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Hungary without Capital Punishment: The Issue of the Deterrent Effect in Light of Criminal Statistics (1975–2024)

Abstract

One of the most important issues related to the death penalty is whether it has a deterrent effect and can prevent potential perpetrators, primarily potential murderers, from committing crimes. However, positions expressed in the related theoretical debate must first of all be based on practical experience, especially statistical analyses that can provide probabilistic arguments for the strength of the deterrent effect theory. This study examines the homicide trend in Hungary over the past 50 years and concludes that, although the presence or absence of a deterrent effect cannot be precisely determined in theory, practical experience suggests that it plays a negligible role in the perpetrators' motivation.

KEYWORDS: capital punishment/death penalty; deterrent effect; criminal statistics; Hungarian criminal law

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1 | Introduction

The present paper is not intended to be a comprehensive study, so it is not intended to address the general theoretical, philosophical or criminological issues of capital punishment. Its only aim is to provide a starting point for one of the most important issues in the debate on the death penalty,

the issue of the deterrent effect thereof (the existence of this effect), not by analysing the trends in homicide and executions in distant countries, but by examining the statistical data in Hungary. However, it must be made clear that this indicator is not evidence (especially not conclusive evidence), but a supplementary element which can contribute to the completion of other facts, data, logical deductions, sociological indicators established by statistical and non-statistical methods and thus to the understanding of the impact, or lack of impact, of the existence or absence of the death penalty on crime trends, including homicide. The direct usefulness of our conclusions is therefore limited, but we do hope that our analysis could be used for better understanding of “deterrent effect” of capital punishment, particularly with regard to the fact that many European politicians periodically raise the idea of reintroducing the death penalty, precisely because of its supposed deterrent effect.

Although the death penalty has been abolished in the majority of European countries by now (it is only applied in Belarus, while Russia can be considered a so-called *de facto* abolitionist state, where this sanction exists in theory, but no execution has taken place in the last more than 20 years), the debates concerning capital punishment continue to arise. In many European countries, as mentioned above, leading politicians argue or have recently argued in favor of reinstatement of the death penalty, and not only the leaders of extremist parties, but moderate (mainly conservative) politicians, as well. Similarly, Lech Kaczyński, Poland’s deceased president urged a European debate regarding the reintroduction of capital punishment in 2006, his twin brother, Jarosław Kaczyński, former prime minister and currently president of the leading opposition party, the PiS,^[1] announced in the end of 2011 that one of the objectives of his party was also to reinstate the penalty of death.^[2] Daniel Lipšic, former Slovakian Minister of Justice also raised the issue at the beginning of 2008^[3] and John Arthur Stevens, former head of the Metropolitan Police Service (better known as Scotland Yard), in England also declared after the murder of a policewoman in 2005, that although he was against capital punishment before, that

¹ Prawo i Sprawiedliwość (Law and Justice).

² Cf.: Maria Ochwat, Death penalty in Poland. Relict or possible threat, pp. 71-72. In: Reality of Politics, Vol. 26, 2023/4, pp. 58-75.

³ Rebeka Kiss, Miklós Sebők, “The concept of tailor-made laws and legislative backsliding in Central-Eastern Europe” *Comparative European Politics*, Vol. XXIII (2025): 371.

death is the only acceptable response to brutal murder.^[4] All these persons were in favor of the death penalty partly for moral reasons and partly for practical considerations believing that capital punishment has a deterrent effect and would serve to actually decrease the number of murder cases. And, of course, even in Hungary does the matter of capital punishment reappear from time to time.^[5] For this reason, we believe it is important to examine the matter of whether actual homicide trends and the statistical data showing these trends lend credence to the deterrence hypothesis.

2 | The peculiarities of the debate on the death penalty

As to the controversy over capital punishment, two fundamental types of disputes – along with the two kinds of reasonings supporting them – that centre on the appropriateness or applicability of the death penalty can be differentiated. There exist, on the one hand, philosophical or moral and on the other hand, pragmatic (empirical and logical) reasons. Pragmatic arguments are characterized by impartiality and objectivity resting on solid, empirical and at least partly supervisable grounds.

As opposed to this, moral arguments are not formed on the basis of such requirements, therefore, they cannot be regarded as par excellence rational arguments by nature. Ethical viewpoints rest on profound beliefs that one accepts as axioms, in other words, one has a particular opinion of something without backing it up logically either by means of listing supporting evidence or refuting its counterarguments. The essence of morality lies in its status as the innermost, unquestionable and indisputable, hence, undeniable (that is, immune to refutation) part of the human psyche, which

⁴ <https://www.discoverleveson.com/hearing/2012-03-06/969>.

⁵ For the pro-death penalty politicians' standpoints from the last 30 years, see: Zoltán J. Tóth, "The post-abolition era in Hungary: Endeavours and political intentions to reintroduce capital punishment" *Jogelméleti Szemle [Journal of Legal Theory]*, No 3, (2022/2023): 144-162. https://jesz.ajk.elte.hu/2022_3.pdf.

is best described by the word “belief”^[6] and nothing can dissuade those who “believe” from their own presuppositions and convictions.^[7]

Hence, if someone “believes” that the ultimate moral principle is to rid society of the “evil”, that is, of those people who are dangerous and purposefully trespass, posing a threat to their fellow, law-abiding citizens and that the only proper way to do that is for such a trespasser to receive punishment in the same form as they have offended because there is no treatment more just than that, then this person will claim with a solid moral conviction that the death penalty is an appropriate form of punishment. At the same time, those on the opposite viewpoint who think that no human has the right to make judgments over other humans and that life is so sacred and invaluable that it is forbidden to take it away in an “ethical” society even from those people who deliberately took away others’ life out of their own immorality, will emphasize the legitimacy of their own beliefs with the same vehemence.

The debate between everyday people – and also between professionals with their points elaborated in a more sophisticated argumentation – on capital punishment rests on such moral grounds, which results in the mutual, conscious ignorance of the other party’s reasoning and a shift from the point under discussion to personal disagreements, rendering the studies dealing with the death penalty as weapons of a philosophical jihad, rather than inferences based on rational research. Since moral arguments as enunciations of beliefs cannot be studied rationally, that is, – to put it more simply – they do not meet the criterion of scientificity,^[8] I will not

⁶ The word “belief” is not used to mean or refer to faith here, it stands as a synonym for any aprioristic point of view.

⁷ As a result, moral conviction as belief is irrational, which simply means that, as far as its genesis is concerned, it is not a consequence of something but it depends on an aprioristic choice of values (that is, there is no rational reason or logical verification behind it.)

