Measures Taken by the Hungarian Police of the Austro-Hungarian Empire (Dual Monarchy) – Restriction of Personal Freedom

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Abstract

The research and the historical overview are significant because the policing and policing legislation of the period of the Austro-Hungarian Monarchy later had a significant impact on the practice of the police in Hungary and neighbouring countries. Many elements of the regulation of police measures can be found in the policing legislation in force today. The comparative analysis of the norms created with a difference of almost 140 years can be an important part of the research results of the police history of Hungary and the former countries of the Dual Monarchy.

Keywords: Austro-Hungarian Monarchy, policing, police measures, restriction of personal freedom

The First Institutions of Hungarian Police Law

The Beginnings

Policing in its present concept/meaning, i.e. the law enforcement within a constitutional framework can initially traced back to the 1848-1849 revolutionary period, but the earlier feudal system also had its share of certain types of law enforcement institutions.[1]

According to Prof. János Sallai: "The emergence of modern Hungarian law enforcement can be dated back to the 19th century, when the first pieces of literature on law enforcement were written, mainly under Prussian-German-Austrian influence, and additionally, the first municipal and state police forces were established. The idea of Ignác Zsoldos i.e. "There can be no order without police", and the works of Ágoston Karvasy laid the foundations for modern law enforcement in Hungary. The Austro-Hungarian Compromise (1867), which allowed for the establishment of an independent and responsible Ministry of the Interior and Hungarian police, proved to be decisive in the future."[2]

Although the Monarchy existed between 1867 and 1918, I will occasionally analyse the rules of the preceding and subsequent periods. On the one hand, they influenced the policing of the dualist era, and on the other hand, they lived on and defined the rules of law and order in Hungary until the communist takeover.

The regulation of the measures of the period under examination may be more understandable for the modern reader if I compare them with the text of the existing Police Act. In this way, it becomes clear how the police - as a niche of the public administration at any given time - is influenced by the political and social situation and the system of rules of the period in question.

Establishing the Organisation and Law of Civil Policing

The milestone in our history from which one can expect the emergence of a modern system of constitutionally based power is clearly marked. We are talking, of course, about the Revolution of 1848, without underestimating the importance of earlier efforts (such as the Hungarian

[1]For further detail, see Mihály Ernyes: Chapters from the History of the Police (published by author, Pécs, 1994. pp. 11-83); Géza Katona: Public Safety Protection in Hungary until World War I (BM Könyvkiadó, Budapest, 1984.)

[2] János Sallai: The Development of the Modern Hungarian Police Force (Einováció 2023. Volume I. Issues# 3-4. p. 20)

Jacobin movement or the intellectual and political experiments of the reform era). From the point of view of our subject, the preceding event worth mentioning was the *"intimatum"* (official notice) No. 4052 of 21 March 1794 by the Council of the Royal Governor. This notice laid down a number of provisions of great importance in principle for law enforcement activities, which were largely unfeasible by the standards of the time, and allowed for the creation of a law-enforcement organisation in the counties.[3]

During the period of the civil war of independence and by the 1850s, there were strong attempts to create a unified national police force, but the failure of the war of independence meant that it could not be fully developed, and subsequent developments were not directly influenced by these initiatives. Nevertheless, from a legal point of view, the justification given by Bertalan Szemere to the Police Department of the Ministry of the Interior, which sheds light on the essence of the task, is worthy of attention: *'...a plan is to be drawn up ... on how the criminal police can be systematised in the country. Torture is forbidden, and it really should be. If that is to be the case, the criminals cannot be illuminated without a criminal police force…".*[4]

Among the laws of 1848, the most noteworthy is the Independent Responsible Ministry Act III. Section 32 of the Act sets out the legal facts on which ministerial responsibility is based. Accordingly to this section, ministers can be held accountable for official acts that violate the constitution, independence or the law, as well as for financial mismanagement. Point (c) of the section lays down the legal consequences in the event of non-compliance. In addition to passivity in the execution of the law, ministers were to be held responsible for failures to maintain public order and public safety, *'if they could be prevented by the means of execution provided by law'*. Since the law is a general instrument which, above all, confers the power to issue regulations, it is logical to conclude that the responsibility for failures in public security cannot be passed on to the legislature. In the absence of a written constitution and reserved legislative subjects, this led to a situation in which, for a long time, the essential issues of public safety - and thus the freedoms that are necessarily associated with them - were regulated at most by decree. These include, for example, the right of association and assembly, but the system of guarantees and even recognition of individual freedoms was, until recently, very limited.

