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Public interest protection in the jurisdiction

Civil law, civil procedure and other guarantee functions of the prosecutor

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Theses

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I. Outline of the research objective

The participation of the prosecutor's office in the administration of justice is an explicit task of the Fundamental Law, as it is the exclusive enforcer of the criminal claims of the state as an intermediary in the administration of justice, and its participation in the criminal justice system is therefore fundamental. The primary aim of my research is therefore to answer the question of whether the prosecutor(s) has a place in the civil justice system, and if so, in what form and with what guarantees.

My thesis therefore relates to the private law tasks of the public interest protection specialisation of the so-called public law branch of the prosecution service. In the past, this was known as prosecutorial activity outside criminal law, which consisted of administrative law enforcement (in the terminology of the time, the activity of the public prosecutor) and private prosecutorial tasks. Two sub-systems can now also be distinguished: the public prosecution branch and the penitentiary law enforcement and legal defence branch, which constitute the public prosecution branch. The prosecutor's civil law and civil procedural functions therefore fall within the remit of the public prosecutor.

In my study, I attempt to present the role of the prosecutor in civil law and to fill the long-standing gap that no comprehensive work on this activity of the prosecutor has been written despite the changed constitutional law after the change of regime, the numerous amendments to the legislation and the renewal of the rule of law framework.

The rule of law, the establishment and operation of democratic institutions include the regulation of the constitutional status and functions of the prosecution service, including the definition of the scope and content of the participation and activities of the prosecutor in civil law and civil procedure. My doctoral dissertation is an attempt to review this, as well as the functions of the prosecutor in the enforcement of the principles of civil law and procedural law and the fundamental rights guaranteed by these principles.

The protection of individual and private interests has become a central theme in Hungarian law in recent decades. Based on the principle of the unity of the legal order, all elements of the legal system must protect the individual. To this end, the prosecutor has definite direct and indirect powers and duties in both criminal and private law. The prosecutor also protects persons with

little or no knowledge and experience in civil law against parties in a position of power. Consequently, the aim of my thesis is also to answer the question of whether, in a democratic constitutional state, the prosecutor's involvement in civil law and procedure is necessary, and whether imbalances should be dealt with by the law of litigation, in addition to the guarantees provided by substantive law. In other words, do the prosecutor's involvement in litigation and non-litigation proceedings require special rules and, if so, what special rules?

There was also a broad consensus on the participation of the prosecutor in civil law when Act V of 2013 on the Civil Code (hereinafter: Civil Code) and Act CXXX of 2016 on the Code of Civil Procedure (hereinafter: Code of Civil Procedure) were drafted. There were different views on how to regulate the participation of the prosecutor in the proceedings, for example, the idea of renewing the terminology and content of the prosecutor acting in the proceedings, [1]or the idea that it is not excluded that the rather diverse types of actions brought by the prosecutor could be considered as actions in the public interest, but that this should be clearly regulated.[2] The lack of clarity as to the concept of public interest in the classification of prosecution actions could indeed give rise to an interpretation according to which all prosecution actions are public interest actions. However, the prevailing view in the legal literature, as codified[3] by the legislature, is that public interest actions are actions involving a wide range of claimants and not exclusively brought by the prosecutor. However, the public interest litigation introduced by the P.P. and the public interest actions brought by the public prosecutor, as provided for in the substantive rules, have thus become even more distant from each other, despite the fact that the public prosecutor, as a special litigant, does not assert his own right and his powers are always intended to protect the public interest by civil law means. The manner of asserting the public interest and its relationship to the assertion of individual interests, and thus to the right of the party to dispose of the case, as well as the role of the prosecutor in this regard, have long been a contentious issue in Hungarian civil procedural law, and I believe that the drafting of the Civil Procedure Act did not put an end to this debate.