⁸ The criterion of scientificity – in contradiction with its older conception – is not verifiability but, instead, falsifiability. It follows from this that an assertion cannot be regarded as a scientific statement if it does not – not even in theory – leave any room for proving (unavoidably only temporarily, owing to the current perception of scientificity) its falseness (in the presence of appropriate conditions), therefore, moral arguments do not constitute any part of science (just like any other declaration or conviction formed on beliefs).

discuss the pure forms of the arguments raised in connection with the death penalty^[9] in this paper.

The empirical points of discussion concerning the death penalty are also able to polarize people's various standpoints to an extreme. This is certainly true for the issue of the deterrent effect, too. The practical arguments concerned with the applicability or non-applicability of capital punishment, however, need to be divided into two distinct categories: relevant and non-relevant arguments. While the former either in themselves or through their relationship with one another, may be used to prove the standpoint of retention or that of abolition, the latter – regardless of what the truth is about them – cannot even in theory serve as a rationale for taking a position in the discussion of the death penalty's acceptability. Accordingly, this paper deals primarily with the most crucial question about capital punishment, that is, the alleged deterrent effect thereof, concentrating, principally but not exclusively, on the Hungarian scene.

3 | The deterrent effect – from an a priori logic

As for the a priori logic, there are two points of view competing with each other. The so-called retentionists or revivalists, namely, the advocates of capital punishment, deem that the more severe a penalty is (imposed on a perpetrator), the greater the fear of the consequences of a crime will be. They argue like this: „I don't want to be fined 100 dollars. I even less want to be fined 1000 dollars, even less punished with one year prison, even less with prison for life and least of all to be sentenced to death.”

For instance, according to Alexander Deak, capital punishment has a greater deterrent effect than life imprisonment, since it is final and irrevocable and there is no possibility of escape. Then again, life imprisonment holds some hope (although very small) for freedom, either by means of escaping from prison or hoping for pardon from the President. Deak does believe

⁹ Clearly, many rational arguments build on a more or less moral base. Nevertheless, this does not necessarily entail that these are “moral” arguments, so it should come as no surprise if moral elements do occur in some or even in most of the upcoming examples that are to be analyzed without one having the obligation to call their rational/empirical nature into question because of this.

that the threat of irrevocable death is in fact more dreadful than “normal” life imprisonment that does not last forever (only twenty or thirty years) or actual life imprisonment, which might not last a lifetime (due to the possibility of escape from prison or pardon). As he puts it: “I believe the view that a real criminal would not be deterred by capital punishment is not correct. On this basis, the entire Criminal Code should be repealed, as a notorious thief or fraud would not be deterred by punishment.”^[10] Furthermore: “In my opinion a person who virtually excludes himself from society by committing a murder deserves the death penalty. [...] Regardless of any contrary statement, I firmly believe that capital punishment has a deterrent – i.e. preventive – effect [...]”.^[11]

György Pálincás, late Justice of the Supreme Court of Hungary had a similar opinion; according to him, if even the death penalty had no deterrent effect, then no other punishment would have it. If even the most severe punishment cannot deter a person from committing a crime, then no other, more moderate penalties can. Should this be the case, we could abolish all punishments and renounce to the special and general preventive purpose of the criminal justice sanctions, as well.^[12] The late doyen of the bar, Hungary’s best known defence counsel, György Bárándy also regularly made statements regarding the need to reinstate the death penalty, in addition, professor József Földvári, the criminal lawyer who gave his expert opinion to the Constitutional Court of Hungary in 1990 in the case of the abolition of capital punishment^[13] also formulated – on several occasions during the years before his death (2009), first in 2002 – that if he was asked today to give an expert opinion in a similar case, he would not be in favour of abolishing the death penalty, because its application, according to him, is necessary in case of serious crimes.

In contrast to this, the abolitionists, that is, the opponents of capital punishment take the different types of murders and try to prove that in

¹⁰ Cf.: Alexander Deak, “On Capital Punishment” [“A halálbüntetésről”] *Belügyi Szemle* [Review of Interior Affairs], 1 (1995): 57.

¹¹ Ibidem, 55-56.

¹² Cf.: György Pálincás, “Requiem for a legal institution [Requiem egy jogintézményért]” *Belügyi Szemle* [Review of Interior Affairs], 6 (2001): 70.

¹³ Constitutional Court Decision No. 23/1990 (X. 31.) AB [For a detailed analysis of this decision, see: Zoltán J. Tóth, “Decision 23/1990 (X. 31.) AB – Death Penalty”, [in:] *The main lines of the jurisprudence of the Hungarian Constitutional Court. 30 case studies from the 30 years of the Constitutional Court (1990 to 2020)*, red. Fruzsina Gárdos-Orosz, Kinga Zakariás (Baden-Baden: Nomos Verlag, 2022), 45-60.

the cases of most of these the nature of the punishment does not affect the motivation of potential perpetrators.^[14] For example, it does not impact on crimes of passion. These criminals, according to the abolitionists, do not deliberate in advance the possible consequences of their act, hence, they cannot be frightened by the penalty of death.^[15] This is also true for those who commit their crimes when being drunk or who are motivated by an overpowering, usually sexual, instinct (a so-called “drive”).^[16] Furthermore, it cannot deter those either who themselves want to die, for example, political perpetrators (anarchists, terrorists); “indirect suiciders” who want to die but are too coward to do it by their own hands and want to get into such a situation where the police officers have no other choice but to shoot them dead or where the authorities have the possibility to sentence them to death and execute them;^[17] or suicidal murderers who, actuated by

¹⁴ Considering that the majority of the Hungarian criminal lawyers and criminologists are abolitionist, I will not provide a list of them and references to their works in the subject, herein. The interested readers may nonetheless find the list of these works – published in Hungarian – in the bibliography of the following monograph: Zoltan J. Toth, *Capital Punishment: Pros and Cons* (Budapest: HVG-ORAC, 2012), 29. For an international side of the same topics, see: Zoltan J. Toth, *Changing Attitudes Towards the Death Penalty: Hungary's Renewed Support for Capital Punishment* (Cham: Palgrave Macmillan, 2020).

¹⁵ And, of course, they cannot be frightened by any other penalty, either.

¹⁶ Even when it comes to crimes committed under the influence of alcohol or crimes of passion, there is at least a moderate amount of deliberation behind one's actions. This deliberation may manifest itself in the development of a typical attitude (in other words, in a general state of mind) towards violence, while the lack of these incentives may contribute to the development of a personality that does not reject destructive behaviour and is more prone to turn to violent methods in order to solve a matter, but it can also present itself in that short time span when the sudden resolve triggered by emotions is realized in the outside world since all affective acts are preceded by a momentary consideration during which every possible scenario is evaluated that might assist the enactment of the action or prevent it. If it was not so, that is, if a perpetrator had absolutely no control over their impulses and their sexual or any other instincts, in that case the perpetrator could not be a subject for punishment at all due to a lack of imputation and culpability. Cf.: Isaac Ehrlich, “The Deterrent Effect of Criminal Law Enforcement” *Journal of Legal Studies*, No. 1 (1972): 274; Isaac Ehrlich, “On Positive Methodology, Ethics, and Polemics in Deterrence Research” *British Journal of Criminology*, Vol. XXII (1982): 128.; Joanna M. Shepherd, “Murders of Passion, Execution Delays and the Deterrence of Capital Punishment” *Journal of Legal Studies*, No. 2 (2004): 283-322.