The product of the same period was the Act XXII of 1849 on the National Guard, which represented a model for the organisation of the armed forces that was not continued later. In its solemn introduction, the law clearly states that the National Guard is organised to protect public safety: *'The safeguarding of personal and property safety, public order and domestic peace is entrusted to the citizens of the country'*. The National Guard was to be filled within the framework of the fulfilment of civic (national) duty. The law assigns to the National Guard the powers to prevent minor disorder, to apprehend the perpetrators of crimes and offences and, in general, to provide the necessary force for the functioning of the authorities. An essential safeguard of legality was the fact that all substantive action, and in particular the use of force, was subject to the intervention of a civilian magistrate. Although the National Guard could no longer effectively fulfil the role outlined here, the Act certainly represents a positive step forward in the organisation of the police.

Mention should also be made of Act XXII of 1848 on the Free Royal Cities, which made it clear that, with narrow exceptions, "*the city, as a jurisdiction, is subject to the police, criminal and private law ... all individuals and property existing within the boundaries of the city, without distinction*" (Section 2). Thus the urban police concerned here had a strong 1848-basis, while no similar provision was made for the counties during the period of the Revolution and War of Independence.

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[3]Reproduction: Lajos Hajdú: Crime and Punishment in Hungary in the Last Third of the 18th Century (Magvető Könyvkiadó, Budapest, 1985. pp. 342-350)

[4]Reproduction: Erzsébet Fábiánné Kiss: The Case of the National Police during the War of Independence of 1848-49. (Levéltári Közlemények, Volume 44-45, 1974. p. 189)

After the defeat in the War of Independence, as is well known, the laws of the revolutionary period were repealed and imperial legislation was applied in Hungary. These were initially enforced by a military administration, and in the winter of 1850 the centralised Austrian law and order apparatus was set up in Hungary.

At the time of the Compromise, the Austrian internal security services ceased to function on Hungarian soil, with the narrow exceptions of the military, since law enforcement had not belonged to common matters. The Royal Hungarian Ministry of the Interior took over the main control of the activity, together with the supervision of the general administration and other powers. In addition to the Prime Minister's Office, the most important ministry was the Ministry of the Interior, which was headed by a politician close to the Prime Minister (and at times by the Prime Minister himself).
Within the organisational framework of the police, the previous situation of the autonomy of the counties and cities/towns was restored. Other municipalities were also allowed to have their own police force, but they did not usually exercise this right for financial reasons.
The first significant step towards centralisation was the nationalisation of the Budapest police, which was ordered by the Budapest Police Act (Act XXXVI of 1872), but was only fully implemented after the adoption of Act XXI of 1881 on the Budapest Police. According to the law, the Budapest police was directly under the control of the Minister of the Interior, but was obliged to "*support the metropolitan jurisdiction .... in all its lawful measures, to prevent as far as possible violations of the regulations of the capital and of the decisions and measures of the city authority which have become final, to investigate and report offenders, to provide police assistance in general in the execution of such measures as may appear necessary, and to provide the use of the police force...*" (Section 4). Despite the basically coordinated relationship - especially in the light of later developments - I consider Károly Eötvös' criticism of the law, which he represented together with Nándor Szederkényi in the debate, to be justified. In addition to accepting the concept of the state police in principle for the capital, he stressed that the organisation had been given considerably more substantive authority than justified, i.e. the organisation, which had been structured in line with its executive and enforcement functions (although in the first period there was still a sharp internal boundary between the military discipline of the guard personnel and the civilian status of the rest of the staff), had to a considerable extent taken over powers that could have been well exercised in the capital. He particularly criticised the judicial role given to the police.[5]
The law was one of the better pieces of legislation of the time, with a rather different level of constitutionality, but it did not make any significant progress in guaranteeing personal freedom.

