

István László Gál

Economic criminal law for economists

AKADÉMIAI KIADÓ, 2007



István László Gál has chosen a relevant and most current topic as the subject-matter of his latest book. Essentially, the book is a textbook or manual for economists; its principal merit is that lawyers dealing with economic criminal law, members of law enforcement agencies and all actors of the economy may find it useful to get a general idea of economic criminal law, an interdisciplinary field between economic law and criminal law.

The book is a stop-gap in the market of textbooks on criminal law. It is the first work to present information on criminal law along with an economy-related description of certain phenomena, thus elucidating legal and economic aspects of economic criminal law. As befitting a textbook, the work gives an exceedingly exact and thorough definition of the fundamental concepts and issues of criminal law; the knowledge of these facts is indispensable for economists working in this field. In addition, the

book offers a clear and readable account of the economical aspects of economic criminal law in general and of specific cases in particular – this information is essential for lawyers involved in this field. A further merit of the book is that it gives numerous practical examples to illustrate the information given on theoretical issues and problems.

The author states in the introduction that in business life decision makers face various types of risks when considering alternative decisions. The risk pertaining to criminal law is a special type of hazard. Obviously, lawyers employed by those involved in business cooperate with decision makers to avoid such risks; however, the responsibility for the final decision lies with the actors of the economy. This is why it is almost essential for them to have knowledge of the basic issues of economic criminal law. It was this fact that inspired the author to write a manual on economic criminal

law, a highly segregated segment of criminal law. The objective of the author is to ensure that after studying the thorough and straight-to-the-point general introduction on criminal law even those readers who are qualified as economists have an insight into all important aspects of criminal law.

The manual discusses the essential issues of economic criminal law in *three major structural units* (devoting several chapters to each).

■ The first structural unit concerns *the general principles of criminal law and economics*. The author gives an insight into those basic notions of criminal law and economics that are absolutely necessary for those who seek to understand the characteristics of individual economic offences (at this point, the manual follows the traditional structure of manuals and textbooks on criminal law).

The author discusses the notion and the role of economic criminal law in economics, the basic issues of the theory of legislative provisions, and analyses the notions of “economic crime” and “economic offence”. Then he gives an overview of the persons participating in criminal offences and of the theory of legal consequences pertaining to criminal law (punitive sanctions). This section provides a historical retrospect of Hungarian economic criminal law and deals with issues related to criminal statistics. At this point, the author categorizes economic offences and, doing so, he indicates that the group of economic offences in a wider sense cannot be defined unambiguously. As he puts it, the category includes economic offences in a narrow sense (Hungarian Criminal Code, Section 17), other offences related to the economy (certain facts of the case specified in the Hungarian Criminal Code, Sections 16 and 18) and certain illegal activities (e.g. those related to prostitution, drug trade etc.). The author presents these fundamental notions in a structured, thorough, yet readable form and thus makes it easier for economists

and lawyers to understand the characteristics of actual criminal offences.

■ The second structural unit deals with *economic offences* categorised on the basis of subject matter (the structure of the manual can be regarded quite original due to this method of categorisation. As a rule, manuals and textbooks tend to explain the effective provisions of criminal law in a separate chapter, in an order derived from the relevant Acts.)

First, the author gives an overview of the major economic offences specified in Section 17 of the Hungarian Criminal Code. Under each part dedicated to a subject matter, he gives a brief presentation of the characteristics of the related subfields of economics, then analyses the facts on the basis of concrete cases of the relevant criminal offences (which approach the author of the present article regards as an outstanding merit of the manual.)

Taking into consideration the significance and topicality of the issue, we must underline the fact that the manual gives a detailed and deeply interesting summary of the criminal law pertaining to money laundering. The author describes the estimated volume of money laundering, its economic modus operandi, the international institutions that combat money laundering and the notion of money laundering in terms of criminology and criminal law. He also gives an analysis of the effective Hungarian criminal law pertaining to money laundering (the offences of money laundering and of violating the obligation to give notification of money laundering), and of the system of regulations intended to prevent and hinder money laundering (the Act against money laundering). The author has dealt with the issue with special attention earlier as well: in his book *Pénzmosás* (“Money Laundering”, published in 2004) he gave a detailed presentation of the phenomenon and described the major features of combating money laundering and of the legal background of this matter in Hungary.

