint a favourable picture of the bakers' cartel, therefore in order to prove its own rightness, the association filed a petition to the minister of trade in order to present their defence.

²⁵ According to the No. 1934/71723 Minutes of the Cartel Committee.

Most importantly, the complainants described the necessity of the cartel agreement's formation and the conditions of its establishment. According to their reasoning, an unavoidable force of economic necessity gave birth to their agreement. During the times of inflation after the war, a surge of new entrepreneurs flooded the baking industry, the number of industrialists at least doubled in the capital. In the meantime, the technology of the industry began its rapid development, not to mention that the machines that multiplied productive force became readily available. They assessed that due to the rapid increase of productive forces, the baking industry is basically experiencing a new industrial revolution. However, after the period of inflation passed, and a new era of deflation and scarcity arose, the consumption of bread and pastries reduced not only relatively, but absolutely, as well. This reduction only increased after the general economic depression of the thirties, especially after the bank closures. *"Specific baking factories got stuck between the grindstones of the market's overproduction and the reduction of consumptions wished to protect themselves from destruction using the tools of the grim, suffocating competition, and flooded the market with their products under cost prices in order to at least guarantee their factories' continuous operation. This resulted in the severe crisis of the baking industry."*²⁶

According to their reasoning, the number of factories did not decrease, on the contrary, the depression became general in other ways of business. Broken bakers were replaced by other entrepreneurs who escaped there from other branches, and shortly after also became bankrupt, but in the meantime, continued harming the industry, and pulled down the rest of the still alive and well factories with their unforgiving and desperate competition. According to the statistics of the bakers' cartel, a quarter of the factories in the nation's capital changed hands annually.

In order to solve the depression, the Capitol of Budapest's Bakers Trade Association turned to the predecessor of the minister of trade with a unified and orderly plan back in March 1930 in its Petition No. 141.263/1931. K.M. in order to rationalize baking industry and to stabilize correct price formation. The suggestion wished the determination of both minimal and maximal standard prices concerning the standard products of the baking industry, via a permanent price formation committee consisting of all the interested parties from manufacturers to consumers. The motion stemmed from the viewpoint of public interest that since bread is one of the basic needs of everyday human life, the balanced and publicly accepted, correct price stipulation of bread would fundamentally contribute to the balanced development of economic life, and also to the solidification of the baking industry. However, this motion did not receive any substantive action, meanwhile the new trade association law got in the way of the baking industry's efforts to solve its own economic depression via its own legally established society, the trade association. The method was provided by the 20th Act of 1931 on the agreements regulating economic competition, with its reasoning containing the ministerial statement of *"due to the enormous number of twists rooting in outside conditions, the authority of the state cannot go without any sort of organizing societal power, and should accept the clustering of entrepreneurs that aids the more balanced progression of economic life with understanding."*²⁷

The complainants explained that in its own battle for self-preservation, the baking industry is forced to accept the legal methods provided by the Cartel Act. *"Therefore, the*

²⁶ Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934.

²⁷ Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934; submission No. 363/1911 of the H. Roy. Curia referred to the same reasoning, according to which it is not against public morals if professionals of the same industry form a coalition in order to establish a price minimum in order to avert harmful effects of unhealthy competition and also by keeping distribution prices in mind.

Trade Association was established on 26th February, 1934 due to necessitating conditions and the pressure of the masses of baking industrialists struggling for survival.”²⁸

The purpose of the Bakers Trade Association was to ensure that the competition of the members of the baking industry does not get out of hand in order to protect public interests and by strictly obeying contemporary legal mandates, therefore stopping the decline of professional industrialists and ensure their respectable livelihoods. It incorporated about 600 small and middle-level baking industry companies of Budapest and the surrounding about 20 municipalities. Many large-scale factories of the Budapest Bakers Trade Association's was not a member of the cartel, although about half of the members of the Association that joined said agreement was a baking industry professional of the area. We are not talking about two institutions that were one and the same, they did not overlap, and both of them had their separate and distinct legal scope of duties that were managed by their own independently separate organisations. The Association managed their affairs via a chief committee of about 60 members via a board of directors with 18 members on a monthly basis. Printed documents were used to notify the members of the decrees.