[1] ALEKU Mónika - GOLDEA Zsuzsanna: The participation of the prosecutor in the trial. István VARGA (ed.). HVG-ORAC Lap- és Könyvkiadó Kft., Budapest, 2018., 257.; Mónika ALEKU - Zsuzsanna GOLDEA. In István VARGA - Tamás ÉLESS (eds.). HVG-ORAC Lap- és Könyvkiadó Kft. and Magyar Közlöny Lap- és Könyvkiadó Kft., Budapest, 2016., 149-152.

[2] Erzsébet TAMÁNÉ NAGY:Some questions of the content and scope of the Civil Code. Hungarian Law, 2013/9 .,550.

[3] Pp. Part Eight, Chapter XLII

II. Description of the research, investigation, analysis carried out, recording the method and listing the sources

The subject of the prosecutor's civil and procedural involvement is civil litigation and non-litigation before the courts, the purpose of which is determined by the prosecutor's role and the type of proceedings in question. It is also clear that the role of the prosecutor is closely linked to the tasks which the legislator assigns to the prosecution service. It follows that the tasks delegated by the legislator are adapted to the nature of the State, and that it is therefore essential to analyse the role of the prosecutor in the civil justice system from one period to the next, i.e. to analyse the legal history of the State. I will therefore first present the Hungarian legal history of the prosecutor's involvement outside criminal law - the office of the royal legal director, the office of the public prosecutor, the office of the orphan prosecutor and the office of the private prosecutor - followed by a comparative international legal history. In addition to descriptive and factual summaries of the different stages of legal development, I will also analyse the dogmatic problems, including the relationship of prosecutorial powers to the dispositive law, which varied from one era and country to another. I will focus on the analysis of Act III of 1952 on the Code of Civil Procedure (hereinafter referred to as the "Code of Civil Procedure"), which ensures the institutional development of the prosecutor's participation in civil procedure, and on the analysis of how the amendments amending the Code of Civil Procedure and the decisions of the Constitutional Court, especially the paradigm-shifting Decision No. 1/1994 (7 January 1994), have shaped the procedural qualification of the prosecutor's role. The study of the universal legal history section, based on a comparative legal basis, involves the exploration of related institutions, the so-called public functionary roles, from Roman law, the early Middle Ages, French, Italian, Germanic, and Russian-Soviet law, and with a focus on English law. The organizing principle for a comprehensive analysis of the public functionary and, moving forward in time, prosecutorial roles outside criminal law is to highlight identical or similar functions, finding the smallest common multiplicity across countries. This is finally concentrated in the adoption of Recommendation CM/Rec(2012) 11, which thus places the principles of these prosecutorial activities on a common platform, thus legitimizing its framework. With regard to the background to Recommendation CM/Rec(2012) 11, I have examined the extent to which prosecutors' public interest functions are widespread in Europe and the guarantees and principles on which they are based. In the course of my research, I have explored the disagreements of certain Council of Europe bodies, such as the Standing

Committee of the Parliamentary Assembly and the advisory body of the Council of Europe, the European Commission for Democracy with Rights, better known as the Venice Commission, which do not prohibit it, but which seek to exclude the prosecutor as far as possible from areas outside criminal law, in contrast to the Committee of Ministers of the Council of Europe and the European Conference of Prosecutors General, and later the European Prosecutors Consultative Council, which argue that the exercise of prosecutorial functions outside criminal law may be subject to certain requirements. I will then present the Recommendation, in particular its principles relevant to the subject.

The above is followed by a presentation of the current legislation on the protection of public interests, then on the private prosecutor, the codification processes leading to this and their results - with emphasis on the Civil Code - a dogmatic analysis, taking into account the related civil law provisions and cases. In my study, I will also analyse the concepts of public interest and legality and their relation to the prosecutor's activity. I examine in detail the special status of the prosecutor as plaintiff and defendant, the subject-matter situations in prosecution, the special issues of jurisdiction, competence and jurisdiction, and the general rights and obligations of the prosecutor in litigation. In separate sections, I consider the general right of the prosecutor to bring proceedings and to act as a kind of pseudo actio popularis, as well as the inability to defend, distinguishing these from the legal status of the guardian ad litem and the advocate. I will examine the regulation, interpretation and experience to date of public interest litigation in the case of the independent prosecutor. Emphasis will be placed on the theoretical and practical overview of public interest litigation and mandatory prosecution, and on the latter issue of the existing and unused possibilities of the prosecutor to pursue civil claims in criminal proceedings. For the sake of completeness, I will deal in separate chapters with the participation of the prosecutor in non-litigation, including the prosecutor's powers in relation to legal persons.