¹⁷ Pamela Watkins, a very rare example, was such an offender. The case of Watkins see: Anthony G. Amsterdam, “Capital Punishment,” [in:] Hugo Adam Bedau, *The Death Penalty in America* (Oxford: Oxford University Press, 1982), 357.

jealousy, murder, for example, their wives and/or their wives' lovers, and, not wanting to live further, commit suicide after the murder.

In the end, the threat of death does not deter those who deem the police will not catch them. As Beccaria wrote some two and a half centuries ago: "Crimes are more effectually prevented by the certainty than the severity of punishment."^[18] (In addition: "It is not the intenseness of the pain that has the greatest effect on the mind, but its continuance. The more immediately after the commission of a crime a punishment is inflicted, the more just and useful it will be").^[19] Thus, the death penalty cannot frighten exactly the most cruel and brutal offenders, for example, the assassins, the murderers for hire and so on, so those who think they are cleverer than the police officers and will not be apprehended. Hence, as per the abolitionists, the solution is not making the possible penalties more severe, but making the investigations more effective.

4 | The deterrent effect in econometric analyses – investigations into the deterrent effect in the United States

The pioneering research and controversies of whether the death penalty has a deterrent effect, basically centre around the establishments of two outstanding scholars, the criminologist Thorsten Sellin and the economist Isaac Ehrlich. According to Sellin, the single acceptable method to examine the existence of the deterrent impact is to compare those states with each other in pairs where the capital sanction is regulated in one member of the pair, but not regulated in the other. Scilicet, alone from the comparison of the retentionist states' per capita death-eligible offenses to the abolitionist states' higher murder rates the conclusion cannot be drawn, that in retentionist states the deterrent effect of the death penalty "works",

In Hungary, the famous offender of the bank robbery of Széna square committed the crime with this kind of motivation as well and, as contrasted to Watkins, actually succeeded in his plan.

¹⁸ Cesare Beccaria, *An Essay on Crimes and Punishments* (Indianapolis: Liberty Fund, 2011), 49. http://files.libertyfund.org/files/2193/Beccaria_1476_EBk_v6.o.pdf.

¹⁹ Beccaria, *An Essay*, 51.

whilst in absence of the capital sanction in the abolitionist states it does not. Consequently, there is a need to set the neighbouring states against each other in order to be able to exclude those impacts which derive not from the different legal culture of the retentionist and abolitionist countries, but solely from the diverse social, political, economic or demographic conditions thereof. By the use of this method Sellin found that neighbouring states^[20] being similar in social, economic etc. characteristics have similar murder rates whether or not their penal codes allow the judges and juries to impose death sentences on capital criminals.^[21] Moreover, he revealed that the trends of committing capital crimes move parallel in the various states completely apart from if a certain state has just abolished, launched or reinstated this kind of legal consequence.^[22]

The main critic of the soundness of Sellin's research methodology and, as a consequence thereof, the relevancy of his conclusions was Isaac Ehrlich who, besides attempting to point out the methodological fallacy of the inference of Sellin's studies, pursued his own research, the deductions of which were sharply distinct from Sellin's implications. Ehrlich's chief problem with Sellin's research method was that the Swedish-born criminologist did not take into account the fact whether a so-called "retentionist" state actually conducted executions. Namely, even if a state renders capital punishment possible for the state judges or juries to impose on capital offenders, this does not mean this kind of legal sanction *in deed* is used by the judicature.

The deterrent effect of the death penalty, even in principle, can only exist if this most severe legal consequence is not only imposed, but is carried out as well. That is, if a state penal code regulates capital punishment, but the authorities do not apply it, or though they do apply it, but these kinds of sentences or jury verdicts are never *de facto* executed, then capital punishment can deter nobody from committing capital crimes. Viz., the actual enforcement of capital sentences is far more deterrent than the pure existence of the death penalty, or expressly is the only real deterrent factor

²⁰ Sellin framed four groups. In group I. he compared Maine (an abolitionist state) with New Hampshire and Vermont (retentionist states), in group II. Rhode Island (ab.) with Massachusetts and Connecticut (ret.), in group III. Minnesota and Wisconsin (ab.) with Iowa (ret.) and in group IV. Michigan (ab.) with Ohio and Indiana (ret.). See: Thorsten Sellin, "Capital Punishment" *Federal Probation*, Vol. XXV (1961): 6-8.

²¹ Ibidem, 6.

²² Ibidem.

however, according to Ehrlich, in a certain part of the “retentionist” states inquired into by Sellin, the capital sanction has existed, but has never or so rarely been implemented that this seldom application could not have resulted in significant deflection between the different “retentionist” states. Accordingly, in several, either “abolitionist” or “retentionist”, states the murder rates of which Sellin empirically investigated, executions were not in the least performed, therefore, capital punishment could have deterrent impact in neither types.^[23]

Moreover, as much as Sellin attempted to exclude the other affecting factors from his investigation, of the neighbouring states paired by him, several were notably distinguishable from one another. This was the case, for example, in the instances of Michigan and Indiana, or Massachusetts and Rhode Island.^[24] On the same basis did Ehrlich find fault with William J. Bowers’s analyses, too. In his book published in 1974,^[25] Bowers erected nine analytical groups in all of which he placed one or more “abolitionist” as well as one or more “retentionist” states. His findings were similar to his “master’s”, Sellin’s, and Ehrlich did extremely sharply criticize these results since, according to him, in eight of the nine groups there was not such a state at all where executions actually occur and what is more, in the ninth group consisting of New York, New Jersey and Pennsylvania the former one was labelled as abolitionist, while the latter ones were classed as retentionists by Bowers, though New York ceased the practice of executions at the very same time, in 1963, as New Jersey and Pennsylvania abolished this kind of sanction earlier, in 1962, than the abolitionist-tagged New York.^[26]

Nevertheless, Ehrlich, as mentioned above, not only criticized but pursued an own empirical investigation of the possible deterrent effect of capital punishment by right of the so-called “economic paradigm”, as well. According to this theory, people choose not to commit crimes if the incentives motivating decent thriving or discouraging criminal lifestyles outweigh the stimulations to participate in unauthorized activities. These incentives driving for or against criminality can be the scope of legal and illegal earning possibilities in the neighbourhood of the possible criminals’

²³ See: Isaac Ehrlich, “Deterrence: Evidence and Inference” *Yale Law Journal*, Vol. LXXXV (1975-1976): 209-227; Isaac Ehrlich, “The Deterrent Effect of Capital Punishment: A Question of Life and Death” *American Economic Review*, June (1975): 415.

