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HUNGARIAN PETTY OFFENCE LAW - AN AREA OF LAW BETWEEN CRIMINAL AND ADMINISTRATIVE LAW

I. Introduction

"In our legal system, it is the petty offence law that is intended to ensure protection against acts that, compared to criminal offences, have lower dangerousness to society. The regulation of the petty offence law needs to ensure protection against behaviours that endanger the basic values to a lesser extent and against behaviours that endanger values that are "still" determined to be protected by the law. […] Petty offence law has a special place in our legal system as it affects the everyday life of citizens and influences their legal awareness and law-abiding attitude."[1]

The Act on Petty Offences, Petty Offence Procedure and the Petty Offence Registry System (in the following: Act on Petty Offences) came into force on the 15th of April 2012. According to *Marianna Nagy* there were neither theoretical, nor practical reasons for a new Act on Petty Offences, not to mention that the new regulation has shifted our petty offence law towards criminal law which means that petty offences no longer belong to the realm of administrative penalty law, but they are part of a latent law of misdemeanours.[2]

But from where did petty offences start? What are those elements that lead petty offence law closer to criminal law than to administrative law? It is a fact, also identified by the Hungarian Constitutional Court, that it is connected to both administrative and criminal law. What are these connections? What kind of attitude do dogmatism of the administrative and the criminal law have towards petty offences?

The aim of this paper is to answer these questions and to give an overall picture of the character of the Hungarian petty offence law. According to these goals this study is divided into three main sections. The first part is about petty offences in general: how did they come into being, what were the milestones in their history, how does the Hungarian Constitutional Court interpret the character of them and how are they regulated currently? In the second section of the paper the connections of the petty offence law to the administrative law will

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[1] Details from the concept on the Act on Petty Offences, 2010 2014. kormany.hu/download/6/18/40000/Koncepció.doc (02.06.2017).

[2] Nagy Marianna: *Quo vadis Domine? Elmélkedések a szabálysértések helyéről a 2012. évi szabálysértési törvény kapcsán*. Jogtudományi Közlöny 2012/5. 217. p.

be considered and the third part of the essay attempts to show the elements of the criminal law in the Hungarian petty offence law.

However, it is necessary to clarify here why the term petty offence is used in this paper as there would be some other possibilities, as well. Terms like misdemeanour, infringement, infraction, and petty offence all seem to be an appropriate translation of the affected legal institution.

The original Hungarian term is *szabálysértés*. As it will be presented in the next section of this paper this legal institution exists only from the 1950s. Before that, as part of the trichotomy, there were felonies (*bűntett*), misdemeanours (*vétség*) and infractions (*kihágás*). The term *szabálysértés* is often translated as misdemeanour which is incorrect as misdemeanours are one type of the criminal offences.

Infringement is also an improper expression: on the one hand, it is rather used in the Anglo-Saxon legal system for smaller offences, on the other hand in the European Union it is a term for a special proceeding of the European Commission.

In my opinion, the term petty offence expresses the special character of the affected legal institution mentioned above in the most specific way and presented in the following.

II. Special character of petty offences

Petty offence is an activity or passive negligence that is potentially dangerous to society and that is punishable under this Act. An 'act dangerous to society' means any activity or passive negligence which prejudices or presents a risk, lower than in case of criminal offences, to the fundamental constitutional, economic or social structure of Hungary provided for in the Fundamental Law, as well as the person or rights of others.[3]

Petty offences are according to the Hungarian Constitutional Court Janus-faced, which means that generally they are classified into two types: situations of the petty criminal law (*bagatell büntetőjog tényállásai*) and situations against public administration (*közigazgatás-ellenes tényállások*).

In the following, it is going to be clarified how this concept and classification came into being.

II.1. Historical background with special regard to conceptual approaches

A special milestone in the development of the Hungarian criminal law is the Act Nr. V. of 1878 on Felonies and Misdemeanours (in the following: Act on Felonies and Misdemeanours) and in connection with that the Act Nr. XL. of 1879 on Infractions (in the following: Act on Infractions). According to this regulation the trichotomy was instituted and on the basis of their weight offences were divided into felonies, misdemeanours and infractions. Infractions became the mildest category of crimes.[4]

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[3] Section 1 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[4] Nagy Ferenc: *A magyar büntetőjog általános része*. HVG-ORAC Lap- és Könyvkiadó Kft, Budapest, 2010. 37. p.