The third major law enforcement organisation set up during the period of Dualism was the Border Police, established by Act VIII of 1903. The Act extends the scope of the border police activities to a wide range of tasks, but without specifying the precise powers and procedures. The police station in Fiume (now Rijeka) was organised from the personnel of the border police station in Fiume under the supervision of the Royal Governor of Fiume and the Hungarian-Croatian Coast (Act XXXVII of 1916).

Among the specialised law enforcement agencies, mention should be made of the tax and customs (financial) police. Its organisation and operation were basically determined by regulations. It was an armed organisation, primarily to serve financial police activities. It provided law enforcement assistance to the financial authorities and was also involved in general public security protection when necessary. Some laws also affected its activities. For

[5] Records of the House of Representatives of the Parliament, 1878-81. Volume XVII, pp. 286-288

example, sections 94 and 95 of Act XXI of 1868 on the levying, payment, securing, collection and establishment of financial tribunals, which sections threaten to punish equally those who resist the revenue authorities and those who abuse their power. However, this fine balance is immediately upset by Section 96, which confers on the statements made by members of the body a probative force similar to that of the park wardens or forest rangers: *'The statements of the tax and customs (financial) officers made before a lawful court, on the basis of their beliefs, in matters within the scope of their profession, shall be conclusive until the credibility of the statement made is challenged*".

During the period of Dualism, the institution of the royal guards[6] still existed and the functions of the prison wardens at the national penitentiaries[7] were linked to the police. The latter were employed by the directors of the institute and were under their disciplinary authority, but they were obligated to obey the orders of all the officials of the institute. In other words, here too there was an institutional distinction between decision-making and enforcement. The regulations issued by the Minister of Justice limited the rights and duties of the wardens to the extent necessary.
Park wardens, forest rangers, and dam guards were given specific guard duties and associated police powers.[8]
Decree LXVII of 1912 provided for the establishment of the Guards of the House of Representatives Guard.

In the era of civilian exercise of power, the use of the military for internal security purposes did not raise serious constitutional concerns. **István Egyed**, who was also campaigning for greater guarantees for the powers of local governments, could see no reason to object in this area.

In the specific conditions of period of Dualism, the community of the army, as opposed to the national character of the internal administration, was a problem. The first comprehensive regulation was provided by Act XL of 1868 on the Defence Forces, which, in addition to the common armed forces and navy, included the (national) defence and the popular uprising as ”parts” of the armed forces.
The latter had no public safety functions at all. Section 7 stated that "*The function of the army and navy shall be to defend the territories of both states of all the realms of His Majesty against foreign enemies and to maintain internal order and safety*". As regards the army, Section 8 already contained restrictions: *'The army shall be called upon to support the army and to defend the interior in time of war, and in time of peace, exceptionally, to maintain order and safety within the country*'. It should be noted that the involvement of the armed forces was in principle limited to the direct use of force, with the substantive decision and the ordering of execution being the responsibility of the civil authorities.

Until the First World War, the legal environment in which law enforcement operated was rather mixed. Certain freedoms (e.g. freedom of the press) were regulated in accordance with the standards of the time, which also meant that the law enforcement apparatus was displaced out of the institutional system of control of public power. Other rights and conditions of life, on the other hand, fell short of the level of constitutionality declared at the time. Personal liberties were adequately protected in the criminal code, but the same could not be said of offences,

[6] Royal rescript dated as of April 21, 1867 on the Restoration of the Hungarian Royal Noble Guard (Collection of Hungarian Laws and Regulations, 1867. By Ferdinánd Pfeifer, Pest, 1868. pp. 106-107)
[7] House Rules and Instructions for the Hungarian Royal National Penitentiary, as well as the Officials and Wardens Employed (Collection of Hungarian Laws and Regulations, 1869. By Mór Ráth, Pest, 1870. pp. 49-143)
[8] Act XII of 1894; Act XL of 1871; Act XXXI of 1879

especially as regards proceedings. Even less guaranteed were individual rights in other areas of policing, including the management of employer-domestic worker disputes or the use of force to have non-indentured farm workers work.

