

FORMING THE LEGAL ARGUMENTS OF THE HUNGARIAN POSITION IN THE CASE REGARDING THE ASSASSINATION IN MARSEILLE (1934)

BALÁZS PÁLVÖLGYI

Deák Ferenc Faculty of Law and Political Sciences, Széchenyi István University, Hungary

Abstract in original language

On 9th October 1934 the Yugoslavian king and the French foreign minister were shot in Marseille in the Place de la Bourse. When it became overt that the Great Powers would canalize the affair against Hungary, the Hungarian government intensified the preparation for it. So it started to collect the essays to form the legal defence, and some résumés were made in the ministry as well to prerepare the politicians. Although Hungary was involved in this affair by the support given to the Croatian refugees, it wasn't Hungary at all the most important state in the events. As the culpability of the Great Powers wasn't storable, it was Hungary alone, which could play the role given in return of the consequences of no importance.

Key words in original language

Marseille, assassination, 1934, Hungary, Yugoslavia, League of Nations, Croatian refugees, Eustacha.

1. THE MAIN QUESTIONS OF THE HUNGARIAN-YUGOSLAVIAN RELATION BEFORE THE ATTENTATE IN MARSEILLE

To comprehend the following events better, it is absolutely necessary to shortly overview the forming of the Hungarian-Yugoslavian relations in this term.

The relations between the two states were charged with a series of conflicts issued from the so-called „double-possessors” affair and the admission of the Croatian refugees in Hungary.¹ As there was several agriculturists and possessors who had a domain in Hungary and in Yugoslavia as well, the two states in the commercial treaty concluded in 1926² gave a solution to the problem of the customs and the transit as well.³ This treaty was renewed in 1928⁴, but in 1932 the Yugoslavian government refused the extension to keep it in force. In consideration of the relatively high number of the border-incidents during the years before, and of the other ground of the tensions, the activity of the Croatian refugees in Hungary, Budapest decided to take measures against those refugees, to defend the „double-possessors”, and to make the Yugoslavian government renounce his project to disappropriate these domains.

¹ HORY, ANDRÁS: *Bukaresttől Varsóig*. Gondolat, Budapest, 1987., 131. (From Bucarest to Warsaw) (Hory was the deputy-secretary of the Ministry of Foreign Affairs at that time).

² 1929/XLV. tc., 1929/XLVI. tc.

³ HORNYÁK, ÁRPÁD: *Magyar-jugoszláv diplomáciai kapcsolatok 1918-1927*. Forum, Újvidék, 2004. (Hungarian-Yugoslavian diplomatic relations).

⁴ 1929/XLVII. tc.

Having seen the failure of this strategy, the Hungarian government appealed to the League of Nations, without any consultation with the Great Powers, namely with the main ally, Italy.⁵

After the first indignation, the Yugoslavian government decided to enter into negotiations with the Hungarian party, and they had signed an agreement consisting of three documents by the summer of 1934. In the third confidential document the Yugoslavian party to let the Hungarian government take measures against the activity of the Croatian refugees.⁶

The other question, the question of the Croatian refugees went back to the 20's. The Hungarian politician's circles tried to create a good relation with the Croatian politicians who were dissatisfied with their new state. After a few attempts the Oustasha remained as the main Croatian partner. The Hungarian foreign policy supported the Croatian emigrants and naturally the members of the Oustacha as well: the government gave passports and from time to time money as well, and in 1931 allowed to create a training camp in Hungarian territory, in Jankapuszta, although the most important base of the organisation - in spite of the Italian-Yugoslavian rapprochement - remained Italy.⁷ The Yugoslavian government made a grievance of this policy without avail. Having changed the fighting process, the Oustacha committed bomb attentates in international trains, and prepared some assassinations in Yugoslavia as well. So in 1933 the Oustacha prepared an attack against a Yugoslavian judge, and posted a bomb from Hungary to Yugoslavia. When the pack was controlled in Yugoslavia, the bomb exploded in a police station causing the death of a policeman. In October of 1933 a series of articles were published in Yugoslavia concerning the training camp⁸, and in December the plan of the assassination of the Yugoslavian king in Zagreb turned out.^{9,10}

After these cases the Hungarian government estimated the Oustacha relation as rather compromising, and made efforts to rid off the members of the group.¹¹

⁵ GRATZ, GUSZTÁV: *Magyarország a két háború között*. Osiris, Budapest, 2001.,267. (Hungary between the two war).