The last topic before the conclusions and de lege ferenda proposals is an overview of the regulation and jurisprudence of the so-called amicus curiae, linked to the person of the Attorney General, although this is doctrinally different from the prosecutorial involvement, which is the focus of the doctoral thesis. However, the study was motivated not only by the fact that a comprehensive analysis of the professional opinions of the Prosecutor General has not yet been carried out, but also by the conclusions that could be drawn, such as the correlation between the acceptance of the Curia and the experience of the judicial practice in civil litigation.

One of the basic methodologies of my research is legal history and international comparative law, and in the light of these, dogmatic analysis. Consequently, the central core of my sources is the legislation, including its various contemporary versions (e.g., the RPC and its novels) and its explanatory notes and commentaries. The analysis of the legislation covers the legal history of Hungarian law (e.g. Corpus Juris Hungarici) as well as the international aspects (e.g. Rome Convention for the Protection of Human Rights and Fundamental Freedoms, 1950. In relation to the latter, I have provided translations where necessary and for the purposes of presenting foreign legislation and the positions of certain bodies and positions of the Council of Europe). These were mainly translated from English or French (for example: the Code de procédure civile for Ministère public).

The empirical knowledge of the thesis is based on my participation in international and Hungarian conferences, my practice as a prosecutor and my professional experience (e.g. analytical presentation of cases). However, I intend to present the prosecutorial legal practice mainly not through personal experience, but through the instructions[4] of the Attorney General and the related methodological guidelines. Given that the prosecution is a hierarchical organisation, compliance with and adherence to these instructions is mandatory for prosecutors. For this reason, however, their knowledge is nowadays also increasingly widespread in the application of the law outside the prosecution service (courts, bar), even though they are not binding there.

The practical examples are intended to be representative of the relevant and prevailing judicial practice in addition to the cases themselves, so the court decisions analysed and cited in the paper include decisions from all levels of the Hungarian court hierarchy. In addition, where the specific topic requires it, I will also present, with the level of detail that depends on it, the decisions of the European Court of Human Rights, the Court of Justice of the European Union and the Constitutional Court.

My other main methodological tool is the analysis of the literature, the description, evaluation and possible comparison of related textbooks and articles.

Mathematical methods are also used, both to [5]evaluate statistical data (tables) and to illustrate them by means of set plots. The legal literature used is appended to this thesis, with the author's own contributions being included in point IV to avoid repetition.

[4] Act CXXX of 2010 on Legislation (Act CXXX of 2010 on Legislation), Section23 (4) (e)

[5] For example: the National Statistical Data Collection Programme (hereinafter referred to as OSAP), the IT-based case management system of the Public Interest Protection Section (hereinafter referred to as MAKÖR), the National Council for the Administration of Justice (hereinafter referred to as OIT) Regulations

III. Thesis summary of new scientific findings

1. Short summary of the scientific results

The answer to the original questions of the doctoral thesis, whether and how to ensure the possibility of prosecutorial participation in civil law and procedural law, is, in my opinion, a definite yes, and the answer to the question how is given in the thesis on the one hand, and in the de lege ferenda proposals of the present theses on the other. The development of the law in the history of law clearly shows that society in all ages, including under the rule of law, has always required the protection of the public interest, the observance of the rule of law and the role of the latter in the exercise of fundamental rights. In addition to the guarantees provided by substantive law, procedural law must also address imbalances. The public prosecutor, through his involvement in civil law, helps to link up the various parts of the system of guarantees of legality, while preserving the independence of the judiciary, and to fill gaps in it, to ensure and supplement the rule of law and the protection of the public interest in the judicial system.