According to the representatives of the Bakers Trade Association, the Association was not an industrial organisation established with the purpose of profiteering. *“Through the heaving billows of such an unparalleled industrial revolution, the Association attempted to rescue those smaller scale industrial individuals who, with their family members and employees, would make the masses of people without livelihoods even more of a liability.”²⁹*

In their statement, the complained underlined that transparent operation was the Agreement's aim from the beginning, therefore anybody had access to price calculation, and the prices were always determined by taking the strictest examinations of the Price Analysing Committee into account and after the preliminary consent of the minister of trade. According to Paragraph No. 46 of the cartel contract, the two factors they took into account with the greatest consideration were public needs and the interests of bakery as a profession. Before price formation, the price formation committee always attempted to get in contact with supervisory authorities, and did everything in its power to determine the price with their input in mind, therefore ensuring the livelihood of professional tradesmen, and also not hurting the lawful interests of public consumption.

After this, the representatives of the bakers' cartel expressed their viewpoints in connection to the price formation of bread. On this topic, they referred to the fact that they conducted their price examination for months and under public scrutiny, and this resulted in raising the price of half whole wheat bread from 28 Fillérs to 32, and then to 34 which, according to their assessment, was not profitable even back then due to the skyrocketing flour prices. However, quite the contrary happened to the price of primary brown bread, for the minister of trade lowered and maximised the price from 25 Fillérs to 22 Fillérs by regulation for the sake of poorer costumers.

The Agreement did not force anything on distributors. According to Paragraph No. 77 of the cartel contract, during the actions of the customer protection committee, it strived to act in unison with the customer, however, if the customer tried to purchase their basic needs at another member, the customer protection committee did not have the power to forbid the customer to do so. The only thing the organisation could do is to obligate the new supplier member to pay a temporary compensation of 5 per cent to the former supplier member, but even this could be set aside if the customer's fall away way caused by some serious malpractice of the former supplier member.

²⁸ Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934.

²⁹ Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934.

The representatives of the Bakers Trade Association deemed the presentation of the aforementioned necessary in order to make the statements of the petition of complaint verifiable and appraisable.

According to the representatives of the Agreement, it is not the complainant who deserves compassion, on the contrary, she is the attacker who attempted to gain unwarranted financial advantages via unlawful methods, by attacking the basic foundations of the industry and crippling the baking industry tradesmen of the area. Their opinion stated that even her statement that the citizens of Kálvária Square and the surrounding area are mostly the poorest of the working class. They claimed this to be untrue, for the population of Kálvária Square and the surrounding area is just as mixed as the rest of our nation's capital.

According to the standpoint of the complained, there was another untrue statement, namely that in general, the wholesale price of pastries in Budapest was 3 Fillérs in general, therefore the retail price was 3 and a half Fillérs, and this situation lasted all the way to May 1934. However, they agreed that before this, pastries in Budapest were available not only for 3 and a half Fillérs, but in fact, for 2 and a half Fillérs, or even cheaper. They also implied that as the complainant herself put it, when she sold the pastries at the same price as the rest of the retailers, and not lower than the generally accepted prices, the turnover of her other goods also decreased, saying "*it is common knowledge that customers do not split their shopping, and if they cannot find none of the sought product in a shop, they will not purchase anything else there.*"³⁰

Hearing this, the complained explained that the Curia unifies such business practices under the concept of unfair competition. The complainant who, by her own admission, is not a professional baker but a grocer dealing with all sorts of provisions, did not have the right to pep up her goods turnover by undercutting the prices of bakery products. "*As the H. Roy. Curia stated, the fairness of business competition is irreconcilable with the concept of selling a product at such an unreasonably low price that it endangers the economic survival of the effected competition. According to the statement of the Roy. Curia, when a company continuously circulates products of a different industry with no profit in order to gain extra profit otherwise unavailable via ordinary competition practices in its actual business area oversteps the boundaries of the agreeable business competition*"³¹

In their petition, the complained presented that the suggestion of the complainant on the role of Secretary Vegel of the Trade Association was also falsified. The aforementioned did not entrust with any type of action. According to the information received from the secretary of the Trade Association, on the specified day he, according to his office duties, he ensured that the law forbidding earlier opening is observed, not only in front of the store in question, but also in front of others, however, he denied exchanging even a single word with the complainant, for he did not even visit the complainant's store. "*All in all, the complainant's statement on this topic is a transparent arrogance, for in order to determine which baking industry tradesmen supply the complainant, one does not need to interrogate the complainant on this matter. The supply chain of the baking industry is not an industrial secret, on the contrary, in order to respect the fairly acquired clientele, it is specifically registered in our agreement.*"³²

The complainant knew and accepted in her complaint that her supplying companies breached contract by continuously delivering supplies to the complainant. The complainant, also affirmed that for that specific reason she made a "secret agreement" these contract-breaching treaty members.

³⁰ Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934.