⁶ PRITZ, PÁL: *Magyarország külpolitikája Gömbös Gyula miniszterelnöksége idején 1932-1936*. Akadémiai, Budapest, 1982. 173-174. (Hungary's foreign policy during the prime ministership of Gyula Gömbös 1932-1936).

⁷ The Croatian terrorist group was supported by Italy and Austria as well. Both of the states had important counter-interests with Yugoslavia, and they tried to exploit the possibilities to weaken it. So Vienna became one of the main centers of the Oustacha-emigrants, and the head of it lived in Italy.

⁸ The articles were written by a certain Jelka Pogorelec, who was a mistress of the leader of the training camp in Jankapuszta. The woman gave information about the life of the camp in Vienna. The article practically didn't enrich the knowledge of the Yugoslavian intelligence, but gave a new instrument to the confrontation. - *Jelka Pogorelec vallomása, utánnnyomás a Novostiból 1933.*, a Jugoszláv Sajtó r.t. Zágráb utánnnyomása - MOL K63-1934-16/6-6267, ECKHARDT, TIBOR: *Regicide at Marseille*. American Hungarian Library and Historical Society, New York, N.Y. 1964. , 30.

⁹ ORMOS, MÁRIA: *Merénylet Marseille-ben*. Második, javított és bővített kiadás. Kossuth, Budapest, 1984. 89-95. (Attentat in Marseille).

¹⁰ MILICEVIC, VLADETA: *Der Königsmord von Marseille. Das Verbrechen und seine Hintergünde*. Hohwacht, Bad Godesberg, 1959., 47.

¹¹ HENNYEY, GUSZTÁV: *Magyarország sorsa Kelet és Nyugat között*. Európa, Budapest, 1992., 50. (Hungary's destiny between East and West).

2. THE FACTS OF THE ASSASSINATION AND THE FIRST MEASURES OF THE HUNGARIAN GOVERNMENT

The assassin was killed in the tumult after the shots, and the first information of the police was rather embarrassing. The identification of the criminal was very difficult: although the arm of the murderer was tattooed with the abbreviation of the Macedonian terror-organisation V.R.M.O., and had a Czechoslovakian passport.¹² The information about the assassin gave two solutions for the identification of the person: he was either a Macedonian criminal, member of the V.R.M.O., who's place of departure to Marseille was unascertainable or a Croatian member of the Oustacha, who departed to Marseille from an Italian training camp. Whatever the facts published at this time were not convincing, during the investigation the effort of the French authorities to hide their own responsibility in the affair and the influence of the French foreign policy as well was perceivable, which didn't allow the inculcation of neither Italy, nor Germany.¹³

The Hungarian government took the most important actions after the assassination, on 9 October and the Hungarian investigation started officially after 22 October, after the first request of the Yugoslavian embassy.¹⁴ As all of the participants in the affair took the measures with an odd slowness, the Hungarian government abided the events. When it became overt that the Great Powers would canalize the affair against Hungary, the Hungarian government intensified the preparation for it. So it started to collect the essays to form the legal defence, and some résumés were made in the ministry as well to prerepare the politicians.

These preparatory papers are necessary to comprehend the forming of the legal argumentation of the Hungarian government in the process by the League of Nations.

3. THE FACTS IN THE PREPARATORY RÉSUMÉ OF THE HUNGARIAN GOVERNMENT¹⁵

3.1 THE MAIN FACTS IN THE PAPER

On 9th October 1934 the Yugoslavian king and the French foreign minister were shot in Marseille in the Place de la Bourse. The assassin - after the first information - was a Yugoslavian subject, born in Zagreb in 1899.¹⁶ In his pocket a passport was found drawn up by the Czechoslovakian consulate in Zagreb in 30th May 1934.¹⁷ The investigation confirmed

¹² KOVÁCS, PÉTER: *Le grand précédent: la Société des Nations et son action après l'attentat contre Alexandre, roi de Yougoslavie*. In: *European Integration Studies*, issue: 1/2002, p. 30-40, on www.ceeol.com.

