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Mit freundlichen Grüßen und freue ich mich auf weitere Zusammenarbeit.



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## Lawsuits on Cartel Presentation Omission After the 20<sup>th</sup> Act of 1931 Came Into Effect

Norbert Varga

### Abstract

In 20<sup>th</sup> century Hungary, the presentation and registration of cartel contracts were among the most vital factors in the legal operation of cartels. The Hungarian cartel act (the 20<sup>th</sup> Act of 1931) ordained the presentation of cartel contracts to the minister of trade. The operations of Hungarian cartel law can be reconstructed from judicial practices. However, the available memorials only contain the verdicts of courts of first and second instance, sources that contain the full memorials are rarities. Therefore the information found in the dispositional and reasoning segments of the verdicts shall provide assistance in the examination of the rules valid for material, but above all else, procedural law. My goal is not only to describe the rules of procedural law, but also legal practices based on archival sources in connection to presentation omission within the framework of this essay.

**Keywords:** *Hungarian cartel law history, cartel procedural law, fining procedures, presentational obligation, cartel supervision*

The purpose of the first Hungarian cartel law was to regulate the actions of the members of economic life between the world wars. The 20<sup>th</sup> Cartel Act of 1931 basically regulated cartel public law, meaning none other than the introduction of cartel supervisory authorities. The responsible minister had a prominent role amongst cartel supervisory authorities, for cartel contracts were presented to him. In 20<sup>th</sup> century Hungary, the presentation and registration of cartel contracts were among the most vital factors in the legal operation of cartels. The cartel law ordered the presentation of cartel contracts to the Hungarian royal minister of trade within fifteen days after signing, its omission resulted in sanctions. Apart from presentation, another factor of validity was setting the contract down.<sup>2</sup>

“Hungarian law [...] deemed presentation obligatory, and omission brought forward the legal ramification of disannulment, therefore with many agreements or edicts where the question arose whether it can be considered and agreement or edict with the power to “regulate economic competition” that had to be presented at the cartel office, its validity shall be questioned, as well.”<sup>3</sup> The cartel office (ministry) strived to broaden its duties, but in the meantime, had to keep in mind “not to interfere unnecessarily with the development of private economy, but to confine itself to – it there is even a need for the cartel office – only those matters which were referred to the office according to the specific laws”<sup>4</sup>

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<sup>2</sup> Magyar karteljog. Karteljog Tára, [Hungarian Cartel Law, Cartel Law Exhibit] 1933. Vol. III. Issue No. 2. p. 7. Vö: P. VI. 3932/1934. In: Magyar karteljog. Karteljog Tára, [Hungarian Cartel Law, Cartel Law Exhibit] 1935. Vol. V. Issue No. 1. pp. 4-6. See also: P. VI. 1158/1934/15. In: Magyar Karteljog Tára, [Hungarian Cartel Law Exhibit] 1935. Vol. V. Issue No. 2. p. 24.; SCHUSTER, RUDOLF, *A karteltörvény*. (1931:XX. t.-c.) [The Cartel Act (20<sup>th</sup> Act of 1931)] Karteljog Tára, [Cartel Law Exhibit] 1931. Vol. I. Issue No. 3. p. 42., HARASZTOSI KIRÁLY, FERENC, *A kartel*. [The Cartel] Grill Károly Könyvkiadóvállalata, Budapest, 1936. pp. 548-549.

<sup>3</sup> RANSCHBURG, NÁNDOR, *A karteltörvény a gyakorlatban*. [The Cartel Act in Practice] Karteljog Tára, [Cartel Law Exhibit] 1933. Vol. III. Issue No. 1. p. 7. KIRÁLY, FERENC, *A karteltörvény gyakorlati alkalmazása*. [The Practical Application of Cartel Law] Karteljog Tára, [Cartel Law Exhibit] 1932. Vol. II. Issue No. 2. p. 10.

<sup>4</sup> KIRÁLY, 1932. p. 10.

Presentation obligation was not limited strictly to the cartel contracts, but also the revised and extended versions. According to the cartel law, two types of agreements fell under the edict of presentation obligation. The first was the agreements and edicts that established legal relations, and the other their modifications and their addenda. According to Nándor Ranschburg, edicts established during the operation of the cartels could only be deemed as the addenda of the cartel contract if it touched upon the contractual legal relationship of the participants. Cartel contracts were basically a private law partnership agreements, and any revision or amendment required the unanimous edict of the members.<sup>5</sup>