²⁴ See: Ehrlich, “Deterrence: Evidence and Inference”, 223.

²⁵ *Executions in America*, ed. William J. Bowers (Lexington: Lexington Books, D.C. Heath and Company, Massachusetts, 1974).

²⁶ Cf.: Ehrlich, “Deterrence: Evidence and Inference”, 223.

residence, the expected net gain from either the legal or the illegal activities available and in the end, the “price” of the criminal behaviour.^[27] This “price” consists of, on the one hand, the contingent magnitude of the penalty to be imposed on the offender caught and on the other hand, the probability of the apprehension and conviction of the perpetrator. The more plausible a criminal will be apprehended and convicted and the more severe the punishment that is to be inflicted upon culprits, the less crime is expected to be committed. In addition, at least in Ehrlich’s opinion, this is also true for hate and passion crimes.^[28]

According to Ehrlich, criminal law enforcement deters offenders from committing crimes in three ways: by apprehension of perpetrators, by condemnation of criminals arrested and by executing those sentences passed on the convicted. Murders and capital punishment, from this aspect, do not differ from other (e.g. property) crimes, and forms of state penalties, therefore, in order to ascertain whether criminal law enforcement and particularly the death penalty, has any deterrent and not only pure preventive effect,^[29] Ehrlich analyzed the aggregate crime rate,^[30] the probability of arrest of murderers (and of course, non-negligent manslaughters^[31]),^[32] the conditional probability of conviction in cases of murder,^[33] the conditional probability of execution^[34] and other factors between the years 1933

²⁷ Cf.: Ehrlich, “The Deterrent Effect of Criminal Law Enforcement”, 259-267; Ehrlich, “The Deterrent Effect of Capital Punishment”, 415.

²⁸ See: Ehrlich, “The Deterrent Effect of Criminal Law Enforcement”, 274; Ehrlich, “On Positive Methodology, Ethics, and Polemics in Deterrence Research”, 128.

²⁹ The presumed preventive or incapacitating effect mean that, if it is true, the incarcerated or executed convict is unable to commit further crimes, because of being precluded from recidivism. If the sentence is of imprisonment, this effect is temporary, but if it is of death, this is consequently permanent. (Cf.: Ehrlich, “The Deterrent Effect of Capital Punishment”, 398, 413; Ehrlich, “The Deterrent Effect of Criminal Law Enforcement”, 260, 268, 275.

³⁰ The foundation for it was the FBI *Uniform Crime Report (UCR)*. Ehrlich computed the number of murders and non-negligent manslaughters from the raw data contained in the *UCR*.

³¹ See *supra* note 14.

³² Percent of murders (and non-negligent manslaughters) cleared.

³³ Percent of those charged who were condemned with murder (and non-negligent manslaughter) to death.

³⁴ The number of executions for murder (and non-negligent manslaughter) in the year $t+1$ as a percent of the total number of death sentences in year t .

and 1969.^[35] He used the so-called regression analysis with a logarithmic format, which means that he measured firstly the effect of convictions considering a given number of murders in the year investigated, secondly, separating from the first point, the marginal effect of death sentences, considering only those murders, the perpetrators of which were caught and sentenced to death in the same year examined, and thirdly, setting apart from both the first two points, the marginal effect of the real executions regarding only the level of death sentences passed in the previous year. From the statistical data analyzed by him, Ehrlich drew the conclusion that real enforcement of capital punishment does significantly reduce the murder rate.

As per him, each additional execution saves seven or eight lives specifically by the conditional probability of putting to death,^[36] that is, the marginal deterrent effect of executions considering the sum of death verdicts returned per previous year, but as he elaborates, this does not equal to the necessity of the death penalty, because there may be causes or considerations that act against the use of this legal consequence. Thus, he states, on the one hand, this study also involves the conclusion that “[t]he rate of murder and other related crimes may also be reduced through increased employment and earning opportunities”^[37] and on the other hand, the “[e]fforts to apprehend and convict offenders generally have a greater effect on the crime rate than the adjustment of the severity of punishments [...]”.^[38]

³⁵ E.g. labor force participation, unemployment rate, per capita expenditures and per capita real expenditures specifically on police, fraction of residential population in the age group 14-24, fraction of nonwhites in residential population (which latter proved later irrelevant), etc.

³⁶ In Ehrlich's own words: “[o]n the average the tradeoff between the execution of an offender and the lives of potential victims it might have saved was of the order of magnitude of 1 for 8 for the period 1933-67 in the United States”. (In the last two years investigated by Ehrlich, 1968 and 1969 there were no executions at all, so in these two years by no means might executions have any effect, deterrent or not deterrent. [Remark by the author.]) And: “Evaluated at the mean values over that period, [...] the marginal tradeoffs [...] are found to be 7 or 8 [...] Put differently, an additional execution per year over the period in question may have resulted, on average, in 7 or 8 fewer murders.” – Ehrlich, “The Deterrent Effect of Capital Punishment”, 398, 414.

³⁷ Ehrlich, “The Deterrent Effect of Capital Punishment”, 417.

³⁸ Ehrlich, “The Deterrent Effect of Criminal Law Enforcement, 266. Ditto: “[t]he probability of arrest [...] had a proportionally larger impact on the murder rate than the conditional probability of conviction [...] and that the conditional probability of execution had the least effect.” – Ehrlich, “Deterrence: Evidence

Ehrlich's methodology and findings were challenged by many scholars. Lots of studies dealt with the correctness of the logarithmic calculation of the regression analysis, the creditability of the data used, the factual existence of the viewpoints of the economic paradigm etc. One of the first critiques of Ehrlich's survey was William J. Bowers and Glenn L. Pierce's writing^[39] in which the authors accused Ehrlich of three things. Firstly, that the FBI Uniform Crime Report on whose data Ehrlich's findings were grounded is incomplete;^[40] secondly, that Ehrlich might not have adopted the murder and execution data after 1964 since in the years between 1965–1969 there were so few executions that from these statistical data relevant conclusions are simply impossible to draw;^[41] thirdly, the logarithmic format, at least as per Bowers and Pierce, is trustworthy only in cases when a variable is at a lower range, but if the execution risk multiplies, measures become unreliable.^[42]

Nevertheless, in addition to the critiques mentioned herein above, Bowers and Pierce put forth the “brutalization effect” theorem meaning that capital punishment not only does not deter potential murderers, but expressly induces them to commit more homicides. The cause of it, pursuant to this thesis, is the sound assumption that people take samples from others' conduct. If someone sees that even the state does not esteem its citizens as people then he or she could think human life is not worth appreciating more than the state itself does. Bowers and Pierce carried out a research project in 1980 in which they investigated the murder and execution statistics monthly in the states of the USA for the period from 1907 to 1963. They found that two more persons were murdered after each execution than would have been in the case of the condemned not having been executed, that is, than would have happened otherwise^[43]. William C. Bailey conducted a similar research in which he analyzed the Chicago

and Inference”, 213–214. Cf.: Isaac Ehrlich, Liu, Zhiqiang, “Sensitivity Analyses of the Deterrence Hypothesis: Let's Keep the Econ in Econometrics” *Journal of Law and Economics*, Vol. XLII (1999): 482, 486; item: Isaac Ehrlich, “Fear of Deterrence” *Journal of Legal Studies*, (1977): 309.