The author of this article agrees with the author's statement that money laundering has become one of the most lucrative and large-scale activities all over the world, which entails enormous dangers and weakens the economy as a whole (cf. undoubtedly, as a consequence of globalisation, money laundering is becoming increasingly international in nature and is becoming more and more wide-spread.) Consequently, the author of the article is convinced that it was a justified decision on the part of the author to devote a whole chapter to money laundering and the Hungarian regulations pertaining to it, and to provide information in this regard in legal as well as economic terms. Indeed, this is one of the major merits of the manual. This chapter provides useful theoretical and practical information for experts involved in the theory and practice of combating money laundering, as money laundering is a typical example of a field where investigation requires knowledge of the provisions of law as well as thorough knowledge of the economy.¹

After that, the author gives an outline of criminal offences that are realised in the field of business or are closely related to it yet do not fall into the category defined by Section 17 of the Hungarian Criminal Code (i.e. criminal offences that constitute a periphery of economic criminal law).

Out of the issues dealt with in this chapter, combating the financing of terrorism is to be emphasised. In recent years, almost all countries have decided to regard combating terrorism (and combating money laundering) as a major priority, and preventing the financing of terrorism (along with the identification and elimination of networks that support terrorism with financial means) has become a key objective. At the international level (EU, UN), numerous achievements have been made in this field; Hungary has also taken important legislative steps.² The author of this article is convinced that one of the major merits of the book

is that it devotes a separate subchapter to presenting the Hungarian legal framework of combating terrorist financing. Most probably, this issue (perhaps dealt with in more detail) will be a relevant part of books and essays yet to be written on economic criminal law. (The structure and volume of the present manual does not render it possible to give a lengthier discussion of the issue.)

■ The third and final unit of the manual gives a *summary of conclusions, unanswered questions and problems*. An essential statement made here is that in the field of the economy criminal law has and most probably will have a reason for existence for an indefinitely long period of time. Economic criminal law can become useless under the following conditions: (1) high-standard business culture operating within normal, consolidated circumstances and (2) the determination of a proper (i.e. high) upper limit of prospective financial sanctions. In Hungary, neither of these conditions is met. It is to be noted that economic criminal law is a tool to regulate a behaviour, and which, however, is not suitable to control the actions of those involved in the economy unless the majority observe regulations (either as an act of voluntary compliance with the law or an act due to fear of sanctions). Therefore, the objective is to create a legal environment where it is ensured that the majority of people are forced to abide by the law. Finally, the author of the book states that it is a must to admit that since the democratic transition in Hungary economic criminal law has displayed certain faults in functioning. Latency is extremely high, which means that there is a discrepancy between the offences committed and those discovered by the authorities; in other words, the efficiency of detection is inadequate. At the same time, the economic offences committed are difficult to prove. The author of this article fully agrees with these arguments and inferences.

The manual will definitely be an important tool not only for students of economics studying economic criminal law but for all actors of the economy as well, with regard to their every-

day activities and responsible decision-making, which latter is, in turn, an indispensable activity in the world of business.

Zsófia Papp

NOTES

¹ It is to be noted that after the book had been published, an important event concerning the Hungarian legal background took place. In December, 2007, the Act Against Money Laundering (Act 15 of 2003; discussed here) was replaced by a new regulation: Act 136 of 2007 on the Prevention of Money Laundering and the Financing of Terrorism. The principal objective of the new Act was to implement the new EU Directive on the prevention of money laundering (2005/60/EC) and its Implementing Regulation (Directive 2006/70/EC) in Hungarian law; it will in

all probability enhance the efficiency of combating money laundering and preventing the financing of terrorism in Hungary.

² Besides Act 136 of 2007, it is to be noted that after the book had been published, an important legislative change took place. On 1 February, 2007, Act 180 of 2007 on the implementation of the restrictive financial and property regulations enacted by the EU and on the related amendments of the law came into force.