Another vital question that arose was that whether or not belated presentation compensated the omission, and also if an agreement reported after the deadline was valid or not? The cartel act gave an opportunity to report belatedly. “The law itself states that in cases where presentation was omitted or incomplete, the minister of trade had the authority to order the participant obligated to present to fulfil the presentation obligation or completion, and the member is obliged to obey this order.”<sup>6</sup> In the sense of legal effect, belated presentation had the same effect on validity as presentation on time. Verification did not affect the validity of the contract, only meting out or shelving fines. According to Paragraph No. 14 of the Cartel Act, the courthouse adjudicating on the matter of verification could only decide on meting out a fine. It could not examine whether a contract was valid or invalid.<sup>7</sup> Regulation 5.381/1931. M. E. elaborated upon the rules of presentation.<sup>8</sup>

Within cartel law, cartel policing law and the cartel supervisory powers of the state were connected by powerful ties. This procedure included orderly fining procedures.<sup>9</sup> According to the cartel act, orderly fine should be meted out on those who omitted the presentation of cartel agreements or edicts, and did not validate the reason of this omission, disobeyed data reporting obligations or hampered taking dispositions into action.<sup>10</sup>

In the first two cases, the responsible courthouse had to attend the case. Responsible courthouse was the institution where the public company or co-operation was originally registered at its launch, and if the registration happened at a foreign courthouse, at the registry court of the base of operation or the domestic representative of the foreign company. If the business was no longer registered at the beginning of the procedure, then the courthouse where it was last registered. The procedure began after the royal legal director filed a request according to the motion of the minister. In specific cases, the special court established within the Curia called the Cartel Court could proceed, if meting out the fine was repeatedly unsuccessful, or if the topic of the procedure was a permanently ban on practicing trade and industry.<sup>11</sup> I do not wish to elaborate upon the practices of the Cartel Court within the

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<sup>5</sup> RANSCHBURG, 1933. p. 9.

<sup>6</sup> RANSCHBURG, 1933. p. 10.

<sup>7</sup> RANSCHBURG, 1933. p. 11., SCHUSTER, 1931. p. 44.

<sup>8</sup> DOBROVICS, KÁROLY, *Kartelismeretek*. [Cartel Knowledge.] Monopol Publishing House, Budapest, 1937. pp. 70-73.

<sup>9</sup> HARASZTOSI KIRÁLY, 1936. pp. 546-547.

<sup>10</sup> LÖW, TIBOR, *A gazdasági versenyt szabályozó megállapodások bemutatásáról*. [On the Description of the Agreements Regulating Economic Competition] Magyar Jogi Szemle, [Legal Survey of Hungary] 1935. Vol. XVI. p. 350.

<sup>11</sup> LÖW, 1935. p. 351. DOBROVICS, KÁROLY, *A karteljogi rendbüntetés gyakorlata*. [The Practice of Cartel Orderly Fine] Közgazdasági Értesítő, [Economic Bulletin] 1934. XXIX. Issue No. 33. p. 10., DOBROVICS, KÁROLY, *A karteltörvény három évi gyakorlata. – A kartelszerződés érvényességi kellékei*. [The Three-Year Practice of Cartel Law – The Accessories for the Validity of Cartel Contract] Közgazdasági Értesítő. [Economic Bulletin] 1935. XXX. Issue No. 4. p. 9., DOBROVICS, KÁROLY, *A kartelek helyzete és működése Magyarországon*. [The Situation and Operation of Cartels in Hungary] Hellas Print Ltd., Budapest, 1934. 208. On the operation of cartel supervisory authorities, see: SZABÓ, ISTVÁN, *A kartellfelügyelet szervezete és hatásköre az 1931. évi XX. törvénycikk nyomán*. [The Organisation and Authority of Cartel Supervision According to the 20<sup>th</sup> Act of 1931] Versenytükör, [Competition Mirror] special issue II. 2016. Vol. XII. 68-75.

framework of this essay, the focus of my discussion shall be the practices of courthouses and high courts of justices according to archival sources.

According to Ferenc Harasztosi Király, among the cases of orderly fines, only those lawsuits of orderly fines had any practical merit that were referred to the jurisdiction of the courthouse, mainly on presentation omission or belated presentation; either these, or lawsuits on the omission of data reporting obligation. With lawsuits on presentation omission, only the responsible minister could propose a fine. Verifications handed in to the minister did not validate business processes, the only hope it gave to the interested parties was that they might be exempted from paying an orderly fine.<sup>12</sup>

Rules of procedure for trade misdemeanours were valid during lawsuits of orderly fines initiated at courthouses. This was established in Regulation 68,400/1914. I. M.<sup>13</sup>

As a principle, imprisonment could not be issued in cases of orderly fines, for the fine meted out due to presentation omission could not be converted to custodial sentences. In specific cases where the fine proved to be irrecoverable, the change could happen if the legal edict specifically allowed it.<sup>14</sup>