³⁹ William J. Bowers, Glenn L. Pierce, “The Illusion of Deterrence in Isaac Ehrlich's Research on Capital Punishment” *Yale Law Journal*, Vol. LXXXV (1975–1976): 187–208.

⁴⁰ Cf.: Ibidem, 188–192.

⁴¹ Cf.: Ibidem, 197–199, 203–204.

⁴² Cf.: ibidem, 200–203.

⁴³ William J. Bowers, Glenn L. Pierce, “Deterrence or brutalization: what is the effect of executions?” *Crime and Delinquency*, October (1980): 453–484.

homicide and execution statistics between 1915 and 1921 and drew the same conclusion as Bowers and Pierce, that is, that the “brutalization effect” exists.^[44]

As for the latest researches, the first one is Cochran, Chamlin and Seth’s common paper^[45] in which they examined the change of the attitude of potential murderers towards illegal life-taking on the apropos of the execution of the Oklahoma bomber Charles Troy Coleman on September 10th, 1990.^[46] They found the number of stranger-related homicides and murders of passion slightly, but permanently increased after Coleman’s execution.^[47] They interpreted these results

[a]s an indication that a return to the exercise of the death penalty weakens socially based inhibitions against the use of lethal force to settle disputes and thereby allows the offender to kill strangers who threaten the offender’s sense of self or honor.^[48]

In contradiction to Cochran, Chamlin and Seth’s study, Cloninger and Marchesini even found an opposite effect as a result of their two separate empirical investigations based on the Illinois and Texas data.^[49] As for the analysis of murder rates in Texas,^[50] they considered these homicide statistics to be relevant because in 1996 two important events occurred there which were able to weigh influence over the number of murders. The first

⁴⁴ William C. Bailey, “Disaggregation in deterrence and death-penalty research: the case of murder in Chicago” *Journal of Criminal Law and Criminology*, No. 3 (1983): 827-859. For further, logical and empirical, arguments, see: Peter Passell, John B. Taylor, “The Deterrent Effect of Capital Punishment: Another View” *American Economic Review*, No. 3 (1977): 445-451; Lee S. Friedman, “The Use of Multiple Regression Analysis to Test for a Deterrent Effect of Capital Punishment: Prospects and Problems” *Department of Economics, University of California at Berkeley, Working Paper*, No. 38 (1976): 39-41; Jon K. Peck, “The Deterrent Effect of Capital Punishment: Ehrlich and His Critics” *Yale Law Journal*, Vol. LXXXV (1975-1976): 359-367.

⁴⁵ John. K. Cochran, Mitchell B. Chamlin, Mark Seth, “Deterrence or Brutalization? An Impact Assessment of Oklahoma’s Return to Capital Punishment” *Criminology*, No. 1 (1994): 107-134.

⁴⁶ They used the statistical method ‘ARIMA’ (autoregressive integrated moving average). See: Cochran et al., „Deterrence or Brutalization?”, 116-120.

⁴⁷ For the conclusions see in details: ibidem, 107, 121-124, 128-130.

⁴⁸ Cf.: ibidem, 129.

⁴⁹ The method used was the so-called portfolio analysis.

⁵⁰ See: Dale O. Cloninger, Roberto Marchesini, “Execution and deterrence: a quasi-controlled group experiment” *Applied Economics*, No. 5 (2001): 569-576.

one took place on 2nd January, 1996 when the Texas Court of Criminal Appeals granted a stay on executions by virtue of the case of Davis followed by a *de facto* moratorium after April of 1996. The second one happened on 18th December, 1996 when this court aborted the moratorium rendering possible again to execute those condemned to death. This practice actually began anew from April of 1997, hence Cloninger and Marchesini had three different periods^[51] of time available to compare them with one another in order to get to know how the delay and/or the restoration of the practice of executions affected the trends in criminal homicides. They found that in the second period in which the number of executions decreased by more than eighty percent,^[52] vis-à-vis the first period, the murder rate significantly increased. Contrariwise, in the third period in which 35 convicts were executed, that is, twelvefold than in the second period and twofold than in the first one per year, the murder rate in Texas, compared not only to that of the second period, but also to that of the first one, dramatically decreased. From these facts, the authors concluded that the hypothesis of the deterrent effect is confirmed by the empirical results. The same conclusion was, however, drawn by them in virtue of the data collected in Illinois around the turn of the millennium.^[53]

In contrast to Cloninger and Marchesini's results, Lisa Stolzenberg and Stewart J. D'Alessio found no evidence in their common study^[54] for any effect among either execution risk and murder incidents, in any direction, or newspaper publicity surrounding executions and homicide events.^[55]

⁵¹ Before April of 1996, from April of 1996 through April of 1997, after April of 1997.

⁵² Before the point in the border of the first and second period investigated 17 executions took place per year, however, after it, only three inmates were put to death until the beginning of the third period.

⁵³ See: Dale O. Cloninger, Roberto Marchesini, "Execution Moratoriums, Commutations and Deterrence: The Case of Illinois" *Applied Economics*, No. 9 (2006): 967-977. [http://bpp.wharton.upenn.edu/jwolffers/data/DeathPenalty/Cloninger%20&%20Marchesini%20-%20Illinois%20\(2005\).pdf](http://bpp.wharton.upenn.edu/jwolffers/data/DeathPenalty/Cloninger%20&%20Marchesini%20-%20Illinois%20(2005).pdf).

⁵⁴ Lisa Stolzenberg, Stewart J. D'Alessio, "Capital Punishment, Execution Publicity and Murder in Houston, Texas" *Journal of Criminal Law and Criminology*, No. 2 (2003-2004): 351-379.

⁵⁵ They employed the procedure ARMA (*autoregressive moving average*) which enabled them to measure the relationship among the factors mentioned above reciprocally. Namely, it is possible that it is not the executions that affect murders, but, on the contrary, it is murders that influence executions. (For the usage of this method, see: Stolzenberg, D'Alessio, "Capital Punishment, Execution Publicity and Murder in Houston", 352, 356-362, 367-371.