Despite the centralisation, which was mainly organisational but was not carried out thoroughly, policing remained a largely local function throughout the period of the dual state. As stated in the decree of the Minister of the Interior of 4 September 1868 on the Cleaning and Sweeping of Chimneys: '... *there can be no doubt that it is the inalienable duty of the municipalities in the first instance, and of the superior local authorities in the second, to guard the interests of the public from the point of view of public order".*

The First World War and the Horthy Era

In itself, it is obviously natural that in exceptional situations, legal situations other than the norm shall prevail. The 1912 Act LXIII of 1912 on Exceptional Measures in the Event of War can even be described as restrained, even by the standards of contemporary Europe, since it did not give the government unlimited power (as was the case in Switzerland or England, for example) and did not introduce military administration (on the model of Germany). Yet it can be said that the period of the First World War saw the beginning of a process that brought about a marked decline in the constitutional standards of the dualist era, which could not be described as outstandingly good in the field of law and order. Subsequent amendments to the 1912 Act, but especially the decrees issued under the authorisations, already indicate that not only the interests of warfare play a role in the exercise of exceptional powers. Already the first wartime laws allow for severe restrictions on the liberty of nationals. Decree 10962/1915 of the Ministry of Defence clearly stipulated that even Hungarian citizens could be expelled, placed under police supervision and detained in the event of concern for the interests of the state, public order and public security in the interests of warfare. This set of undefined legal concepts clearly opened the way to arbitrary application of the law. That is not the reason, however, why I have mentioned the provision on coercive measures here.

The revolutions that followed the World War failed to have a lasting impact on the structure and legal regulation of the police.

One of the first steps taken after the fall of the Soviet Republic was the nationalisation of municipal police forces. Even the short-lived Peidl government issued a decree on the establishment of a state police force. It was to consist of personnel from the former Red Guard and, under the subordination of the Ministry of the Interior, was to be responsible solely for the protection of public order and public safety, separately from the army.

In later years, this concept, which inherited the revolutionary traditions, was no longer appropriate, and the reorganisation of the police, which did not involve the gendarmerie, was implemented by Government Decree 5047/1919 M.E.

The decree established the jurisdiction of the Hungarian state police for the cities/towns with municipal rights and those with an organised council, which the Minister of the Interior could extend to certain municipalities or groups of municipalities in justified cases. The Budapest state police and the border police were merged into the new unified organisation. The police were supervised by the Minister of the Interior. Apart from this, there was no national governing body, and the police district headquarters (first 7, then 5) covered a larger area. In 1931, the

district headquarters were abolished [9] and a provincial headquarters was established in Budapest. Thus, in addition to the Budapest Chief Commissioner, who was still directly subordinate to the Minister, control was exercised through the Provincial Chief Commissioner.

The basis for the organisation and operation of the police between the two world wars was laid down in the aforementioned Decree 5047/1919. It is undoubtedly true that Act I of 1920 on the Restoration of Constitutionality and the Provisional Settlement of the Exercise of State Supremacy recognised the validity of the decrees issued by the governments in office and their members after 7 August 1919, and even authorised their further amendment, supplementation or repeal. However, it also said that, "*The Ministry is also instructed to submit appropriate bills to the National Assembly as soon as possible, insofar as these provisions concern matters within the competence of the legislature*". The matter of the police was indisputably a legislative matter, and the government decree referred to could therefore be accepted only as a temporary regulation. However, the temporary nature of the decree became a permanent arrangement, which is characteristic of the whole period, and not only of the police.
The nationalisation decree introduced into our specific law the norm of intervention without specific authorisation, the so-called police or law enforcement general clause (the law on the state police of the capital only knew a limited version of it with normative powers). Section 18 of the law states that the operation of the state police is governed by legislation (law, decree, regulation). It added, however, that *'the police authorities shall have the right to take all provisions not inconsistent with the law which are necessary to avert any danger directly threatening public peace, order or security'*. It should be noted that the restrictions (e.g. the indirectness of the threat) were hardly a guarantee, as decisions taken on the basis of the authorisation could not be challenged in court. The requirement of conformity with the general legal framework is also of little relevance, as Hungary between the two world wars lacked both a written constitution and a system of guarantees that effectively protected citizens' rights.