### **The Beginning of the Procedure**

The process was initiated by the legal director, according to which he presented that in 1933, Mihály Schwarz, Mihály Menzer and Ignác Ádler timber merchants established an agreement that fell under the effect of Paragraph No. 1 of the Cartel Act on timber, bricks and potteries- They presented the cartel contract to the minister of trade on 12<sup>th</sup> April, 1933, however, the appendix of the contract that contained the list of set sales prices and was an integral part of the document was only presented to the minister on 4<sup>th</sup> May, 1933. Therefore the participants committed a presentation failure, not to mention without adequate reasoning. Therefore due to presentation omission, the minister ordered the legal director to initiate the proceeding of orderly fine. The legal director requested the Royal Courthouse of Kalocsa to initiate a proceeding of orderly fine according to Regulation 68,400/1914. I. M.<sup>15</sup>

Among the documents of the legal action held at the Royal Courthouse of Pécs, the request of the deputy attorney general of the treasury, according to which he initiated a proceeding of orderly fine against the First Lime and Steam-Cured Brick Factory of Pécs D-Deutsch, Hochstädter and Co. Steam-Cured Brick Factory of the Pécs-Rácváros General Area and Dóczi Eisner. The memorials also contained cartel contracts that were presented to the minister of trade belatedly, after the fifteen-day deadline. "The Royal Legal Directorate requests that due to the fact that since the respondents committed omission according to Subsection No. 1 of Paragraph No. 14 of the 20<sup>th</sup> Act of 1931, a proceeding of orderly fine should be initiated, a fine should be inflicted upon the respondents and the legal directorate should be informed of the orders."<sup>16</sup>

At the courthouse, an ordinary judge heard the proceeding of orderly fine who, as the presenter of the case, informed the respondent(s) that bypassing the examination and the

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<sup>12</sup> HARASZTOSI, 1936. p. 548., LÖW, 1935. p. 352., RANSCHBURG, NÁNDOR, *Karteljog kartelszervezet. A gazdasági versenyt szabályzó megállapodásokról szóló 1931. évi XX-ik törvénycikk (karteltörvény) magyarázatával és végrehajtási rendeletekkel.* [Cartel Law, Cartel Organisation. Contains the Explanation and Execution Decrees of the 20<sup>th</sup> Act of 1931 on the Agreements Regulating Economic Competition] Published by the Iparjogvédelmi Egyesület, Budapest, 1931. pp. 124-125., DOBROVICS, 1937. pp. 133-134.

<sup>13</sup> 1931:XX. tc. 15. §., DOBROVICS, 1934. p. 209., Ranschburg, 1931. p. 127.

<sup>14</sup> Lásd: 1928:X. tc. 16. §.

<sup>15</sup> Cg. 187/1933. The Bács-Kiskun County Archives of the National Archives of Hungary (henceforth: BKML.) VII. 2. c.

<sup>16</sup> P. 4224/1934. The Baranya County Archives of the National Archives of Hungary (henceforth: BML.) VII. 2. d.

hearing is available by stating a document of proof within fifteen days of receiving the appeal to do so. The courthouse always decided by a three-member council that nobody could be a member of who acted as an investigator in any given case. In courthouses where a separate council was established for trade matters, this council attended to orderly fine cases. Where no such council was established, then one of the civil action councils reached the decision.

After this, based on all the officially received information, the court decided whether to mete out a fine or dismiss the case. The interested parties and the royal legal directorate received the order made during a closed session. In this sense the aforementioned regulation reserved the role of public prosecutor to the legal director, however, due to the practice of the courts, the legal director acted this part in this case.<sup>17</sup>

The aforementioned lawsuit initiated at the Courthouse of Kalocsa ended up in an order according to which the participants were asked to state a document of proof.<sup>18</sup> In connection to this, the participants stated the document of proof with which they wished to prove that they did not omit their legally binding presentation obligation.<sup>19</sup> Their document of proof states that according to them, no omission happened because the price list appendix was not established at the same time as the contract, and after it was agreed, it was submitted to the minister for presentation within the allotted timeframe.<sup>20</sup>

Within eight days after delivery, the participants could appeal against the order at the responsible courthouse. The appeal had a postponing effect on the execution. Anybody who could not enforce his rights for any reason during both the first and second instance of the lawsuit, could file an application for restitutio. However, one could not file such an application because of omission. The application for restitutio could be filed with the courthouse within thirty days after the missed hearing deadline or the deadline of the missed legal redress.<sup>21</sup>