As for the connection of the two Acts it shall be mentioned that without different provisions the rules of the Act on Felonies and Misdemeanours were applicable, as well as there were general concepts, like perpetrator – accomplice, attempt, intent, or negligence.

According to Art. 1. of the Act on Infractions infraction is any act declared as an infraction by an act, minister's, or municipality's decree. Most of the infractions were judged by public administration authorities.[5] The Act on Infraction ordered to sanction infractions with confinement or fine. If the perpetrator didn't pay the fine it was possible to substitute it by the appropriate term of confinement.

The general provisions of the Act on Infractions are very similar to the Act on Petty Offences. That is why the statement of *Ferenc Finkey* about the Act on Infractions is quite actual today as well: „the Act on Infractions has fallen between two stools because of the discords between criminal and administrative law."[6]

Several changes occurred in the 1950s. First, the Act Nr. II of 1950 on the General Part of the Criminal Code abolished the category of misdemeanours and instituted dichotomy. The regulation concerning crimes must have been applied basically for infractions as well. Felony was an act that is potentially harmful to society and that is punishable under this Act.[7] Infraction is an activity or passive negligence declared as an infraction by the law, a provision of the police or the entitled authority, that is harmful to society.[8] The common specific of felonies and infractions was the harmfulness to society which was defined the following way: an 'act dangerous to society' means any activity or passive negligence which prejudices or presents a risk to the constitutional, economic or social structure of the Hungarian People's Republic, as well as the citizens or their rights.

Infractions were judged by the so called executive committees (*végrehajtó-bizottságok*) and by the police. However, in 1953 the decision-making right of the police was terminated and the authority was divided between the executive committees and the district courts (*járásbíróságok*). Irregularities (*szabálytalanságok*) as a new category differing from the infractions were introduced.

In 1955 dichotomy was abolished together with the category of infractions and a new, independent legal institution was created: the petty offences.

Petty offences were regulated in the Act Nr. I of 1968 on the Petty Offences and in the Government Decree Nr. 17 of 1968 (it contained the different situations). According to the Art. 1 of the Act an activity or a negligence may be declared as petty offence by act, government decree or local government decree. The definition of petty offences cannot be found in the Act, though according to the preamble the Act, shall be applied to acts that are against the law and have a lower dangerousness to society.

The proceeding authorities were part of the public administration: in general, the so-called councils (*tanácsok*) (after the change of the regime: the notaries) and the police had the decision-making right in case of petty offence situations.

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[5] Árva Zsuzsanna: *A közigazgatás szervezeti változásai a szabálysértési jog fórumrendszere tükrében*. Debreceni Jogi Műhely, 2014/1-2. http://www.debrecenijogimuhely.hu/archivum/1_2_2014/a_kozigazgatas_szervezeti_valtozasai_a_szabalysertesi_jog_forumrendszere_tukreben/ (04.06.2017)

[6] Domokos Andrea: *Finkey Ferencről*.
http://www.ugyeszek.hu/finkey+ferenc-dij/finkey+ferencrol/finkey+ferencrol.html#domokos (04.06.2017).

[7] Article 1 of the Act Nr. II of 1950 on the General Part of the Criminal Code.

[8] Article 72 Act Nr. II of 1950 on the General Part of the Criminal Code.

In the 1990s some constitutional qualms occurred in connection with the fact that court protection was not guaranteed (with one exception) against the decisions of the petty offence authorities. This was the basis of the Resolution Nr. 63/1997. (XII. 12.) of the Hungarian Constitutional Court and throughout that the starting point of a new act on petty offences.

As for the decision of the Hungarian Constitutional Court, the panel laid down that petty offence law is a Janus-faced area of law, as a part of the situations are against administrative law, while the other part of them are criminal acts and of course in both cases the right to court protection must be ensured.

The legislator, accomplishing the expectations of the Constitutional Court, passed the Act Nr. LXIX of 1999 on Petty Offences and its executive decree. With the new regulation, the Hungarian petty offence law was obviously determined to become the so called administrative penalty law. It follows most of all from the definition of petty offences according to the Preamble of the Act: petty offences mean any conduct that violate or endanger generally accepted standards of social coexistence (dangerousness to society), lower than in case of criminal offences, hinder or interfere with the functioning of public administration or violate the legislation on the exercise of a specific activity or profession.

