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PROTECTION OF JUVENILES IN HUNGARIAN CRIMINAL LAW WITH SPECIAL REGARD TO DRUG-RELATED OFFENCES

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Abstract: *The study examines the provisions of Hungarian criminal law concerning juveniles, with particular regard to drug-related offences. The authors outline the dogmatic foundations of criminal liability for young persons and emphasise the transitional nature of juvenile status between childhood and adulthood. The paper reviews the relevant international normative framework, especially the United Nations drug control conventions and the Convention on the Rights of the Child, and then analyses the provisions of the Hungarian Criminal Code that provide enhanced criminal law protection for persons under the age of eighteen. The analysis demonstrates that Hungarian criminal policy treats the protection of minors as a priority objective, particularly in relation to drug trafficking and the offence of inducing pathological addiction. These norms aim to prevent the exploitation of young people in the illegal drug market and to safeguard their physical and mental development.*

Key words: *juveniles, Hungarian criminal law, drug-related crimes, protection of minors, criminal liability of juveniles, drug trafficking, pathological addiction, Convention on the Rights of the Child, international drug control conventions, criminal policy*

1. THE CONCEPT OF JUVENILES IN THE HUNGARIAN CRIMINAL LAW AND THE DRUG RELATED CRIMES

In our study, we present the basic lines of the special Hungarian criminal substantive law about drugs, related to juveniles. The current Hungarian criminal law distinguishes three sui generis age categories on the subjective side: childhood, youth and adulthood. Juveniles appear in the currently prevailing criminal law thinking as members of a group in a transitional situation, who are more developed than children in a biological, psychological and moral sense, but less developed than adults.¹ Hungarian academic András Szabó correctly pointed out that the realization of the social purpose of criminal responsibility is served by the penal system, punishments and the execution of punishments.²

¹ Lévay Miklós: A fiatalkorúak büntetőjoga. In: Horváth-Lévay: Magyar Büntetőjog Általános Rész. Wolters Kluwer Kiadó, Budapest, 2014, 521.

² Szabó András: A fiatalkorúak és a büntetőjog KJK Budapest, 1961. 268.

One of the conditions for holding a person criminally liable is the intellectual, cognitive and volitional capacity that enables the perpetrator to be aware of the social and moral assessment of his or her actions.³ According to general opinion, the existence of this ability can only be assumed after the age of fourteen. It is natural, however, that even after the age of fourteen, a fully developed intellectual and volitional ability is not typical, but there are several transitional forms from a state excluding the ability to be held accountable to a state of fully developed ability to be held accountable.

In the process of becoming an adult, young age also represents such a transitional state. The personality of those at a young age is maturing and developing, their intellectual-emotional-volitional image is only now being formed. The motivational mechanism of their actions also works differently than that of those whose personality has developed, their intellectual-volitional ability, and their emotional life have matured. It is therefore natural that the objectives, methods, and tools of criminal law intervention applied to juveniles also differ somewhat from those used against adults.

The entire drug supply chain, from production to final consumption, poses a serious threat to children. The physical and mental well-being of minors is threatened not only by direct drug use, but also by parental drug addiction, violent crimes linked to the drug market, and exploitation in the illegal trade.⁴ Of these dangers, early drug use poses the most immediate risk, given that adolescence is a critical period for neurological development. Early initiation of cannabis use and regular use of high-potency substances have been shown to be associated with substance use disorders, psychiatric comorbidities, and other developmental disorders in adulthood. Despite these health risks, the prevalence of cannabis use among 15- to 16-year-olds globally exceeds that among the adult population (5.5% compared to 4.4%).⁵ Alongside rising consumption rates, the number of violent crimes linked to drug trafficking is also on the rise in Europe, particularly in major transit and producer countries. At the same time, there are growing concerns about the recruitment and exploitation of young people by criminal networks, with organized crime using children as a means of maintaining illicit trade.⁶

³ The substantive criminal law provisions are presented on the basis of Földvári József – Gál István László: Magyar büntetőjog Általános rész Osiris Kiadó Budapest, 2024. pp.388-393.