Functionally, Paragraphs 464-466 of the Code on Criminal Procedure ('CoCP') were valid for the application. It had to contain the reasoning behind the omission and the corroboratory information and data. The omitted memorial and the application for restitutio had to be filed together. If an action of appeal was omitted, then the application was submitted by the responsible court of the first instance to the assigned court of the higher instance. In cases where the court upheld the application for restitutio, then it also acted for the omission to be provided. The High Court of Justice had the final say in the case.<sup>22</sup>

In the lawsuit against the Nagykovácsi Lime Works Inc. and the Lime and Artificial Stone Mortar Sales Inc., the respondents stated in their application for restitutio that the agreement was not finished on 20<sup>th</sup> March, 1933, for only the draft agreement was signed on the aforementioned date. The court did not accept the written presentation, therefore meted out a fine, for it was considered a malfeasance of Paragraph No. 14 of the Cartel Act.<sup>23</sup>

In another case, the Royal Court of Budapest dismissed an orderly fining procedure already in progress. The court instituted legal action against prime defendant Hungaria Chemical Fertilizer, Sulphuric Acid and Chemical Factory Inc., second-party defendant Manfréd Weisz Stell and Ironworks Inc. and third-party defendant Orion Copper Smelting and Blue Vitriol Works Inc. due to an omission against Paragraph No. 14 of the 20<sup>th</sup> Act of 1931 standing for the treasury attorney and the legal directorate. The legal directorate wanted to sue the companies for their agreement on blue vitriol contained statutes on production,

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<sup>17</sup> HARASZTOSI, 1936. p. 549.

<sup>18</sup> Cg. 187/3/1933. BKML. VII. 2. c.

<sup>19</sup> Cg. 187/1933. BKML. VII. 2. c.

<sup>20</sup> Cg. 187/1933. BKML. VII. 2. c.

<sup>21</sup> HARASZTOSI, 1936. p. 549.

<sup>22</sup> HARASZTOSI. 1936. p. 549.

<sup>23</sup> Cg. 35537/3. In: 5812/1934. BFL.

circulation and price formation that regulated economic competition, and it was forwarded to the minister of trade belatedly.

In their application for restitutio, the complainant presented that the agreement's formation date was not 18<sup>th</sup> August, 1932, but 7<sup>th</sup> October, 1932 due to dragging negotiations. According to their point of view, "the date of 18<sup>th</sup> August, 1932 appeared mistakenly on the presented agreement."<sup>24</sup> After the actual signing, the agreement was presented within the deadline. The court established that the "date of the formation of the contract is the date when all contracting parties sign the document".<sup>25</sup> In such cases the contract had to be presented after the Chemical Fertilizer Sales Inc. signed it, therefore the commission accepted the commission. During the procedures, the factor that the contract dated October was the valid and final one was also proven. Therefore the date stated in the draft was a slip of the pen.<sup>26</sup>

In the aforementioned cartel case of brick factories at the Courthouse of Pécs, one can fully reconstruct the lawsuit based on the remaining memorials, especially the statement of the application of restitutio. The respondents filed their application of restitutio because of the appeal of the courthouse. As the representative of the participants, the legal representative of the First Lime and Steam-Cured Brick Factory of Pécs submitted the application. To his letter, he attached two agreements which were cartel contracts. To sum up their contents, they established a sales office, and charged the Bank House of Gyula Tausz with its leadership, who shall serve as the director of the "Sales Office of the Brickmakers of Pécs"<sup>27</sup> The unified contract contained two sections regulating the legal relationship of the brickmakers and an external contract detailing the relationship of the brickmakers and Gyula Tausz. The contract only became valid when all participants signed it in written form. According to Regulation 5831/1931. M. E., contracts only had to be presented after they were finalized. In their application, they also drew the court's attention to the fact that none of the agreements contained the signature of Gyula Tausz. Gyula Tausz was unavailable at the signature times 10<sup>th</sup> and 15<sup>th</sup> June, because he was abroad due to an illness from 1<sup>st</sup> June to 17<sup>th</sup> June, therefore the agreement was signed after his return. In the application of restitutio, they admitted the defect of form. "The agreement addressed to Gyula Tausz – after he signed it – needed a proper date and the copy signed and dated by him would have been the one to present, therefore avoiding any misunderstanding."<sup>28</sup> They attached a signed copy of the agreement, and requested the annulment of the case without a fine meted out.

The statement of the court was as follows: the participants made an agreement on 10<sup>th</sup> June, 1934 with the definite purpose of selling bricks and potteries made by them at a unified, jointly agreed price. The purchase price and the gains shall be shared equally.