A conduct may have been identified as a petty offence by act, government or local government decree and many authorities had decision-making right: notaries, police, and other special administrative bodies. Local courts also got scope in case of petty offences that might be sanctioned with confinement, as well as they decided remedies and conducted the non-paid fine into confinement.

In 2010 a significant legislative process began, by that petty offence law was affected, too. Because of that the Hungarian Parliament repealed the Act. Nr. LXIX of 1999 on Petty offence. Also, the Government Decree Nr. 218 of 1999 on the petty offences and all the local government decrees on petty offences were rescinded.[9]

On the 23rd of 2011 the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System had been launched. What the main characteristics of the new applicable law are, will be examined in the next section of the paper.

II.2. Applicable law

The *Act on Petty Offences, Petty Offence Procedure, and Petty Offence Confinement* (in the following: Act on Petty Offences) entered into force on the 15th of April 2012.

Most of the experts did not see any theoretical or practical reason for a new regulation. According to some researchers the development and simplification of this area of law had been undermined.[10] According to *Marianna Nagy* the only reason for the new regulation could have been the aim of restricting the legal sanctions in the interest of more effective legal compliance of the citizens.[11]

One of the most important changes is that the administrative-law-like situations were „disconnected" from petty offence law, which is also expressed in the Preamble: the aim

[9] Belcsák Róbert Ferenc: *Lassú evezőcsapásokkal a kihágási büntetőjog felé, avagy gondolatok az új szabálysértési törvényhez*. Iustum – Aequum – Salutare 2013/1. 164. p.

[10] Belcsák 2013, 164. p.

[11] Nagy 2012, 218. p.

of the act is to handle conducts that do violate or endanger the generally accepted rules of social cohabitation, but which do not have the same risk or danger as criminal offenses. Essentially, this means that the legislator looks at petty offences as petty or small crimes. This kind of attitude shifts our petty offence law towards criminal law.[12]

As mentioned above, petty offence is an activity or passive negligence that is potentially dangerous to society and that is punishable under this Act. An 'act dangerous to society' means any activity or passive negligence which prejudices or presents a risk, lower than in case of criminal offences, to the fundamental constitutional, economic or social structure of Hungary provided for in the Fundamental Law, as well as the person or rights of others.[13] The basic element of petty offences is the law dangerousness to society.

The criminal law like character of petty offence law is expressed most of all through the sanctions and their execution in the Act on Petty Offences. The sanction system is dual which means that there are penalties and measures. Penalties are the petty offence confinement, the petty offence fine and – as a new penalty – the community service work; measures are the driving ban, the exclusionary order, the confiscation, as well as the warning. Petty offence confinement may be imposed only by court.

Another important provision of the Act is connected to the proceeding authorities about which an ostensible simplification may be observed. The general petty offence authority is the district office of the government office (*a fővárosi és megyei kormányhivatal járási* (*kerületi*) *hivatala*) (instead of the notary of the local governments). Petty offences, that may be sanctioned with confinement, are judged by district courts (*járásbíróságok*). There are petty offences in connections with that the police, as well as the National Tax and Customs Administration of Hungary are the proceeding authorities.[14] In fact the reduction of the number of proceeding authorities does not realize as there are plenty of authorities besides the above mentioned that has the right to confine a fixed penalty fine.[15]

According to *Marianna Nagy*, the Hungarian petty offence law cannot be described as administrative penalty law anymore, it is getting even more the law of infractions with the latent elements of infractions in its regulation. The new Act on Petty Offences confirms the elements of criminal law and criminal procedural law. However, there is still a strong connection to administrative law and that is the proceeding authorities, that are part of the public administration.[16]

Also, *Marianna Nagy* said that the Janus-faced character should not be questioned anymore and it should be accepted, that there are both elements of administrative and criminal law in its material and procedural law.[17] These different elements will be presented in the following two parts of the essay.

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[12] Belcsák 2013, 164. p.

[13] Article 1 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[14] Article 1, Section 38 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[15] Article 1, Section 38 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[16] Nagy 2012, 218. p.

[17] Nagy 2012, 219. p.

III. Petty offence law and administrative law

The relation between petty offence law and administrative law will be examined from two viewpoints. Firstly, how the dogmatism of administrative law handle petty offences and secondly, what are the main elements of administrative law in the petty offence procedures.