Measures Restricting Personal Freedom

The regulation of measures restricting personal freedom differs considerably more. Considering the provisions in force, the previous legislation, particularly in the period before the Second World War, appears complex and in many cases contradictory. Unlike today's rules, some authors were obliged to distinguish between the various measures.
Today, the rules on police measures restricting personal freedom contain clearer and more explicit provisions. The measures under examination are as follows: detention, summons, apprehension, bringing in.

Under the current legislation:
"The police officer shall apprehension the person for further action and bring him before the competent authority as follows:

(a) caught in the act of committing an intentional offence;

(b) against whom an apprehension warrant, an international apprehension warrant or a European apprehension warrant has been issued;

(c) who has been ordered to be detained, apprehended, remanded in custody or under observation of his mental state;

(d) who has absconded during custody, apprehension, provisional apprehension for extradition, apprehension for extradition, provisional surrender apprehension, surrender apprehension, provisional enforcement apprehension, imprisonment or detention, or has not returned to the place of detention after having been authorised to leave it, the rules on criminal

[9] Decree 6500/1931 of the Prime Minister

supervision, during which the court has ordered the suspected person not to leave without permission a specific area, dwelling, other premises, institution or fenced place belonging thereto, or has violated the rules on restraint, or who has withdrawn from pre-trial compulsory treatment, mental health supervision, compulsory treatment or correctional education;

e) whose detention is ordered under conditions laid down by a special law;

(f) who is staying illegally in the territory of the country;

g) who is required to be in prison custody pursuant to Section 38 (5) of Act CCXL of 2013 on the Enforcement of Penal Sanctions, Measures, Certain Coercive Measures and the Imprisonment of Offenders (hereinafter referred to as: Bv. tv.).”

„The police officer may bring before the authority or competent body the person,

a) who, at the request of the police officer, cannot provide credible proof of identity or refuses to provide such proof;

b) who is suspected of having committed a criminal offence;

(c) who is suspected of having committed a criminal offence or an offence or an administrative offence in connection with road traffic, punishable by an administrative fine, and who requires a blood sample to be taken for the purpose of urine or blood alcohol testing or other sampling not constituting surgery;

(d) who removes himself or herself without authorisation from parental care or guardianship or from placement with a foster parent or in a children's home, and a child whose search and detention has been ordered in the course of judicial enforcement for the purpose of surrender of a child;

e) who violates the rules of probation supervision, as defined by a special law and falling within the competence of the police;

f) who continues the offence even after a cease-and-desist order has been issued, or against whom proceedings may be instituted immediately, or from whom material evidence must be obtained or property subject to confiscation must be seized;

(g) against whom a temporary preventive restraining order may be issued;

(h) who is to be placed under protection on the basis of an alert in the Schengen Information System.”

Using detention, the Police may restrict personal freedom only for the time necessary, up to a maximum of 8 hours. If the purpose of the detention has not yet been achieved, the head of the police service may, where justified, extend this period by 4 hours once. The period of detention shall be calculated from the beginning of the police measures taken.

The person detained shall be informed orally or in writing of the reason for the detention and shall be issued with a certificate stating the duration of the detention.

The personal freedom of a foreign national apprehended or detained under the provisions of an international treaty may be restricted for a maximum period of time specified therein.”[10]

Thus, apprehension and detention, as two - in my opinion - integrally related measures, can be applied in today's police practice according to the above clear rules. I will try to justify my assertion on the diversity and complexity of the rules of the time by describing and analysing the legislation under examination.