³¹ Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934.

³² Submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10 September, 1934.

The representatives of the Agreement made their statement on the events happened at the store of Kispest baker József Károlyi after these. They stated that they do not have any direct knowledge on what transpired there. The complainant appealed to János Kleisz who, with one of the envoys of the working group at Kispest, conducted his inspection on whether or not the law on earlier opening is observed at the time of the event. They stated that János Kleisz is above reproach in every sense of the word, he is a serious professional and family man, not to mention an official of the ministry. According to Kleisz, the events at the Kispest bakery could simply be summarized as that during the inspection, they witnessed that József Károlyi began the delivery of pastries as soon as a quarter past 7, therefore they entered the store and warned the mother of József Károlyi that the delivery of pastries cannot begin before a quarter to 8. Even then, two grocery employees were in the store who attempted to pack the pastries into basket-trunks to deliver them before a quarter past 7, reasoning that the products were ordered and packed, therefore it can be delivered, not to mention that the payment was already on the counter. This is when József Károlyi entered the store, and could only hear the last sentence. János Kleisz stated that he is willing to pay the price of the pastries, but objected the delivery before a quarter to 8, for it is against the law, and because of this, legal action has to be taken against Károlyi. Hearing this, József Károlyi ordered his mother not to accept the grocer's money. Therefore the grocer's employees retrieved the payment from the counter, and János Kleisz paid for the pastries from his own pocket. However, the employees still insisted on the immediate delivery of the pastries. Yet János Kleisz demanded that the pastries are his, for he paid for them, therefore the products belong to him now. As a closing statement, the representatives of the Agreement presented that they had no knowledge on the police cases mentioned in the petition of the complainant.³³

The Cartel Committee, lead by Béla Ivándy reached a decision on 9th November, and determined the outcome of the case. During the session, the committee focused its concerns exclusively on the bakers' agreement, and made a decision in connection to this. The committee accepted the subcommittee's suggestion of not allowing the members of the trade associations to organise any sort of cartel. However, the Budapest Chamber of Trade and Industry took a completely different policy on this suggestion.

In the matters of bread and pastries, Dezső Laky LLD, vice president of the Price Analysing Committee submitted his report and proposed that for the wide range of less than well-off customers, the price of brown bread maximised at 22 Fillérs should remain unchanged, and the price of pastries should be 4 and a half Fillérs apiece, meaning a 10 per cent price reduction. In just a handful of days after the meeting, bakers immediately put the reduced prices in force. The Cartel Committee acknowledged the submission.³⁴

After this, the committee discussed the report of the delegated three-member subcommittee chaired by Farkas Heller submitted on the operation of the bakers' cartel. In order to ensure the eliminate misconducts and enforce public interests, the committee made the following suggestions:

*“The criminal action currently in progress should be concerned about the retribution of the Kispest violence, but apart from this, any office-holder conduction actions against public interests should be removed from office, and if they are also the employees of the trade association, should face disciplinary action. Employees of the trade association should not be the employees of the baking industry's protection agreement, any cartel regulations and verdicts of courts of arbitrations should be presented immediately and closely observed in order to stop the development of actions against the law and public interests.”*³⁵ The minister

³³ According to the submission No. 954/1934 of the Industry Protection Agreement of Bakers, submitted on 10th September, 1934.

³⁴ According to the 10th November, 1934 issue of the periodical Magyarország [Hungary].

³⁵ According to the 10th November, 1934 issue of the periodical Magyarország [Hungary].

of trade accepted the suggestion of the Cartel Committee, and arranged its immediate implementation.

The government created a supervisory organisation that had a significant effect on the operation of cartels. Even the Cartel Court could appeal to the Cartel Committee for its opinion, if it was deemed necessary. However, by recommending the aforementioned principle, the Cartel Committee in a sense developed this authority even further, for it wished to establish rules on a fundamental level in order to establish a unified legal practice for cartels. In order to create this legal unity, only the Cartel Court could act in cartel cases as the top ranking specialized court among the orderly courts organised within the framework of the Curia. However, in order to established a unified legal practice by taking this decree, it is undeniable that the Cartel Committee practiced a legal authority only matched by our upper-level courts, such as the Curia or the Administrative Court. The Cartel Committee also played a significant part in practice via its professional opinions on cartel matters. This is why it is vital to analyse the rest of the archival cases, among which the case of the Bakers Cartel stood out due to its social backlash. This is the reason why the Cartel Committee, alongside the Cartel Court could become one of the most influential participant of cartel cases in the 20th Century.