III.1. Petty offences from the view of administrative law

Petty offences are in connection with the punitive and sanctioning power of public administration, which was written up by *James Goldschmidt* (theory of administrative penalty law). From the view of statutory law, it means norms that set the terms of using punitive sanctions by administrative bodies. From the view of procedural law the administrative punitive power means the sanctioning 'jurisdiction' of the public administration. The expansion of the administrative punitive power has two main reasons. On the one hand, it aims the relief of criminal jurisdiction through decriminalization. On the other hand, it may be originated in the recognition that administrative sanctioning may be faster, simpler and sometimes more efficient than the judicial proceeding.[18]

The punitive and sanctioning power of public administration appears in the form of administrative sanction (*közigazgatási jogi szankció*). The administrative sanction is a disadvantageous legal act of the entitled administrative authorities in a regulated process that reacts to an unlawful conduct and may be enforced.[19]

Administrative sanctions may be grouped by several aspects. According to the administrative activity there are magisterial sanctions (*hatósági szankciók*), sanctions based on public service legal relationship and sanctions based on supervision power. Based on their aim, there are reparative, repressive, interdicting and correctional sanctions. Depending on the legal act that has been violated sanctions may be classified into material and procedural sanctions (*anyagi és eljárásjogi szankciók*). In case of a subjective sanction it must be examined if the offender handled with intent or with negligence unlike objective sanctions. [20]

Petty offences are also part of the system of administrative sanctions. The reason for that is that most of the petty offence situations got into the administrative law through decriminalization [situations of the petty criminal law (*bagatell büntetőjog tényállásai*)], while the other part of them (as subjective sanctions) is the most significant element of the liability for the violation against administrative law [situations against public administration (*közigazgatás-ellenes tényállások*)].[21]

As beyond these, there are also situations that have the characteristics of both branches of law, the legislator had to decide between two theoretical solutions when reregulating the law of petty offence. According to the first theory, only situations against administrative

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[18] Cserép Attila – Fábián Adrián – Rózsás Eszter: *Kommentár a szabálysértésekről, a szabálysértési eljárásról és a szabálysértési nyilvántartási rendszerről szóló 2012. évi II. törvényhez*. Wolters Kluwer Kft., Budapest, 2012. 2. p.

[19] Fazekas Marianna – Ficzere Lajos: *Magyar Közigazgatási Jog Általános Rész*. Osiris Kiadó, Budapest, 2005. 548. p.

[20] Fazekas – Ficzere 2005, 549. p.

[21] Fazekas – Ficzere 2005, 553. p.

law should be part of the petty offence law, while the smaller criminal law like situations should be recriminalized. The other theory is based on the recognition of the duality of this field of law.[22] As for the Act on Petty Offences, the legislator followed another solution and shifted petty offence law towards criminal law.

However, there are still some connections to the administrative law and that these are the proceeding authorities and their decisions.

III.2. Connection to administrative law

Petty offence procedure can be described as a special administrative procedure, as administrative bodies establish different obligations for natural or legal persons under public authority activity. This means an administrative legal relationship between the administrative body and the so-called client. Is petty offence legal relationship an administrative legal relationship as well?

This question was answered by *László Sólyom*, former judge of the Constitutional Court, who attached concurring opinion to the Resolution Nr. 63/1997 (XII. 12.). According to him, it is a wrong view to take an equal sign between petty offence legal relationship and administrative legal relationship and throughout it is also incorrect to qualify the decisions of petty offence authorities as administrative decisions. First, the provisions of the Act Nr. IV of 1957 on the General Rules of Administrative Proceedings – as well as the provisions of the Act CXL of 2004 on the General Rules of Administrative Proceedings and Services – must not be applied for the petty offence procedures.[23] Except for the proceeding authorities, that are organs of the public administration in both cases, there is nothing common in the two kinds of legal relationships. The main differing attribute of petty offence proceedings is that the proceeding authority may impose a penalty that is a repressive sanction (see above).[24]

As for the system of proceeding authorities, as a connection to the public administration, they have been varying since the Act on Infractions, though there were always authorities of public administration that may have proceeded in case of infractions or petty offences. Besides them, courts had a decision-making right from time to time. As mentioned above, in 1955 the scope got completely in the sphere of public administration and that was the case until 1999, when courts got back their decision-making right, but only in situations that may be sanctioned with petty offence confinement.

According to the Article 38, Section 1 of the Act on Petty Offences the general proceeding authority is the so-called district office of the government office (*a fővárosi és megyei kormányhivatal járási* (*kerületi*) *hivatala*), that is part of the central public administration and is under the supervision of the government. Before that the general proceeding authority was the notary (*jegyző*) of the autonomous local government. As we can see it, the decision-making right had been moved from the local organ of public administration to the central organ of public administration.