The agreement with Gyula Tausz sent to the court attached to the aforementioned application of restitutio did not contain any cartel-like regulations and it was signed on 15<sup>th</sup> June, 1934. However, only three of the respondents actually signed it. It was presented to the ministry of trade on 6<sup>th</sup> July, 1934 therefore the court stated that the respondents are guilty of omission as described in Subsection No. 1 of Paragraph No. 14 of the 20<sup>th</sup> Act of 1931, they committed trade misdemeanour as described in Paragraph No. 14 of the 20<sup>th</sup> Act of 1931 therefore a fine of 30 Pengős was meted out for every participant. The court stated that the validity of the agreement reached by the three participants did not need the signature of Gyula Tausz. Therefore the court did not deem the facts concerning Gyula Tausz relevant. The courthouse deemed that the agreement with Gyula Tausz is not identifiable as a cartel

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<sup>24</sup> Cg. 34426/8. In: 5863/1933. BFL.

<sup>25</sup> Cg. 34426/8. In: 5863/1933. BFL.

<sup>26</sup> Cg. 34426/8. In: 5863/1933. BFL.

<sup>27</sup> P. 4224/3/1934. BML. VII. 2. d.

<sup>28</sup> P. 4224/3/1934. BML. VII. 2. d.

contract. However, with the fine's amount, the court took into account that the respondents' misdemeanour is a mild one, for they missed the presentational deadline only by 11 days.<sup>29</sup>

If deemed necessary, the court had the power to order an examination to find out the bearings of the case. In such cases, it sent out an investigator selected from its own judicial apparatus or its notaries. The investigator's task was to find out the bearings of the case, and using this as foundation, the courthouse determined whether to dismiss the case or institute a legal action. To do so, the investigator questioned the respondent and acquired all data and evidence necessary to determine the bearings of the case.<sup>30</sup>

During the questioning of witnesses and experts, the rules of the CoCP served as guidelines.<sup>31</sup> Any business employee summoned as witness could be exempted by the court or the investigator from the description of circumstances that were not linked or not important to the case and if it would lead to confidential business secrets coming to light. If the investigator deemed an audit necessary, he had to ask for the court's decree. The only reason why this action could be valid if it was necessary to establish the omission or action under scrutiny. If a petition was necessary to carry out the procedural step, one had to turn to the responsible county court. The courthouse that ordered the examination could order the investigator to either continue or cease the examination.<sup>32</sup>

In connection to the aforementioned blue vitriol cartel, the surviving court verdicts make it clear that the responsible courthouse questioned Pál Bernauer and Andor Klein as witnesses during the oral hearing.<sup>33</sup> During the legal action against the Zsolnai Porcelain and White Ware Inc., Coal Mining and Brick Factory Company and Loyd Ceramic Works Inc., Károly Havas and Illés Fillencz were questioned. After the court established the bearing of the case, they dropped the case against the respondents.<sup>34</sup>

During another case, the court requested the expertise of the Cartel Court before reaching a verdict.

The legal director could oversee the examination to protect common interest, according to which he could examine the investigation documents; on the topic of whether to continue or dismiss the examination, he sent a proposal to the investigator who could file a plea for legal remedy. The respondent was also entitled to the latter two, and could hire an attorney, whose rights were also established in the CoCP. The attorney could only be a practicing, Bar Association-member lawyer.<sup>35</sup>

The plaintiff did not have the right to intervene or suggest during neither the examination, nor the rest of the procedure, was not allowed to plead or receive legal remedy. However, the plaintiff was allowed to report any and all circumstances that aided the exploration of the omission or the prohibited action or advanced the verification to the investigator, the courthouse or the High Court of Justice. Not to mention the plaintiff could request to be questioned if he or she was not summoned to do so, and which the courthouse and the High Court of justice was obligated to ordain under the penalty of nullification.

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<sup>29</sup> P. 4224/3/1934. BML. VII. 2. d., On the creation and contents of cartel contracts, see: HOMOKI-NAGY, MÁRIA, *Megjegyzések a kartellmagánjog történetéhez*. [Comments on the History of Cartel Private Law] [Competition Mirror] special issue II. 2016. Volume XII. pp. 45-52.

<sup>30</sup> HARASZTOSI, 1936. p. 550.

<sup>31</sup> The testimony of Ernő Schey: Cg. 35030/9. In: 1158/1934 BFL. Dobrovics, 1934. 15.

<sup>32</sup> Harasztosi. 1936. 550.

<sup>33</sup> Cg. 34426/8. In: 5863/1933. BFL.

<sup>34</sup> Cg. 35174/5. In: P. VI. 1152/9/1934. BFL.

<sup>35</sup> HARASZTOSI, 1936. p. 551. On the protection of public safety and public interests.; STIPTA, ISTVÁN, *A gazdasági versenyt szabályzó megállapodásokról szóló 1931. évi XX. tc. hazai előzményei*. [Domestic Predecessors of the 20<sup>th</sup> Act of 1931 on the Agreements Regulating Fair Trade], *Versenytükkör*, [Competition Mirror], special issue II, 2016, Volume XII. pp. 61-62.