From the point of view of European and constitutional law, my research has shown that the involvement of the prosecutor in civil and procedural law is a legitimate institution that can eliminate or correct inequalities between the parties, both when they are due to general factors arising from the nature of the legal relationship and when they are due to the specificities of the individual dispute. Litigation in private disputes may serve to redress a pre-existing imbalance, but cannot go beyond that. The possibility for the public prosecutor to bring an action is therefore a rule of guaranteed importance which, together with other forms of litigation and assistance, also provides a subsidiary rule to ensure that persons who are unable to defend their rights or who are considered by the legislator to be weaker parties have the possibility of bringing an action.

Based on what has been written in the dissertation, it can also be concluded that while the function of the prosecutor as a guarantor and protector of principles in the enforcement of the rights guaranteed by the principles of civil law and substantive law has become clear, the same is not evident, and is even disputed or prohibited in the case of procedural guarantees and principles. The prosecutor's procedural authority is merely exercised as a "servant" of his or her

substantive legal duties, although the introduction of prosecutorial involvement in certain procedural principles and legal institutions - precisely in order to ensure judicial independence and the principles of fair trial and access to court - may be considered in accordance with EU rules, with a view to enforcing the rule of law and legal protection.

2. De lege ferenda proposals

a) As I have already explained, the participation of the prosecutor in the proceedings and the doctrinal distinction of the prosecutor were not disputed when the Civil Code was drafted, but there were different opinions on how to regulate the matter. The Civil Code exhausts the doctrinal distinction through its structural division, leaving many theoretical and practical questions unanswered. On the other hand, the codification process has also led to the emergence of an idea which, both dogmatically and terminologically, separates and gives a different and more detailed content to the general prosecutor's participation by redefining the concept of the prosecutor who acts.[6] Accordingly, a prosecutor may bring an action under the authority of the law, may be sued or act as a so-called acting prosecutor.[7] An acting prosecutor is not a party to a lawsuit, nor is he a party to a lawsuit under the rules of the lawsuit society, which cannot be interpreted as a system of substantive law. The proposal also provides for the possibility for the prosecutor to "withdraw" from the action if the conditions for his inability to defend the action are removed in the course of the proceedings, thus guaranteeing that the general prosecutor's participation will only serve the interests of the claimant as long as the legal conditions for such participation are met. It also provides a solution to the anomaly between the right of disposal and the scope of mandatory protection for the injured plaintiff who wishes to act through his own legal representative. As I have analysed in the thesis, the problem here is that the current regime of compulsory action raises constitutional concerns, since it cannot be excluded that in some cases it competes with the principle of the party's right to a disposition. It is proposed that in such a case the prosecutor should only make a declaration of the prosecutor's right to act, in order to ensure the success of the action, as it were, in order to promote the plaintiff's success in the case, in possession of the criminal proceedings data, without jeopardising the success of the criminal proceedings. The prosecutor does not make a statement on behalf of the party (and

[6] ALEKU - GOLDEA i.m. In: István VARGA - Tamás ÉLESS (eds.) 131-152.

[7] The terminological distinction would also avoid inconsistent and ad hoc representations of the provisions concerning the prosecutor in the normative text, e.g. 377.§ (1),395 § (2).

its legal representative), the full responsibility for the action lies with the party and the authorised legal representative, given the party's right of disposal.

b) Notwithstanding the foregoing, mandatory action is a direction to be supported in principle, with the proviso that mandatory nature requires legislative revision, on the one hand, because in the law as it stands, prosecutorial action in all other cases is based on the complex discretion of the prosecutor acting in the specific case, in the light of the facts of the case, and there is no real justification for breaking the doctrinal unity. On the other hand, the regulation must also fully comply with the constitutional requirements, which, as described above, are absent from the law in force.