¹³ ORMOS, MÁRIA: *Franciaország és a keleti biztonság 1931-1936*. Akadémiai, Budapest, 1969., 337. (France and the Eastern security).

¹⁴ MOL K64-1934-16/a-751.

¹⁵ MOL K64-1934-16/a-751.

¹⁶ The essay informs further on, that the Macedonian murderer was a Bulgarian subject, staying with a feigned name in Hungary.

¹⁷ The passport of the murderer caused arguments between Hungary and Czechoslovakia, because the number of the murderer's passport was falsified, and the original belonged to a certain Johanna Majersky who was working as a governess in Budapest at the moment of the attack.

in the first days that the assassin was a member of a Croatian emigrant organisation, and that in the execution of the crime at least ten accomplices had to participate.

The paper contains a reference to the definite intention that Hungary could be the scapegoat in the affair. The résumé gives a short extract from the contents of the foreign newspapers published concerning the case, preparing the expected diplomatic attack against Hungary. In the paper was laid down, that at the moment one couldn't speak about a concrete diplomatic attack, but a diplomatic communication started between Yugoslavia and Hungary, intentioned to take a survey of the suspected people staying in Hungary.

Concerning the expected evolution of events, the paper gives only references and enumerates the possibilities: the declaration of the Romanian foreign minister Titulescu at the conference of the Balkanic Alliance in Ankara, a résumé of an interview with Jeftić, the Yugoslavian foreign minister, published in a French journal, where he declared, that to his mind the assassination fell within the cognizance of the accord of 4th July 1934 between the Soviet Union, Turkey, Czechoslovakia, Yugoslavia and Romania. This accord determines the notion of the aggressor state: that is a state, from the territory of which starts an attack of a terrorist organisation, supported by the state. After the information given in the article, Belgrade was waiting the end for the investigation but after ending it, would demand the dissolution of those organisations in Hungary.

3.2 THE FIRST STATEMENTS OF THE HUNGARIAN AUTHORITIES IN THE PREPARATORY PAPER

Although the French authorities demanded some information from the leader of the police of Budapest, the connection remained unilateral: the Hungarian authorities didn't receive any important information from France. The Yugoslavian party turned out to be more active: the Hungarian Ministry for Foreign Affairs received the first details from the Yugoslavian Embassy on 22th October, and after that information the Hungarian authorities continued the investigations started on 10th October. The paper gave a résumé of the expected consequences of the affair: as was the press- and diplomatic information was out, the affected states started to form the main points of the accusation of Hungary, that is to say the fact, that the criminal stayed in Hungary a certain period, and its previous support to diverse terrorist groups formed the base to the execution of the attack in Marseille.

3.3 THE EVALUATION OF THE POLITICAL SITUATION

On 4th November 1934 the deputy-secretary of State in foreign affairs, Hory signed a political preparatory memoir, in which he surveyed the possibilities concerning the political and legal actions against Hungary. The memoir was addressed to Kánya, the minister of foreign affairs.¹⁸

The deputy-secretary declares, that France and its allies know if the responsibility of the assassination and the question of the support given to the Croatian emigrants are examined, this action would affect the interests of Italy, because it was Italy, which supported the Croatian emigration, maintained the Oustacha training camps, and the head of the Oustacha-organisation was living there as well. But Hungary, although it supported the action, and although it didn't execute the dissolution of the training camp situated in Hungary

¹⁸ MOL K64-1934-16/a-598.

immediately and the forced allegations could prove that it even supported the work of Croatian refugees, and didn't control them, despite all these facts there is not enough evidence to prove the culpability of Hungary neither in a traditional diplomatic action, nor in a process by the League of Nations.

Hory analyzes the relation between Italy and France as the base of the action against Hungary: he refers to the intention of the French diplomacy to create an approach between the two states, which conditioned the amelioration of the Italian-Yugoslavian relation depressed since 1926. As the assassination could block the détente between Italy and Yugoslavia, the French diplomacy tries to canalize the action of its allies against Hungary. He thinks that this is the diplomatical background of the disadvantageous situation.