After the examination was finished, the investigator forwarded the documents to the courthouse. Based on these documents, the courthouse either dismissed the case or ordered its continuation. Dismissal was stated by a court warrant. In any other case, the date of the oral hearing was set. In cases of actions or omissions which fell under the jurisdiction of the criminal code currently in effect, the case had to be transferred to a criminal court.<sup>36</sup>

The High Court of Justice objected to the appeal of the legal directorate on Warrant No. 35779/2 in the lawsuit against the Chionin Drug Company and Chemical Factory Inc. due to omission according to Paragraphs No. 2 and 14 of the Cartel Act instituted by the court of the second instance at the Courthouse of Budapest, and its warrant, referred to Paragraph No. 1 of the 5<sup>th</sup> Act of 1878, according to which the law specifically establishes which actions and misdemeanours are criminal activities.<sup>37</sup> In such cases, the case must be transferred to a criminal court.

If the hearings of the case were clear, the courthouse had the authority to begin the hearing. Before that, the respondent was ordered to make a statement within a 15-day deadline.<sup>38</sup> This summon could be omitted in cases if an international delivery proved to be difficult. If the respondent's location was unknown, the hearing would begin as planned.

The warrant that ordered the beginning of the hearing had to state the action or misdemeanour that initiated the legal action against the respondent, not to mention the location of the jurisdiction. The rules of the CoCP were valid on the topic of the publicity of the hearing. The court could order a closed session to protect confidential business secrets.<sup>39</sup> The rules of the CoCP were also valid on the direction and policing of the hearing.<sup>40</sup>

At the same time, the courthouse had to ensure that the participants, the witnesses and the experts are summoned. Individuals that were announced after the legal action was instituted could also be summoned. The respondent received a warning that his absence did not hinder the continuation and discussion of the case, he was free to hire an attorney and send said attorney to the hearing.<sup>41</sup> If the respondent's location was unknown, then the delivery was replaced with publishing the warrant to appear once in an official paper. At least 15 days had to separate the delivery of the warrant and the date of the hearing. During the legal action, if the respondent was a natural person, apprehension, putting in custody or remanding was not allowed, which is a significant difference compared to criminal actions.<sup>42</sup>

The beginning of the hearing was marked by reading the mandatory warrant out loud, after which the judge shortly described the case. The participants' absence did not affect the process of the hearing. Witnesses and experts were brought forward, and in order to do so, the hearing could be put on hold for several hours.

In the following, the present respondent was questioned by the president on the action or omission that resulted in the legal action, not to mention that the members of the judicial council, the legal director and the attorney could also ask their questions.<sup>43</sup> The taking of evidence took place afterwards.

After the evidence was taken, the legal director submitted his motion to the court, followed by the attorney and finally, the respondent taking the floor. In this section of the process, no other discussion was allowed. In cases where the participants were absent, the evidence was introduced and described by the judge.<sup>44</sup>

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<sup>36</sup> HARASZTOSI, 1936. p. 551.

<sup>37</sup> P. VI. 8146/4/1934. BFL.

<sup>38</sup> HARASZTOSI, 1936. p. 551.

<sup>39</sup> HARASZTOSI, 1936. p. 552. Bp. 293-295. §§.

<sup>40</sup> Bp. Chapter XVIII., LÓW, 1935. p. 354.

<sup>41</sup> In this case, the archival sources contain the powers of attorney: Cg. 187/2/1933. BKML. VII. 2. c.

<sup>42</sup> HARASZTOSI, 1936. p. 551.

<sup>43</sup> HARASZTOSI, 1936. p. 552.

<sup>44</sup> HARASZTOSI, 1936. p. 552.

The minutes of 18<sup>th</sup> February, 1931 were taken into account as evidence during the fining process against Győr Textile Works Inc., Soroksár Textile Industry Inc., and Mózes Freudinger and Sons companies by the Royal Courthouse of Budapest, and this action allowed the courthouse to determine that the respondents were present at a general assembly on raw material treaty and reported that the aforementioned individuals “joined said treaty for up to that point, they were only members of the raw material treaty via gentlemen’s agreement”.<sup>45</sup> The court deemed that despite this so-called gentlemen’s agreement is not a written contract, it still falls under the effect of Paragraph No. 1 of the Cartel Act.