c) The harmonisation of the powers of the public prosecutor in criminal and civil proceedings could, in my opinion, solve long-standing problems of law enforcement. Furthermore, it does not seem unjustified that civil public prosecution should indeed be used in other cases where the other legal conditions are met, where it may have added value, for example for the protection of the rights of the victim. In this connection, I consider it justified to amend the Pp. In this connection, I should also consider the possibility of considering the application of the right of the prosecutor to bring an independent prosecution in criminal proceedings under Article 60 of the Civil Procedure Act, based on a separate law, if and when the prosecutors acting in the case consider it necessary. In my view, the theoretical and practical experience of the new procedural law on collective redress can be used to develop this, as it clarifies doctrinal issues that are partly identical to those of prosecutorial participation, and also touches on the issue of representation as an intervention on behalf of and on behalf of a party. The Pp. The new provisions on collective actions introduced in Part Eight, in particular the proper application of the procedural guarantees in public interest litigation and the elimination of the anomalies presented in the case of mandatory actions, could lead to a more effective and wider application of the existing legal provisions which have provided a basis for a significant number of successful prosecution actions. For example, a substantive law empowering prosecutors to bring actions would also provide for their applicability in criminal proceedings, as in[8] the case of the application of the rules on public interest litigation. In the light of this principle, the private injured party would be able to opt out of the substantive effect of a civil claim in such a case (opt-out system) or, on the contrary, to express his wish to be covered (opt-in system).

[8] Pp. 571.§

Consideration of the applicability of this autonomous right of access to criminal proceedings, based on a separate law, is therefore justified, on the one hand, by the more effective and wider implementation of the existing legal provisions, which provide a significant number of grounds for successful prosecution. On the other hand, the introduction of such a regulation would also provide an opportunity for a legislative review[9] of the powers of prosecution and intervention in criminal proceedings granted by a separate law, which are either not applicable at all or are applied with considerable difficulty in the practice of public prosecutors, and possibly for the definition of new powers. For example, consideration should be given to introducing prosecutorial action in winding-up proceedings where the unlawful management of a senior officer also has criminal law consequences. This is because, for example, in criminal proceedings for bankruptcy offences against the unlawful conduct of the managing director as the debtor, the victims are the creditors of the business entity, who are not able to assert their claims as private parties in civil proceedings against the debtor, and under Article 33/A of the Act on the Civil Code, creditors can only assert their claims in a separate action in winding-up proceedings. In relation to the power of guardianship, there may also be a possibility for the public prosecutor to act on the basis of a criminal prosecution indication, for example in cases where compulsory treatment of an offender with a pathological mental disorder cannot be ordered due to the absence of other conditions set out in the Criminal Code, even in the same way as initiating proceedings for compulsory treatment. But the current and described practice of terminating parental custody in the context of criminal proceedings may serve as an appropriate example.

d) I consider the introduction of prosecutorial involvement, along the lines of civil substantive law rules, to be worth considering in order to uphold certain procedural principles and to guarantee the fairness of the procedure in cases that do not affect the decision on the merits. For the purposes of the rule of law and legal certainty, the introduction and extension of this in certain procedural principles (e.g. the right of access to a court) and legal instruments (e.g. the disposal of a motion for disqualification against a judge) should be considered, precisely in order to guarantee the principles of fair trial or judicial independence, in line with EU recommendations. The Constitutional Court has already stated in AB 26/1990 (8.11.1990) that the decision on disqualification cannot be considered as a decision on the merits of the rights and obligations of the party in the case, so the prosecutor would not take a decision on the merits

[9] For example: § 5/A3 of the Civil Code

of the case, and therefore the EU principles are not violated. The involvement of the prosecutor is also supported by the fact that the CP has broadened the circumstances for exclusion in the context of the proceedings as an expert by excluding from the proceedings as a judge who has given an expert opinion in relation to the case.