⁴ Damon Barrett THE IMPACTS OF DRUG POLICIES ON CHILDREN AND YOUNG PEOPLE Open Society Foundations 2015.
<https://www.opensocietyfoundations.org/publications/impact-drug-policies-children-and-young-people>

⁵ UNODC World Drug Report KEY FINDINGS AND CONCLUSIONS 2024., 54.
<https://www.unodc.org/unodc/en/data-and-analysis/wdr2024-key-findings-conclusions.html>

⁶ European Drug Report 2024., 5. https://www.euda.europa.eu/publications/european-drug-report/2024_en

Although criminal law is only one – albeit undoubtedly decisive – tool in the complex treatment of the drug problem, the establishment of a legal framework is essential for the protection of minors. With this in mind, after reviewing the child protection provisions of the relevant international conventions, this study provides a detailed description of the provisions of the Hungarian Criminal Code that are specifically designed to provide enhanced criminal law protection for persons under the age of 18 in connection with drug-related crime.

2. THE INTERNATIONAL NORMATIVE BACKGROUND FOR THE PROTECTION OF YOUNG PEOPLE AGAINST DRUG-RELATED CRIME

When codifying drug-related crimes, it is essential to take into account the relevant international conventions; therefore, it is of fundamental importance to review the provisions of these documents relating to minors. However, it is worth noting that the interpretation of drugs as a threat to children appeared relatively late in international discourse, in the early 1970s.

While specific issues affecting children were not yet addressed in the 1961 Single Convention, the threat to young people began to appear in international discourse during the negotiations of the 1971 and 1972 agreements, albeit only tangentially at first. This shift in perspective coincided with the start of Nixon's "war on drugs," which shifted the international community's focus from technical and administrative regulation to drug diplomacy focused on the threat posed by drugs. By the 1980s, during the Reagan era's "Just Say No" campaigns, drug control and children's rights efforts first converged in a meaningful way on the international stage, ultimately leading to the near-simultaneous adoption of the Vienna Convention (1988) and the Convention on the Rights of the Child (1989).⁷

The Preamble to the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed in Vienna on December 20, 1988, also draws attention to the danger that the drug market in many parts of the world is exploiting children. In this regard, the parties to the Convention shall ensure that their competent courts and other competent authorities take into account the factual circumstances that may mitigate the seriousness of the offense. In view of this, the parties to the Convention must ensure that their competent courts and other competent authorities take into account the factual circumstances that make drug-related crimes particularly serious. In this context, the Convention refers, *inter alia*, to cases where the offense was committed in or in the immediate vicinity of a penal institution, an educational institution or a center providing social services, or in any other place frequented by schoolchildren or students for educational, sporting or social activities.⁸

⁷ Barrett D. The Child's Right to Protection from Drugs: Understanding History to Move Forward. *Health Hum Rights*. 2017 Jun;19(1):263-268. <https://pmc.ncbi.nlm.nih.gov/articles/PMC5473055/>

⁸ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Article 3, paragraph 5(g)

Under Article 24(3) of the Convention on the Rights of the Child, States Parties undertake to take all appropriate and effective measures to eliminate harmful practices affecting the health of children.⁹ The Parties shall take appropriate legislative, administrative, social and educational measures to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.¹⁰ For the purposes of this Convention, a child means a person under the age of eighteen years, unless the age of majority is attained earlier under the law applicable to the child.¹¹

Article 33 of the Convention on the Rights of the Child establishes a dual protection mechanism: its provisions cover both the prevention of drug use by minors and the prohibition of their involvement in drug trafficking. The dogmatic significance of this section is enhanced by the fact that it forms a direct normative bridge between the Convention on the Rights of the Child and the three fundamental drug control documents of the United Nations: the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.¹²

3. PROTECTION OF PERSONS UNDER THE AGE OF 18 IN THE HUNGARIAN CRIMINAL CODE

3.1. Drug trafficking and drug possession

There are numerous reasons for the criminal law protection of minors against drug abuse and for the creation of criminal law provisions to this end, of which the following are of particular importance:

- a) drug abuse poses an increasingly serious threat to human health, especially to minors, who are the most vulnerable category in terms of drug-related crime;
- b) the existence of numerous social problems caused or exacerbated by drug abuse;
- c) the significant prevalence of minors becoming victims of drug abuse and the increase in the number of drug-related crimes committed against minors;
- d) the lowering of the age at which young people enter the world of drugs (younger age), and the spread of drug addiction among young people, caused by the criminal behavior of adults who induce minors to consume and abuse drugs or assist them in doing so (incitement and aiding and abetting);
- e) Neglecting the criminal law protection of minors against drug abuse would lead to a rapid and uncontrollable increase in drug use, which would have

⁹ Convention on the Rights of the Child, Part I, Article 24, paragraph 3

¹⁰ Convention on the Rights of the Child, Article 33

¹¹ Convention on the Rights of the Child Part I, Article 1

¹² Damon Barrett THE IMPACTS OF DRUG POLICIES ON CHILDREN AND YOUNG PEOPLE Open Society Foundations 2015
<https://www.opensocietyfoundations.org/publications/impact-drug-policies-children-and-young-people>

unforeseeable consequences for the health of the population—especially minors—and for society as a whole.¹³

In line with the above arguments set out in international literature, Hungarian criminal policy also pays particular attention to the protection of vulnerable age groups, ensuring that the obligations undertaken in international conventions are enforced.