They examined, on the one hand, the number of murder incidents, as opposed to that of homicides or the murder rates,^[56] in Houston, Texas for the period from 1 January through 31 December 1994 and on the other hand, the number of executions publicized in the most popular local newspaper, Houston Chronicle, during the same interval. It could be reasonably assumed that if executions deter potential perpetrators from their planned crimes, this impact is concerned with not the execution itself, but the cognizance thereof. Hence, it had to be investigated whether well publicized executions influence the number of homicide events. From their analysis, Stolzenberg and D'Alessio drew the conclusion that there is no empirical proof for the existence of this kind of effect.

5 | The “deterrent effect” in Hungary – from a statistical point of view^[57]

The paradigm of deterrence, which is intended to fulfil the general preventive purpose of capital punishment, is one of the most important and dominant arguments of the retentionist (i.e. pro-death penalty) part of the death penalty literature (and public opinion). The idea is that punishments have a real effect on criminals’ decisions to commit crimes, and thus on crime trends; and the more severe a (potential) punishment, the greater

⁵⁶ The motive for them to investigate the number of incidents was that people principally pay attention to events during which one or more people were killed but not to the pure numbers of victims murdered by offenders.

⁵⁷ The sources of statistical data for the period 1975–2007 are the paper-based Yearbooks of the Hungarian Central Statistical Office, and from 2003 onwards the Prosecutor General’s Office’s Information on crime data for the given year (<http://ugyeszseg.hu/statistical-data/tajekoztato-a-bunozesrol/>) and, for the last few years, data from the Uniform Crime Statistics of the Investigation and Prosecution Service (ENyÜBS), maintained by the Legislation Preparation and Coordination Department of the Ministry of Interior, which were selected and sent by the Department on individual request. (The author would like to thank the competent Department of the Ministry of Justice for collecting and sending the requested statistical data.) As it is based on a different methodology and therefore not suitable for comparison with previous Hungarian statistics (see later), EUROSTAT data have not been used.

this effect. Since life is the most important value that exists, the criminal threat of taking it (i.e. the existence of the death penalty) can deter most people from committing murder (intentional homicide). The abolitionist (i.e. anti-death penalty) side, on the other hand, is of the opinion that homicides are influenced by considerations and motives other than the type and level of punishment, which are independent of the death penalty, and that the deterrent effect is therefore non-existent or negligible. In the following, we are going to review the Hungarian statistical data available for the analysis of the deterrent effect, based on the most recent data series available, which already cover the year 2024.

In doing so, we start from the two axioms that, on the one hand, in systems of the rule of law, the only realistic basis for discussion on capital punishment can be the criminal conduct against life; and, on the other hand, the possibility of a death penalty could only deter the perpetrators of acts which are actually threatened with capital punishment. Interestingly, however, there are criminologists who do not accept this second axiom and consider that it is necessary to investigate whether the possibility of making homicide punishable by the death penalty could deter the perpetrators of non-capital offences (robbery, rape, burglary, etc.) from committing their acts. This is based on the assumption – to be proven or disproven – that such criminals fear that the circumstances of the crime may lead to a homicide and that they will not even commit the lesser crime in the first place in order to avoid it. However, the results of research on this issue should not be used as a basis for a position on the applicability of the death penalty, because even if the assumption were true, in systems based on the rule of law, it would be impossible to apply a capital punishment simply to deter potential perpetrators of non-capital offences from committing such acts; the only question, therefore, that this paper will examine, is whether the death penalty would, or could in principle, deter potential perpetrators of offences against life from future homicide.

In Hungary, the Constitutional Court declared capital punishment unconstitutional right after the end of the transition to democracy, in October of 1990 by the Constitutional Court Decision No. 23/1990 (31 October). Hence, the last year that we can consider a “year with capital punishment” is 1990 and the first year we can regard as “a year without capital punishment” is 1991. The mere statistical data shows as follows. Between 1975

and 1990, from a minimum of 185 to a maximum of 237^[58] murders, both premeditated^[59] and not premeditated,^[60] and murders of passion (or, as it is named officially in the Hungarian penal law: voluntary manslaughter committed with provocation or in the heat of passion) occurred every single year^[61] (in these occurrences manslaughter as negligent crimes are not involved). This means that the number of murders in Hungary was almost the same in each year (between 1975 and 1990), approximately 210 on average, with a margin of plus/minus 10%. In 1991, the first death penalty-free year, this number rose up to 307; in 1992, this number was totally the same (307) and then, between 1993 and 1998 it fluctuated between 271 and 313.^[62],^[63] So, it can be seen that the frequency of violent intentional killings was higher by one and a half fold in the years after the abolition of capital punishment than in the years before that.

There would be a conclusion drawn (by the retentionists) that the abolition of the death penalty made the potential murderers more desperate and more fearless, but, in fact, this inference may be false, or at least, to be more exact, it lacks soundness. Why does it? First, the abolition of capital punishment happened just in the time when Hungary transitioned from state socialism to democracy. This transition was accompanied with the anomic state of society in a Durkheimian sense. This means that sharp, drastic and rapid changes cause value crisis among the members of a society (called *anomie*) that appear in, among other things, more frequent deviancy (for example, increased number of suicides, alcohol diseases and crimes). Furthermore, in Hungary, this transition went with liquidation of state companies and, thereby, dismissing lots of employees, making them

⁵⁸ For the Hungarian statistical data, cf.: Hungarian Statistical Yearbooks, 1975–2011.

⁵⁹ Intentional killing with malicious aforethought.

⁶⁰ Homicides.

⁶¹ In detail: in 1975 206, in 1976 237, in 1977 219, in 1978 185, in 1979 230, in 1980 200, in 1981 214, in 1982 190, in 1983 215, in 1984 205, in 1985 191, in 1986 233, in 1987 203, in 1988 206, in 1989 191 and in 1990 201 murders and involuntary manslaughter took place per year. Nevertheless, the number of the latter is not worth taking into account since those criminal acts that are qualified as “involuntary manslaughter” befall very rarely, usually once or twice (or not once at all) per year.

⁶² In 1993 298, in 1994 313, in 1995 296, in 1996 271, in 1997 289 and in 1998, again, 289 intentional homicides eventuated.

⁶³ These figures, and those presented below, represent the number of events of homicides, not the number of victims. Therefore, if there are several victims of the same act, it is only recorded once in the statistics.

unemployed; there was a growing of poverty and international organized crime turned up, all of these being criminogenic factors.

This explanation (the explanation of anomie) is also shown by the fact that not only the murder rates increased during these years but the total number of crimes as well. The evidence thereof is that, between 1975 and 1988, from about 120 000 crimes up to 188 000 offences were committed per year.^[64] (On average, approximately, with a margin of plus/minus 20%, 150 000). The political transformation began, in fact, in 1989, thus the causes of the growing number of crimes started to operate in that year. This actually did manifest in the years of the political transformation, even in 1989 as well. Namely, in 1989, the total number of crimes was 225 thousand, in 1990 it was 341 thousand, in 1991 it was 440 thousand, and then, between 1992 and 1999 it ranged from 389 to 600 thousand.^[65] This means that the total number of crimes rose in a few years' time by about three- or fourfold, while the number of murders increased by only one and a half fold; that is, the anomic state explanation seems to be a plausible one, and there is one more argument that corroborates this scenario.