The Metropolitan Police Act of 1881, and Decree No. 43,972 of 1884, contain the general and certain detailed rules for the above measures. The further detailed definition is "generously" left to a decree of the Chief Commissioner. According to Article 16 of the Metropolitan Police Act: *'If, on the occasion of a brawl or a mob brawl, a crime or a*

[10] Items 1-4 of Article 33 of Act XXXIV of 1994

misdemeanour subject to a higher charge has been committed, the police shall be authorised to bring in all those who have taken part in it or are reasonably suspected of having taken part. If this could not be done, the escort may be limited to one or more perpetrators or persons under reasonable suspicion."

Article 17 The metropolitan police can also detain persons:

a) *(a) if the offender continues the offence after being reprimanded by the police*
b) *b) if the offence is of such a nature that it has caused a public scandal or if the disorder or disturbance of the peace caused can only be eliminated by the apprehension of the offender*
c) *if the person commits an act of defiance or assaults a police officer in the performance of his official duties*
d) *if the person who has committed the offence or is suspected of having committed it does not give his name or address when called upon to do so by the police or if the police have reasonable grounds for suspecting that the statement is true; in which case he may go to his home or be accompanied to the nearest police station, which may be by carriage if the party so wishes and at his expense,*
e) *if the person expelled from the police precinct returns despite the prohibition.*

Further rules are set out in the Decree of the Chief of Police No. 10,338/1892 on the Functions and Powers of the Police Guard, its organisational regulations and general service instructions:

Article 9 The members of the police guard are authorised, even without any types of apprehension warrants, to conduct summonses and bringing in on their own authority:
(a) in the case of felonies, misdemeanours and infractions
(b) for the maintenance or restoration of public safety and public order
(c) in the personal interest of the person to be detained; but in all three cases only within the limits set out in the following section

Article 10 In the case of crimes, the perpetrator and his or her accomplices, or those who, according to the available information, are reasonably suspected of committing the crime, must be accompanied.
A person may be reasonably suspected is as follows: (a) anyone who takes to flight after the offence has been committed; (b) anyone on whom signs of the offence are found, or who attempts to conceal or throw away the signs of the offence; (c) anyone who attempts to conceal the traces of the offence

Article 11 In case of misdemeanours, bringing in may be ordered only if: a) the offender or suspect is on the run or making preparations to flee; b) if the offender or suspect, left at large, would jeopardise the outcome of the investigation; c) if the offender or suspect is a vagabond or has a criminal record; d) if the offender or suspect is unable to prove his identity or refuses to do so.

Article 13 In the case of infractions, the following may be brought in: a) persons in police custody or with a previous criminal record; b) vagrants, clowns, minstrels, stuntmen, street or pub musicians.

The rules cited apply the police measures under consideration differently and somewhat confusedly, according to the concepts used today. The legislation cited above uses the term 'bringing in' in cases almost identical to the measure used today as 'detention'.

Before analysing the subsequent rules, I must explain the differences and the concept of each measure. First, the rules in force on summons and security measures:

„The police officer shall accompany or send to the place indicated in the decision or order to have the person concerned attended.

(2) If the summons cannot otherwise be complied with, the person summoned may be detained at the police station for the necessary period, up to a maximum of 12 hours. The rules on detention shall apply to the calculation of the period of detention.

(3) The ordering party shall be responsible for the lawfulness of the ordering of the summons.

(4) If the person summoned is under guardianship affecting his or her capacity to act, the guardian shall be notified in advance of the planned date of the summons, provided that this does not impede the taking of police measures.