e) My proposal for special statutory actions is to bring classic prosecutorial actio popularis, such as the SAI actions, within the scope of public interest litigation. I fully agree with the view of the legal literature, which is also clearly applicable to public interest litigation and which is supported by very extensive research, that '[(...)] the framework of the collective redress system, which is currently limited by the new law to a narrow field, should be broadened and the regulation should be rethought, [(...)] also taking into account legal economic aspects. This would allow the necessary procedural mechanisms to be put in place for cases that are difficult to hear under the current Hungarian legislation, or which are often not brought because of the lack of an appropriate procedural instrument."[10] To make an informed decision on public interest litigation, it is necessary to examine and consider whether the substantive and procedural conditions for bringing a claim exist, and whether the claim has been brought on the initiative of another body or person. For this purpose, the creation of a public register of public interest litigation (the aforementioned CCP[11]) would be indispensable.

f) Another proposal concerning GPA litigation is that, in order to facilitate litigation against foreign-based companies, the Public Prosecutor's Office should be included on the list published in the Official Journal of the European Union as a party entitled to initiate proceedings under Articles 3 and 4 of Directive 2009/22/EC on injunctions for the protection of consumers' interests. The legislator should also take the initiative to designate the public prosecutor's office as the body empowered to bring representative actions under Directive 2020/1828 on representative actions for the protection of consumers' collective interests, in accordance with the directive.

[10] Viktória HARSÁGI:European Responses to the Need for Collective Redress - Main European Models and the Development of Domestic Regulation. The European and European European approaches in the field of European collective redress. Jogtudományi Monográfiák 9. Sorozatszerkesztő: Schanda Balázs. Pázmány Press, Budapest, 2018. 141.

[11] ALEKU i.m. In: VARGA - ÉLESS (eds.) 763-766.

g) Given that courts very rarely notify the prosecutor of the circumstances on which action is based, a new signalling rule or practice should be considered. The prosecutor's action can be based mainly on the data and experience of the court proceedings, therefore, in this area, closer cooperation between the court and the prosecution is needed, for which the internal management tools of the prosecution should be reviewed (e.g. the decision of the court of 3/2012 (I.6.In addition, in order to avoid the institution of amicus curiae becoming redundant and to ensure its more efficient operation, it should be considered to limit its practical application to the areas of law where the prosecution has experience in the administration of justice, since it is the theoretical and practical knowledge and experience accumulated in these areas that can best fulfil its function (representing the public interest and promoting uniform adjudication).

The revision of the internal rules - possibly in consultation with the Curia, which is responsible for the uniformity of jurisprudence - is also justified by the following:

- A 3/2012 (I.6.) LÜut. 43 (4) of the Act of 3.I./2012 Coll., the prosecutor may intervene in civil proceedings pending between other parties in order to promote the party's success in the proceedings until the issuance of the order closing the proceedings, or may intervene as a party summoned to intervene, if the legal conditions for this are met. In my view, it is conceptually impossible for there to be a statutory condition for this. It is dogmatically established that the prosecutor is not acting as an intervener, since the circumstances which, according to the general rules, justify or permit intervention are present in the position of the prosecutor in the proceedings, as explained above. This is also supported by the commentary edited by István Varga, which states that "[a] party cannot be an intervener at the same time, and therefore, if the intervener is placed in the position of a party, his status as intervener ceases."[12] In addition, point 4 of PK Opinion No 3/2011 on certain questions concerning the adjudication of actions in the public interest relating to consumer contracts should be reviewed in the light of the provisions of the Civil Code. Article 573(3) of the Consumer Protection Act, which provides that there is no right to intervene in a public interest litigation. The PF opinion does not exclude the possibility that the organisation entitled to bring a public interest litigation may be a party to a public interest litigation under Art. 54(1) of the PPP does not exclude the possibility for the PPO to intervene in a public interest litigation already pending in order to promote the plaintiff's success in the action, since the legal interest in

[12] István LÉGRÁDI: Pertársaság. In VARGA István (ed.), 205.

intervening must be considered to be present. PJE No 1/2017 on the revision of the procedural guidelines following the entry into force of the new Civil Procedure Code also considers PK Opinion No 3/2011 to be the appropriate interpretation of the law in the context of the application of the new Civil Procedure Code. However, in my view, the correct interpretation of the law in this case is that it is not an intervention by the prosecutor but an intervention by the court in the context of the application of the new Civil Procedure Code. 60.§ (2), which, however, is of doubtful meaning and practical significance if it is based on the same authority to institute proceedings.