The Hungarian legislature has created separate sections in the area of crimes that endanger health to protect persons under the age of 18. A separate section regulates cases where a person over the age of 18 commits an act related to drug trafficking with the participation of the aforementioned group of persons. In this context, the act of an offender over the age of 18 who offers or transfers drugs to a person under the age of 18, or who distributes or trades in drugs for such a person or with their involvement, and similarly punishable are acts of distribution (offering, handing over, placing on the market and trading) committed in certain protected buildings or in their immediate vicinity.

These cases of drug trafficking are punishable by imprisonment for a term of 5 to 10 years.¹⁴

The involvement of persons under the age of 18 in the commission of a criminal offense means that such persons engage in conduct that constitutes a criminal offense related to narcotics.¹⁵ Use therefore means that a person under the age of 18 participates in the commission of a crime through incitement or aiding and abetting by a person over the age of 18.¹⁶ If the perpetrator commits the offense of distribution or trafficking with the use of a person under the age of 18, the person who has reached the age of criminal responsibility and is used in this way is liable as an independent perpetrator under Section 176 of the Criminal Code if they act in the knowledge that they are participating in the distribution or trafficking of drugs.¹⁷ Among the stages of the offense involving the use of such persons, the conduct of a person under the age of 18 is also considered an offense in terms of "transfer," since as a result of this conduct, such a person acquires the narcotic drug, which is also considered an offense in the context of drug possession.

Consumer-type behavior is also subject to stricter judgment if the cultivation, production, acquisition, or possession of drugs occurs for the benefit of the persons in question, or if it occurs in or in the immediate vicinity of the protected buildings

¹³ Suad Orlić, Sadmir Karović. "KAZNENOPRAVNI ASPEKTI ZAŠTITE MALOLJETNIH LICA OD ZLOUPOTREBE OPOJNIH DROGA U U BOSNI I HERCEGOVINI". Zbornik radova Pravnog fakulteta u Tuzli 1-2:112-149. 1-2/2020., 118.

¹⁴ Section 177 of the Hungarian Criminal Code

¹⁵ FÜLÖP Ágnes – GRÁD András – MÜLLER Mária: Droggal és alkohollal összefüggő bűncselekmények. HVG-ORAC, Budapest, 2000., 162.

¹⁶ HEGEDŰS István: XVII. Fejezet. Az egészséget veszélyeztető bűncselekmények, In: KARSAI Krisztina (szerk.): *Kommentár a Büntető Törvénykönyvhöz*, Complex Kiadó, Budapest, 2013, 356.

¹⁷ BELEGI József: XVII. fejezet. Az egészséget veszélyeztető bűncselekmények, In: KÓNYA István (szerk.): *Magyar Büntetőjog I-IV. - új Btk. - Kommentár a gyakorlat számára*

mentioned above. Ordering drugs and transit-type criminal conduct (importing them into the country, exporting them from the country, or transporting them through the country) are subject to the same assessment if they are carried out by a person over the age of 18 for a person under the age of 18 or for their use.¹⁸

3.2. Inducing pathological addiction

The protection of persons under the age of 18 is also ensured by the offence of incitement to pathological addiction, which is justified by the fact that certain drugs, such as cannabis or MDMA-containing ecstasy, have physiological effects (e.g., euphoria, slowed reaction time, anxiety relief) of certain substances freely available on the legal market are very similar. The misuse of these substances triggers biological responses similar to those of narcotics.¹⁹

The legal definition of the aforementioned crime appeared in Act IV of 1978, which stated that the offence was committed when the perpetrator assisted a person under the age of eighteen in the pathological use of narcotic substances or agents, or attempted to persuade them to do so. In connection with the inclusion of the offence in the law, the explanatory memorandum referred to the fact that, among adolescents, interest in drugs often begins with the use of substances that are not classified as drugs but are suitable for pathological enjoyment due to their intoxicating effect (e.g., medicines, adhesives). The harmful effects of such substances are usually milder than those of narcotics. The main reason for declaring this a criminal offence was the danger that young people who become accustomed to such substances will eventually become drug users. Determining whether a substance has an intoxicating effect was the task of medical experts.²⁰ The 1993 amendment also affected the offence of incitement to pathological addiction, which, under the amended law, could only be committed by persons over the age of 18, and the penalty for which was increased to up to three years' imprisonment. Finally, Act C of 2012 placed the offence in a separate category.