(5) In the event of the absence of the guardian despite notification, police measures shall be taken in the absence of the guardian. The police shall notify the competent legal guardianship authority of the fact of the absence in order to take the necessary measures."[11]

„*The police officer shall, in order to eliminate a dangerous situation or an imminent threat to persons or property*

a) immediately take the necessary measures within the scope of his/her duties to avert or eliminate the emergency;

(b) arrange for the medical examination of a person in a state of danger to himself/herself or to others and assist in his/her transport to a medical establishment;

(c) take measures to prevent suicide as far as possible;

(d) in public places or public areas, if the protection of life or limb so requires, to arrange for the escort or transport of a person who is incapacitated, delirious, or heavily intoxicated or intoxicated to his home or to an alcohol recovery centre or to a medical establishment;

(e) to close an area and prevent any person from entering or leaving it, or to order any person to leave it."[12]

According to Imre Laky: "Detention is when a police officer brings a person before the competent police authority for the purpose of self-certification, identification, or public order and public safety (raid), or ultimately in the person's own interest.
By its nature, the term 'detention' should not be used when a person is brought before the authorities by a police officer by means of coercive measures for the purpose of punishment. It is no longer detention but bringing in."[13]
Summons: 'Summons means when a police officer, upon a written order, brings in a person against whom an investigating judge, court, prosecutor or police authority has issued a warrant for a lawful reason."[14]
Bringing in: „Bringing in is when a person who is caught in the act of committing a criminal offence, or is reasonably suspected of committing a misdemeanour or an infraction, or a felony, or against whom a warrant has been issued, or is apprehended on his own initiative and under his own responsibility, or on the justified request of a superior authority or a private party, is lawfully apprehended and escorted to the police authority."[15]

[11] Article 34 of Act XXXIV of 1994
[12] Article 37 of Act XXXIV of 1994
[13] The Police Officer's Independent Measures on Duty 1901. p. 48
[14] op. cit. p. 52
[15] op. cit. p. 53

Of the above three concepts, the one that has the same legal content as the one used today is the summons. Bringing in is almost identical to the concept of detention as it is used today. The term "bringing in" is not used in the current law, but the legislator has replaced it with the term "security measures", which has a completely different content from that described so far. At that time, the concept of apprehension was not as distinct as it was subsequently regulated.

In 1939, detention and bringing in were defined as follows: 'The term detention is used when a policeman brings someone before the authorities for self-justification, identification, or generally for public safety or ultimately for his own benefit."[16]

A bringing in, as opposed to detention, is when a police officer, either on his own initiative, on the instructions of a superior officer or at the justified request of a private individual, apprehensions and brings in to the authority someone who is suspected of a criminal offence or is wanted."

In this period, the two concepts are therefore the same as forty years earlier, but apprehension is now an autonomous measure:

„The police authorities, even without a specific order or decree from a higher authority, are obliged to apprehend and bring in the person before the police authorities:

1. against whom a police authority, investigating magistrate or court has ordered a preliminary apprehension or remand in custody, or against whom a warrant or an apprehension warrant has been issued;

2. who has escaped from a place of detention while serving his sentence;

3. who has been expelled or deported by a final judgment and who breaks this prohibition without the permission of the police authority;

4. who has been ordered by a court to stay in a place or has been prohibited from staying in a place and has violated this order or prohibition;

5. who is caught in the act"[17]

Thus, the apprehension is the first time that it occurs in its own right, but the measures that are intrinsically linked to it, namely: the summons or detention or bringing in, are not clear in the code either, since it lists all three possibilities instead of the logical detention. It can also be noted that the distinction between detention and bringing in as described by Imre Laky is clearly contradictory. However, when looking at the cases of apprehension, the legal possibilities already known from the legislation in force today are outlined.

Summary

The restriction of personal liberty has been and remains a necessary element of the functioning of law enforcement agencies. It is of the utmost importance that this fundamental right should only be regulated by a clear, promulgated and adequate standard, i.e. a law, and that there should be a right of appeal against any infringing measures and that the appeal procedure should include the possibility of judicial review.

[16]Textbook of the Manual of Conduct (Budapest, 1939, published by the specialist training courses of the Hungarian Royal Police) p. 50

[17] Textbook of the Manual of Conduct (Budapest, 1939, published by the specialist training courses of the Hungarian Royal Police) p. 52. Note: The textbooks is based on the rules and regulations in Decree 39,820/1921 of the Ministry of the Interior