The court gave the same opinion on the circular letter when it stated that it is such a decree in itself that should have been presented to the minister of trade “for it obviously serves the purpose that the corporations that wrote out and signed it would sell their product at a greater price henceforth, therefore limit the price formation aspect of the economic competition.”<sup>46</sup>

The court deemed the fact that in the case of the agreement of Dezső Vágó Inc. and the Hungarian Hardwood Inc. was not presented in time to the court because only according to Verdict No. 5261/1932 of the Cartel Court, they did not deem said contract as a cartel contract as an extenuating circumstance. The court stated that “the mandates of the cartel act are not limited strictly to cartel contracts, but order the presentation of every other agreement that establishes a commitment limiting or in any way regulating economic competition in connection to the circulation or price formation of goods, therefore even a purchase contract might fall under the mandates of the 20<sup>th</sup> Act of 1931.”<sup>47</sup>

The court could postpone the hearing due to the recording of the verification process or the preparation of the defence. With an interlocutor warrant, the courthouse could appeal for the amendment of the procedure, if further investigation of the case was deemed necessary. If the suspicion of another misdemeanour arose during the hearing apart from the one that resulted in the hearing itself, and the courthouse did not deem the separation of the procedures necessary, then the hearing could be postponed for 15 days per request of the respondent.<sup>48</sup>

At the end of the trial, the courthouse either dismissed the case or adjudged the respondent guilty and meted out a fine via a warrant. The decision needed reasoning in both cases. The motion of the legal director did not bind the court in any way whatsoever. The fine had to be paid within a 15-day deadline.<sup>49</sup>

Due to cartel omission, the legal director initiated a fining procedure against Sándor Angyalfi Asphalt and Tar Works Inc., János Biehn, Grozit Asphalt and Tar Chemical Products Inc., Dr. Tivadar Helvey, Manó Kallós Ferenc Kollár and Co., Hungarian Asphalt Inc., Posnánzky and Strelitz and the Purchase and Sales Association of Hungarian Cover Plate Factories.<sup>50</sup> In its warrant, the Royal Courthouse of Budapest found the respondents guilty since they presented the agreement that extended the contract that expired 28<sup>th</sup> February, 1934 belatedly.<sup>51</sup> The court stated that “according to Paragraph No. 2 of the 20<sup>th</sup> Act of 1931, any agreement that limits or regulates economic competition and any agreements that modifies or amend the original agreement that must be put down in writing as per Paragraph No. 1 of the cartel act is to be presented within 15 days of its conclusion.

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<sup>45</sup> Cg. 35504/6. In: 4681/1934 BFL.

<sup>46</sup> Cg. 33989/6/1932 In: 920/1933 BFL., DOBROVICS, 1934. p. 211.

<sup>47</sup> Cg. 34592/4 In: 4913/1933 BFL. Löw, 1935. p. 355., DOBROVICS, 1934. pp. 213-214.

<sup>48</sup> HARASZTOSI, 1936. p. 552.

<sup>49</sup> HARASZTOSI, 1936. p. 552. See also: 13. P. 46341/3/1933. In: 2746/1934 BFL, Löw, 1935. p. 353.

<sup>50</sup> Cg. 35891/3. BFL. 11543/1934

<sup>51</sup> Cg. 35891/3. BFL. 11543/1934

According to this mandate, simply reporting the agreement is unsatisfactory, but the written agreement must be presented to the Hungarian royal minister of trade for registry.”<sup>52</sup>

The Courthouse of Budapest dismissed another case due to the fact that it turned out that the respondents presented the agreement on time. The validity of cartel contracts begins after each and every participant signed said contract.<sup>53</sup>

Any expressly quantified law-expense had to be paid within 15 days.<sup>54</sup> If a case had multiple convicts, law-expenses were determined individually. In cases where multiple individuals were found guilty of the same misdemeanour or prohibited action, the rules of substantive law were valid in establishing the rules of collective defrayal.<sup>55</sup>

According to the memorials of the Royal Courthouse of Budapest’s fining case, the Vértés & Dóra Rasp Factory and the Count László Csáky Steelworks Inc. were found guilty and due to the presentation omission, a fine of 200 Pengős was meted out according to Paragraph No. 14 of the 20<sup>th</sup> Act of 1931. The verdict clearly states that the fine was to be paid within 15 days to the Hungarian Royal Central Tax and Levy Imposition Office’s checking out under the punishment of enforcement. The courthouse also obligated the respondents to the payment of the other expenses of the legal action.<sup>56</sup>

Even if the courthouse reached a verdict during a trial, it had to be announced, in other cases, the interested parties were informed via delivery. It goes without saying that the interested parties not present during the trial or the ones that specifically requested the delivery during the announcement also had to receive the decree made during the trial. The deadline of legal remedy started from the day of the delivery.<sup>57</sup>