- Resolution PF 175 also needs to be revised and supplemented for the following reasons. Due to the change in the rules of procedural law, the substantive claimant can no longer be considered as an ex lege party. The substantive right-holder is a party only if he enters the litigation, and[13] it follows that, in the light of Resolution No 175, a counterclaim against the prosecutor can only be brought in such cases, since it is only a counterclaim in form against the prosecutor, but is in fact directed against the substantive right-holder and must be regarded as directed against him. If the substantive rightholder does not intervene in the action, in my opinion, a counterclaim is conceptually excluded. However, if he does participate in the action, there is no obstacle to the defendants being able to assert their counterclaims in the same action by means of a counterclaim under the statutory conditions. If the defendant were to take the opposite position, he would be placed at a disadvantage in prosecution proceedings, which would violate the principle of equality of arms. In the light of the principle of 'more for less', it is also in the interest of the party who is unable to defend his rights as a quasi-defendant that, in the event of a counterclaim, the necessary defence - with the underlying facts, evidence, reference to the law - and other procedural steps be put forward by the prosecutor.

- My proposal for a general right of action for the prosecutor is to introduce it in practice in criminal proceedings. As I have already mentioned, the harmonisation of the powers of the public prosecutor in criminal and civil proceedings between the legislator and the law enforcement authorities could, in my view, solve long-standing problems of law enforcement. This, and the effective implementation of concentration of jurisdiction in

[13] Pp. 52.§ (1) para.

criminal proceedings, could be served by the development of such an exercise. In my view, there is no legal obstacle to the involvement of the public prosecutor in criminal proceedings on behalf of the private party, provided that the conditions for the involvement of the prosecutor laid down in the Civil Code are met in relation to the victim. This can be expressed by the single designation of "prosecution", i.e. the joint action of the criminal prosecutor representing the prosecution and the public defender in this concentrated litigation. This is also justified because the Be. maintains the previous rule that a civil claim in criminal proceedings must have a direct causal link to the act charged, so that the private party's statement of facts must be substantially the same as the facts alleged in the indictment. If we compare this with what I have said about the inability to defend the law and the mandatory action, I believe that closer cooperation between the criminal and public interest protection fields, whether in the legislative or in the enforcement field, is a possible way forward. The participation of a public prosecutor with experience in civil litigation could effectively help to implement the practical implementation of the concentration of litigation, the procedure and the administration of justice in the cases provided for by law, especially in view of the fact that the Criminal Code has been supplemented by a number of rules of the Code of Civil Procedure. A ´concentrated´ prosecutor's representation would provide an opportunity to bring the practice of law enforcement in line with legislative trends that pay special attention to the protection of victims.

- In connection with the Joint Chief Prosecutor's Circular No. 8/2015 (X. 31.) on the consumer protection activities of the prosecution, the implementation and introduction of the CCP at least within the prosecution should be considered. In addition, point 15 of the Joint Inspectorate General Circular 8/2015 (X. 31.) JCC, according to which the provisions of the Civil Code of the Republic of Hungary should be revised, should be revised. 6:105.§ (1) (a) and § 39 of the Act on the Protection of the Rights of the Child (Fgytv.) may be brought in a cumulative action.

IV. The full list of publications

1. List of publications in the field of the thesis

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– Mónika ALEKU:Reflections on public interest litigation in the context of a curia decision In Themis-The electronic journal of the ELTE School of Law and Political Science, June 2016, 5-15.

– Mónika ALEKU: On the Prosecutor's Action - Part I Prosecutors' Journal, 2014/2 .,33-55.

– Mónika ALEKU: On the Prosecutor's Action - Part II Prosecutors' Journal, 2014/3-4., 59-79.

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– ALEKU Mónika - GOLDEA Zsuzsanna: The participation of the prosecutor in the trial. István VARGA (ed.). HVG-ORAC Lap- és Könyvkiadó Kft., Budapest, 2018., 250-258.

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