Namely, after 1999, when the shocking effects of the political transformation began to fade away, the number of murders started to decrease tendentially. Only 253 murders were committed in 1999 and only 205 in 2000; in 2001, the figure again rose to over 250 (254 exactly), but then began to fall again: 203 in 2002, 228 in 2003, 209 in 2004, 164 in 2005, 174 in 2006, and 154 in 2007; such cases were registered. Finally, as of 2008, the number of homicides has not even reached 150: 147 in 2008, 139 in 2009, 133 in 2010 and 142 in 2011. In 2012, this figure broke the 'record' at that time in Hungary, with only 112 homicides recorded; and even though the number of homicides has increased slightly over the next two years from this "negative peak" (though it still did not reach two-thirds of the period

⁶⁴ Annually: in 1975 120,889; in 1976 129,424; in 1977 123,623; in 1978 126,907; in 1979 125,267; in 1980 130,470; in 1981 134,914; in 1982 139,795; in 1983 151,505; in 1984 157,036; in 1985 165,816; in 1986 182,867; in 1987 188,397; in 1988 185,344 crimes occurred.

⁶⁵ In detail, the total number of crimes: in 1989: 225,393; in 1990: 341,061; in 1991: 440,370; in 1992: 447,222; in 1993: 400,935; in 1994: 389,451; in 1995: 502,036; in 1996: 466,050; in 1997: 514,403; in 1998: 600,621; in 1999: 505,716. Nonetheless, it has to be mentioned that the salient value of the crime rate in 2008 is due to one and only offender, who defrauded nearly 80,000 people (committing, as a consequence of it, almost 80,000 crimes) pretending to be a parking attendant and, hence, to be entitled to get money from drivers in order for them to be able to park in places where the parking in fact was free of charge.

of state socialism, it was only 135 in 2013 and 2014). But there was another, even more significant, decline, since in recent years the number of homicides has been around 100 (in particular, 99 in 2015, 101 in 2016 92 in 2017, 84 in 2018, 60 in 2019, 81 in 2020, 72 in 2021, 89 in 2022, 70 in 2023 and 67 in 2024). Looking at the numbers of the last decade, there have never been so few homicides as nowadays.

In other words, one decade after the abolition of the death penalty, the number of completed murders has slowly returned to pre-1990 levels; after another decade, it has been significantly and steadily underperforming; and today, although the death penalty does not exist for a long time, it is also clearly below its lowest level during the period of state socialism, to the extent that the average number of homicides in the last five years is only one-third of the average annual death penalty of the communist era.

The anomic state scenario may be indicated not only by the increased incidence of homicides, but also by the increasing trend of total crime in the 1990s, far greater than the increase in crimes that were previously threatened with death.^[66] While between 1975 and 1988 there were between 120 and 188 thousand crimes known per year, in 1989 (when the change of regime was apparently underway, with all its effects – positive and negative), this number increased to 225 thousand; in 1990 it was 341 thousand and in 1991 it moved to 440 thousand. In the following years (between 1992 and 1999), the figure was also high, between 389,000 and 600,000, an average of three to four times higher than a decade earlier, whereas, as we have seen, the increase in homicides was “only” one and a half times greater. However, this proportion has not changed significantly until now: in each of the 12 years between 2000 and 2011, the total number of crimes was between 400 and 450 thousand (between 394 and 465 thousand precisely),^[67] whereas in recent years (partly due to purely statistical methodological-survey reasons) it dropped.^[68]

⁶⁶ This follows from the fact that the death penalty has previously been applied only to the various crimes involving homicide; if, therefore, the overall crime rate (which is unaffected by the existence or abolition of the death penalty) has increased more than the number of homicides, it is likely that there is a fundamentally different reason, independent of the existence of the death penalty, behind this fact.

⁶⁷ An important methodological note is that the above data do not actually show the number of *crimes committed* in a given year, but the crimes in which the investigation was terminated in that year. However, the figures are still suitable for illustrating trends.

⁶⁸ The total number of crimes between 2015 and 2024 was officially 280, 290, 226, 199, 165, 162, 154, 167, 178 and 233 thousand. One of the reasons for the strong

At first glance, another possible explanation for the one-and-a-half-fold increase in homicides since 1990 can be found by looking at the trend in attempted homicides. The number of attempted homicides was 306 in 1975 and between 167 and 331 per year from 1976 to 1988, but it fell to 119 in 1990, 116-167 per year between 1991 and 2001, 133-156 between 2002 and 2011 and 57-108 between 2012 and 2024. If we look at the combined trend of completed homicides and attempted homicides, we can see that, in the period immediately before and after the change of regime, the two together will give almost similar rates, so on the basis of these figures alone, it is possible that in the 1990s the killers were simply more determined, as more of the attempted homicides were “successfully” carried out at roughly similar rates. However, the opposite conclusion could be drawn from the very same fact, namely that it was the abolition of the death penalty that increased the desperation of criminals against life; but to find out, it would be necessary to take into account reasons other than mere statistics. However, a first glance may be misleading, as the above thesis seems to be contradicted by the fact that the decreasing number of completed homicides in recent years has not been accompanied by an increase in the number of attempts to the levels previously seen: they are still relatively low (as mentioned, they were only around 150 in each of the years 2002–2011, tending to around 100 after 2012, and below 100 per year since 2015).^[69] But this also means that the

statistical decline is undoubtedly the fact that the new Criminal Code. (Act C of 2012), and some time ago, since April 15, 2012, the old Criminal Code. (Act IV of 1978) increased the previous offense value of twenty thousand forints to fifty thousand, that is, crimes against property (theft, fraud, embezzlement, misappropriation, etc.) for which the damage and the property damage amounted to HUF 20,001 and 50,000 is no longer a crime, just an offense, so it does not appear in crime statistics, although it is as unpleasant for victims as it was when they were officially offended. However, it is also true that other effects (such as increases in crime detection efficiency) can and do contribute – without it (due to changes in statistical methodology alone), eg. the unusually low rate of criminal conducts of recent years in Hungary cannot be explained. (E.g. from 2001 to 2020, the number of intentional assaults is half of what it was before, and the number of robberies is only a fifth. Cf.: Information on crime in 2020: <http://ugyeszseg.hu/wp-content/uploads/2022/01/tajekoztato-a-bunozes-2020.-evi-adatairol.pdf>, General Prosecutor’s Office, Budapest, 2020, pp. 13 and 17. These numbers seem to drop even in recent years: https://www.ksh.hu/stadat_files/iga/hu/iga0003.html.