According to the rules in force, this crime can be committed by a person over the age of 18 who induces or attempts to induce a person under the age of 18 to consume a substance or agent that is not classified as a narcotic but has a narcotic effect, or attempts to induce a person under the age of eighteen to consume drugs. The same applies – and is punishable by up to two years' imprisonment – in cases where a person over the age of 18 assists a person under the age of 18 in the harmful use of substances or agents that are not classified as narcotics but have a narcotic effect. However, the latter case is subsidiary, and the perpetrator is only punishable under this law in the absence of a more serious crime.

The object of the crime is a narcotic substance or agent. Narcotic substances or agents include all substances or agents that do not fall under the legal definition of narcotics but cause intoxication, mood and consciousness changes, possibly

¹⁸ Section 179 of the Hungarian Criminal Code

¹⁹ BELEGI József: XVII. fejezet. Az egészséget veszélyeztető bűncselekmények, In: KÓNYA István (szerk.): *Magyar Büntetőjog I-IV. - új Btk. - Kommentár a gyakorlat számára*

²⁰ 1978. évi IV. törvény a Büntető Törvénykönyvről Indokolás

euphoria, and may be capable of causing psychological dependence. This category includes, for example, organic solvents, adhesives, and medicines, but does not include alcohol. It is clear that the list of substances mentioned is not exhaustive, so it must always be examined on a case-by-case basis whether the substance or agent in question had a narcotic effect.²¹

4. FINAL THOUGHTS

The protection of persons under the age of eighteen constitutes a central objective of Hungarian criminal policy in the field of drug-related offences. As the analysis has demonstrated, both international conventions and domestic legislation emphasise the vulnerability of minors and the need for enhanced legal protection against the risks associated with illicit drug markets. Hungarian criminal law therefore establishes a differentiated regulatory framework that addresses both the prevention of drug use among juveniles and the prohibition of their involvement in drug trafficking. Particular importance is attached to criminalising conduct whereby adults involve minors in drug-related activities or induce them to consume substances capable of causing addiction. Through these provisions, the Hungarian Criminal Code seeks not only to sanction harmful conduct but also to contribute to the protection of the physical and mental development of young persons and to prevent their exploitation within organised criminal structures.

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²¹ Belovics Ervin - Polt Péter (szerk.): *A Büntető Törvénykönyv kommentárja* Budapest, ORAC, 2025.,

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ZAŠTITA MALOLJETNIKA U MAĐARSKOM KRIVIČNOM PRAVU SA POSEBNIM OSVRTOM NA KRIVIČNA DJELA POVEZANA SA DROGOM

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Apstrakt: Studija ispituje odredbe mađarskog krivičnog prava koje se odnose na maloljetnike, sa posebnim osvrtom na krivična djela povezana sa drogom. Autori iznose dogmatske osnove krivične odgovornosti mladih osoba i naglašavaju prelaznu prirodu statusa maloljetnika između djetinjstva i odraslog doba. Rad razmatra relevantni međunarodni normativni okvir, posebno konvencije Ujedinjenih nacija o kontroli droga i Konvenciju o pravima djeteta, a zatim analizira odredbe Mađarskog krivičnog zakonika koje pružaju poboljšanu krivičnopravnu zaštitu osobama mlađim od osamnaest godina. Analiza pokazuje da mađarska krivična politika tretira zaštitu maloljetnika kao prioritetni cilj, posebno u vezi sa trgovinom drogom i krivičnim djelom izazivanja patološke zavisnosti. Ove norme imaju za cilj sprečavanje eksploatacije mladih ljudi na ilegalnom tržištu droga i zaštitu njihovog fizičkog i mentalnog razvoja.

Ključne riječi: maloljetnici, mađarsko krivično pravo, krivična djela vezana za drogu, zaštita maloljetnika, krivična odgovornost maloljetnika, trgovina drogom, patološka zavisnost, Konvencija o pravima djeteta, međunarodne konvencije o kontroli droga, krivična politika