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[22] Fazekas – Ficzere 2005, 553. p.

[23] Szilvásy György Péter: *Rendvédelem és közigazgatási eljárások*, in: Szigeti Péter (szerk.): Jogvédelem – rendvédelem tanulmányok. RTF Alkotmányjogi és Közigazgatási Jogi Tanszék, Budapest, 2007. 132. p.

[24] Constitutional Court Decision 63/1997. (XII. 12.) ABH 1997, 365, 367-368. p.

What was the reason for this change? According to *Marianna Nagy*, it was the new perception about the state, that needs a strong and centralized public administration system for the enforcement of the tasks of public administration. In that the punitive power of public administration has an important role. And so, we are back to our starting point i. e. sanctions of public administration and petty offences as part of the system of public administrative sanctioning.[25]

However, there are also some questions (that will not be answered here lack of time and place) remaining: does and if yes how does this change – moving the decision-making right from local authorities to central public organs – affects the right of perpetrator to independent and neutral decision? Can the system of public administration operate this kind of petty offence law that is getting closer and closer to criminal law?[26]

IV. Petty offence law and criminal law

The main theoretical question of petty offence law has not changed since the Act on Infraction: what kind of relationship does petty offence law have with administrative law and criminal law? The main connection points of petty offence law to administrative law have already been presented, in the following part of my essay I would like to make an attempt to summarise the relationship between petty offence law and criminal law. Firstly, I mention how criminal law dogmatism near petty offences, secondly, I name specific elements that stem from criminal law that shift petty offence law quite far from the administrative law.

IV.1. Petty offences in the dogmatism of criminal law

The dogmatism of criminal law proceeds from the question if criminal law has such components that belong solely to it. There are three main aspects in connection with this question. According to the first aspect, this component is the crime, while according to the other it is the penalty. A third theory is that both crime and penalty are inevitable components of criminal law. It follows that the lack of crime and penalty, as well as the lack of crime or penalty can lead to another branch of law in the field of public law and inter alia that may also be petty offence law. So first of all, the relationship between petty offence law and criminal law has to be examined. [27]

According to a formal approach, the difference between petty offence lawlessness and criminal lawlessness is the compulsory valuation of the legislator: if a conduct may be sanctioned with fine or confinement, then we speak about a petty offence, if the sanctions are criminal law penalties than that is a crime. The material approach may be divided into two viewpoints. According to the first perspective, petty offences differ from crimes essentially in the way and seriousness of the offense against the legal interests (qualitative difference). According to the other one in connection with the unlawfulness there is only

[25] Nagy 2012, 218. p.

[26] Belcsák 2013, 172. p.

[27] Nagy Ferenc 2010, 21-22. p.

a gradual difference (quantitative difference), which means that these conducts are also harmful to society but in a lesser way than crimes, so the sanctions are milder as well.[28]

As mentioned above, petty offences do not have a homogeneous nature, which means that there is criminal law like situations and situations that violate the provisions of public administration. As for the criminal law like situations they also violate legal interests just like crimes and sometimes it is hard to differentiate between crimes and petty offences but there are some viewpoints: the extent of damage, financial disadvantage or smaller value of the thing may result in a petty offence. More and stronger *criteria* may lead to a crime, for example in case of a libel or a breach of the peace. Another viewpoint may be the sanctioning system, as it is different from the sanctioning system of criminal law[29], though but as we will see it petty offence confinement is very close to it.

IV.2. Elements of the criminal law in the Hungarian petty offence law

Petty offence procedure can be seen as a 'petty criminal procedure'. Firstly, general prevention and repression are specific to petty offences as they are also conducts dangerous to society. Secondly, the Act on Petty Offences uses several legal institutions and definitions of the criminal material and procedural law.[30] As petty offences and crimes differ from each other only in the seriousness and dangerousness of the offense against the legal interests, but the way of the offense and sometimes its form are the same, there are several definitions and rules of criminal law in petty offence law.[31]

First, instead of these definitions I would like to mention the strictest sanction of the petty offence proceeding and that is the so called petty offence confinement. Except for a short period in the 1990s, petty offence confinement was always one of the sanctions in the petty offence proceedings though the imposing authority may have varied (courts, organs of public administration). As this is kind of a deprivation of liberty that is the specificity of criminal law, it makes petty offence law really like criminal law.