⁶⁹ To be precise, 156 attempted homicides (or attempted manslaughters committed with provocation or in the heat of passion) were recorded in 2002, 150 in 2003, 153 in 2004, 149 in 2005, 133 in 2006, 142 in 2007, 145 in 2008, 136 in 2009, 143 in 2010, 133 in 2011. (However, only 1-3 attempted manslaughters committed with

combined number of completed and pilot-stalled intentional homicides and crimes of passion in recent decades has been at its lowest in recent years and, overall, shows a clear downward trend over decades.^[70]^[71]

Overall, it can be seen that the rate of crimes against life has never been as low as in recent years in the last half century in Hungary.

Finally, even the recidivism rates do not show that homicides are significantly affected by the presence or absence of capital punishment. In the last two and a half decades (between 1997 and 2021), the number of recidivists^[72]

provocation or in the heat of passion were committed per year, and there were also years when this type of crime did not occur at all – the numbers therefore show the number of intentional homicide attempts essentially exactly). In 2012, the number of unsuccessful attempted murders was 108, in 2013 105, in 2014 106, in 2015 86, in 2016 98, in 2017 72, in 2018 60, in 2019 57 (!), in 2020 90, in 2021 62, in 2022 98, in 2023 83 and in 2024 100.

⁷⁰ By adding up the raw data reported in recent years: 2009: 275; 2010: 276; 2011: 275; 2012: 220; 2013: 240; 2014: 233; 2015: 185; 2016: 199; 2017: 164. Based on the 2019 data, on reclassified acts, between 2009 and 2017 there were 304, 313, 328, 243, 264, 257, 205, 226, 180 intentional homicides either completed or remained in the stage of attempt. (Cf.: Crime and justice. General Prosecutor's Office, Budapest, 2019 / http://ugyeszseg.hu/pdf/statisztika/bunozes_es_igazsagszolgalatas_2009_2018.pdf), table 1.) In 2018 these occurrences were as low as 144, in 2019 117, in 2020 173, in 2021 135.

⁷¹ The two sets of statistical data are relatively often mixed up, which is partly due to the fact that EUROSTAT data are often taken into account, but – unlike the data of the Hungarian Central Statistical Office (in Hungarian abbreviation: KSH), the General Prosecutor's Office and the Ministry of the Interior – it also includes the number of attempted murders (that is, the former shows the total number of committed or simply attempted intentional homicides, and the latter only shows the number of completed homicides and counts attempts as a separate category). For this reason it is misleading e.g. comparing the data of KSH (or of the Ministry of the Interior) of a previous year with the EUROSTAT data of a later year (which also includes the number of attempted murders). The explanation of the methodological deviation underlying the misunderstanding can be found in more detail in the announcement of the National Institute of Criminology: https://www.okri.hu/images/stories/Kozlemenyek/OKRI_KZLEMNY_emberlsek_szma_vgleges_20190528.pdf)

⁷² “‘Recidivist’ shall mean the perpetrator of a crime of intent, if such person was previously sentenced to an executable term of imprisonment for a crime committed intentionally, and three years have not yet passed since the last day of serving the term of imprisonment or the day when it ceases to be enforceable until the commission of another criminal act.” [Act C of 2012 on the Criminal Code of Hungary, Section 459 para (1) point 31]

convicted of homicide ranged from 1 to 14,^[73] the “habitual recidivists”^[74] ranged from 1 to 13;^[75] and the “repeat offenders”^[76] ranged from 4 to 23.^[77]

6 | Conclusion

The fact that the number of crimes previously punishable by death (i.e., in essence, homicides) is at an unprecedented low, and that the combined number of attempted and completed homicides is also at its lowest level in the last 50 years, suggests that the expected level of punishment (if the act itself is such that it is even considered) is a relatively minor factor in the motivation of those who commit intentional homicide. Therefore, the statistics do not support a demonstrable, meaningful role for the death penalty in the development of homicide rates, or that capital punishment alone is a deterrent for the vast majority of those who are inclined to commit an

⁷³ In the last few years (from the period when data are available), this number was already low: 5 in 2013, 1 in 2014, 4 in 2015, 3 in 2016, 4 in 2017, 8 in 2018, 1 in 2019, 12 in 2020 and 2 in 2021.

⁷⁴ “‘Habitual recidivist’ shall mean any recidivist who commits on both occasions the same crime or a crime similar in nature.” [Act C of 2012 on the Criminal Code of Hungary, Section 459 para (1) point 31 a)]

⁷⁵ Since the change in the rate of special recidivists is of particular importance from the point of view of the possible deterrent effect of the death penalty, it seems appropriate to describe this in detail: there were 3 such perpetrators in 1997, 1 in 1998, 4 in 1999, 3 in 2000, 4 in 2001, 2002 in 2, in 2003 5, in 2004 5, in 2005 3, in 2006 5, in 2007 8, in 2008 4, in 2009 7, in 2010 4, in 2011, 2012- in 13, 3-3 in 2013, 2014 and 2015, 4 in 2016, 3 in 2017, 5 in 2018, 1 in 2019, 0 in 2020 and 1 in 2021.

⁷⁶ “‘Repeat offender’ shall mean a person who has been sentenced to an executable term of imprisonment as a recidivist prior to the commission of a crime of intent, and three years have not yet passed since the last day of serving the term of imprisonment or the day when it ceases to be enforceable until the commission of another criminal act punishable by imprisonment.” [Act C of 2012 on the Criminal Code of Hungary, Section 459 para (1) point 31 a)]

⁷⁷ At the same time, in recent years (also from the period when data are available), the number of multiple recidivists has also noticeably decreased: in the last decade, the statistics did not even come close to the record of 23, and the average of 7 in the years between 2009–2013 has been dropped in the last eight years (between 2014–2021) to an average of 3. (Specifically, the number of multiple recidivists in each year was as follows: 2009: 9; 2010: 9; 2011: 5; 2012: 7; 2013: 6; 2014: 1; 2015: 4; 2016: 3; 2017: 1; 2018: 4; 2019: 3; 2020: 4; 2021: 3.)

offence against life. Of course, it cannot be stated that, despite all of this, the death penalty does/may not have a deterrent effect, since claiming this would require “running” an alternative period in which all the factors are the same, except that the death penalty has not been abolished – and this is impossible. Therefore, in principle, it is, theoretically, possible, for example, that if there had been a death penalty in 2024, there would not have been 67 completed intentional homicides, but slightly fewer; however, it is impossible to measure or establish this.

What is certain from the above data is that capital punishment is not a primary or dominant factor in homicide trends; whether it is a factor at all, to any extent is immeasurable by statistical methods (precisely because of its negligible effect).

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