### **Appeals Process:**

Against the verdict of the courthouse, the respondent, the attorney, the legal director, against the orders made during the hearing, the legal director could file an appeal to the High Court of Justice. In the appeal filed against the order that closed the case, one could request legal remedy in connection to the warrants regarding the preparation of the hearing concerning ordaining, complementing or finishing the examination; ordering the investigator; the proposals of the participants; ordering the respondent to make a statement; ordering or adjourning the audit and the trial.<sup>58</sup>

Against any other orders in which the beginning of the procedure was omitted, the procedure was dismissed without a trial or those in connection to witnesses, experts or translators, one could file an appeal with the High Court of Justice.<sup>59</sup>

The legal directorate filed an appeal against Warrant No. Cg. 35147/4 concerning the case against the Union Starch Factories, Basch & Kohner Budapest Wheat Starch and Paste Plan and Fried and Starch Factory of Óbuda, all registered at Budapest due to omission according to Subsection No. 1 of Paragraph No. 14 of the 20<sup>th</sup> Act of 1931. The court of the first instance made the following order in connection to this topic: the courthouse files the

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<sup>52</sup> Cg. 35891/3. BFL. 11543/1934, DOBROVICS, KÁROLY, *Karteljogi kérdések*. [Questions of Cartel Law] *Közgazdasági Értesítő* [Economic Bulletin], 1934. XXIX. Issue No. 35. p. 14.

<sup>53</sup> Cg. 35547/12/1934 BFL

<sup>54</sup> Cg. 187/4/1933. BKML. VII. 2. c., Cg. 35891/3. BFL. 11543/1934, Cg. 35030/9. In: 1158/1934 BFL.

<sup>55</sup> HARASZTOSI, 1936. p. 553.

<sup>56</sup> Cg. 35131/4. In: BFL. 133379/1923.

<sup>57</sup> HARASZTOSI, 1936. p. 553. Cg. 35891/3. BFL. 11543/1934

<sup>58</sup> HARASZTOSI, 1936. p. 553.

<sup>59</sup> Harasztosi. 1936. 553. On filing appeals see also: Cg. 35147/5. In: 958/1934. BFL, Cg. 35030/10-11. In: 1158/1934 BFL., P. VI. 12329/5/1934. BFL.

appeal with the High Court of Justice of Budapest, and notified the appealing party and also the aforementioned participant's opponents.<sup>60</sup>

One copy of all types of appeals could be submitted to the courthouse within eight days after its announcement or delivery. Appeals filed that were late, excluded or filed by unentitled individuals were denied ex officio by the courthouse.<sup>61</sup>

The appellant could examine the opponents appeal before the court, and could file counter-observations with the courthouse before the documents were submitted, and after, to the High Court of Justice.<sup>62</sup>

The courthouse could suspend the execution of an attacked order until the appeal was dismissed. The appeal also stopped a verdict to become legally binding. In cases where the appeal disagreed with a part of the verdict, or if not every respondent appealed, the either the part of the verdict not appealed against, or for the respondent not participating in the appeal, the verdict became legally binding. It was different in cases where a verdict had to be reached in unison, because in such cases the appeal had to be examined in favour of the others during the process. The high Court of Justice's decision on the appeal was made by order during a closed door session, with no room for further legal remedies.

### **Summary:**

All in all, it can be stated that according to archival sources, most cartel cases were orderly fine procedures. It can be stated that the specific nature of the rules of procedure is unique in Hungarian procedural law, for civil courts essentially used the rules of Bp. according to Regulation No. 68400/1914. I. M. The examination of the legal documents shed some light on the definition of cartel malpractice, which had a strong connection to the cartel private law matter of the exact definition of cartels. The definition of the concept of cartels was essentially established by judicial practice, as well, for the law contained no unified definition in this regard. Another essential question for court was when can a cartel agreement considered valid.

One can see through the procedure of the legal action and the procedural actions, especially the stage of proof based upon not only the matters of substantive law, but also memorials. They are available to examine and find out which data and information served as the basis of the courts' orders. How modern policies of procedural law and rules prevailed during the legal action.

It is a valid statement that courts obeyed the edicts of the law to the letter in connection to presentation omission, mainly because the state paid close attention to the supervision of cartels. Cartel organisation, permitted in the first half of the 20<sup>th</sup> century, grew exponentially in Hungary, and courthouses played a vital role in keeping them within the law, pressuring and affecting the operation of companies that played the greatest role within economic life and the formation of said economic life.

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<sup>60</sup> Cg. 35146/5. In. P. VI. 958/6/1934. BFL.

<sup>61</sup> On keeping the deadline, see the warrant of the Courthouse of Budapest, see: Cg. 35030/9. In: 1158/1934 BFL.

<sup>62</sup> HARASZTOSI, 1936. p. 553.