On the one hand, most experts of the petty offence law think that confinement, that may be imposed only for certain types of petty offences, is a too strict sanction for a petty offence. If petty offences are dangerous to society in a lesser way than crimes then why is confinement needed? Article 21 of the Act on Petty Offences states that the sanction must be proportional with the unlawful conduct. Does the possibility of imposing a confinement meet this requirement?[32]

On the other hand, petty offence confinement has the characteristic of *ultima ratio*. If the perpetrator does not pay the imposed fine or does not accomplish the community service work (*közérdekű munka*), the fine or the community service work may be transformed by the court into confinement. It is possible not only by the certain types of petty offences but in case of all petty offences.[33] To sum up these thoughts about petty offence confinement,

[28] Nagy Ferenc 2010, 23. p.

[29] Nagy Ferenc 2010, 24. p.

[30] Szilvásy 2007., 132. p.

[31] Nagy Ferenc 2010, 23. p.

[32] Belcsák 2013, 173. p.

[33] Belcsák 2013, 172. p.

the question of *László Papp* shall be accepted, i. e. "Then why is petty offence, that may be sanctioned with confinement, petty offence and not crime?"[34]

In the following, I would like to mention definitions that originate from criminal law but are also used in the Act on Petty Offences. It is most of all the elements of the liability that are part of the criminal law liability, as well.

Petty offense liability may be established, if the conduct of the perpetrator is committed intentionally or – if negligence also carries a punishment – with negligence. If it is expressly prescribed by the act establishing the petty offence, any person who carries out an act with the intent to commit a petty offence, but without finishing it, shall be punishable for attempt. Perpetrator does not only mean the parties to a crime, but also the abettor and the aider.[35]

The principle of the so called *nulla poena sine lege* is regulated in the Act on Petty offences, as well as the grounds for total or partial exemption from responsibility should be examined during the petty offence proceeding, as well.[36]

As for the petty offence proceeding, the Act on Petty Offences orders to apply the principals of the criminal proceeding: these are the principles of the presumption of innocence, the *ex officio* proceeding, the burden of proof and the right to defence.[37]

The proceeding itself is also much more similar to the criminal procedure than to the administrative procedures as it begins with accusation and in case of petty offences, that may be sanctioned with confinement, there is also the possibility of the so called preparatory procedure. An important difference is though that in most of the cases the roles do not differ, as it is the authority that should explore, decide the case and execute the decision.[38]

V. Conclusions

Since petty offences came into being it had always been a question what kind of connection do they have with administrative law and criminal law. This is a question that is getting increasingly important if we examine the new regulation on petty offences that is embodied in the Act Nr. II of 2012 *on Petty Offences, Petty Offence Procedure, and Petty Offence Registry System*.

First, there were the so-called infractions: they were the mildest form of criminal acts in the system of trichotomy. In the 1960s appeared the petty offences defined as sanctions of public administration. With the theory of administrative penalty law petty offences became the device of the punitive power of public administration. Defining the current regulation would be quite a hard task.

Though it was not the aim of this paper but the presentation of the so many times mentioned special character of petty offence law. Petty offences are according to the

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[34] Belcsák 2013, 174. p.

[35] Article 2, Section 1-3 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[36] Article 2, Section 6-7 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[37] Article 31-32, 34 of the Act Nr. II of 2012 on Petty Offences, Petty Offence Procedure and Petty Offence Registry System.

[38] Belcsák 2013, 176. p.

Hungarian Constitutional Court Janus-faced, which means that generally they are classified into two types of situations: situations of the petty criminal law and situations against public administration. Another characteristic of petty offence law that there are both elements of administrative and criminal law in its material and procedural law.

From the aspect of administrative law, petty offences are part of the public administration sanctioning system. They are magisterial, material, repressive, subjective sanctions. As for the dogmatism of criminal law the lack of one of components of criminal law, i. e. crime and penalty, as well as the lack of crime or penalty can lead to another branch of law in the field of public law and *inter alia* that may also be petty offence law. So, the relationship and the distinguishing factors between petty offence law and criminal law is examined.

The evaluation of petty offences belongs to the realm of public administration, because the general proceeding authorities are the so-called district offices. Such instruments and definitions shall be used that originate from criminal law and that are quite strange compared to the traditional magisterial law application. Will they remain in the sphere of administrative law or will we be the witnesses of a new re-discrimination process?

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