Concerning the expected actions against Hungary the deputy-secretary summarizes the possibilities. He refers to the confidential information received from a trustworthy informant that after the close of the investigations in France the pressure will strengthen to Hungary, and they will try to prove the responsibility of Hungary in the affair, they will publish all the facts gathered concerning the Hungarian irredentist actions and they will attract the attention to the secret armament of Hungary to prevent from exercising the legal national political aspirations. He gives three possible way to the defence: action by the Great Powers, action by the League of Nations and a press-campaign. Having balanced the consequences, the expert analyses a possibility of an action by the League of Nations, as an instrument of the public discharge. Which kinds of dangers are hidden in this possibility to Hungary? It is incontestable that it comported or even supported the presence and activity of the Croatian refugees in its territory and it is a fact, that a part of the refugees took a farm near the border but it is a fact also that this farm or camp was eliminated in April. It is also fact, that the accomplices departed from Hungary but it is also a fact, that none of the Hungarian authorities knew that, and the assassin didn't depart from Hungary. Although the Hungarian government didn't execute the obligation ensuing from the Hungarian-Yugoslavian accord concerning the controls but the fact, that the Croatian emigration was constantly in motion in Hungary made the measures of surveillance and control absolutely impossible. The question of the passports could be a further point of claim, but the names of the persons sought by the French Sureté Nationale were controlled in the record of the Police of Budapest, and there isn't any trace referring to the fact, that those people received Hungarian passports in a legal way.

After that one could suppose there's no the argument and base to condemn Hungary in this affair, and the question is, whether it is possible to use the process of the League of Nations in the defence. As it is expectable that the League of Nations will burke the case, and as Hungary can count on the (tacit) support of Italy, the way of the League of Nations is acceptable.

4. THE HUNGARIAN PREPARATORY MEMOIRS

The Hungarian Ministry for Foreign Affairs started to collect the memoirs related to the expected diplomatic case immediately after the assassination. The experts' reports sent in this term are to divide into three groups. In the first type are the studies which summarize the events of Marseille, the second type of the papers studies the questions of the extradition and the political asylum and the third type resumes the theory of the responsibility of the state for crimes committed against a third state.

4.1 THE QUESTION OF THE STATEMENT OF FACTS

The experts resume the formation of the Croatian exile-groups installed in Hungary, which is one of the a main questions to comprehend concerning the alleged relation between the Hungarian authorities and the crime committed by the help of the Croatian organisation Oustasha.

Two of the résumés contain references to the Croatian emigrant-groups, and in a broader sense, the further one gives some opinions related to the asylum. The method of some of the experts was rather ambivalent, because they gave a simultaneous analysis of legal or political situation and deny the apparent facts, as in the official Hungarian communications, in spite of the confidential nature of the papers. So we have a very heterogeneous material which can give us an important overview of the background of the official Hungarian diplomacy.

The experts admit the presence of those groups in Hungary, and the previous existence of refugee-camp near the Hungarian-Yugoslavian border, in Jankapuszta, but they deny the direct connection between the terrorist-crimes committed in Yugoslavia and the Croatian refugees intalled in Hungary. The „training camp” was mopped up in April by the Hungarian governement after the bilateral negotiations between Jugoslavia and Hungary, though this action of the Hungarian authorities (maybe due to the intentions of the Hungarian governement) wasn't entirely succesful, because the Croatian refugees continued staying in the state.

4.2 THE QUESTION OF THE POLITICAL ASYLUM AND THE EXTRADITION

In the preparatory essays we can observe on the one hand the intention of giving a general overview of the subject, on the other hand there are the facts of the Hungarian-Yugoslavian relations concerning the questions of political asylum and terrorist acts committed by the Croatian organisation Oustacha.

These summaries repeat the main thesis of the international criminal law, namely that the extradition is exercisable in the cases which are punishable in the requesting and the requested state as well. The author declares that the political crime is punishable only in the offended state, and the acts against a foreign state usually aren't punishable in the national criminal law.¹⁹ That is the main argument of the refusal of the extradition in the cases of political crimes, which is based on the recognition of the liberty of political creed. Naturally this traditional definition was considerably modified by the new after-war international extradite treaties, which contain exceptional rules in case of attack against the head of state. The question of the extradition becomes more complicated if the person committed a non-political crime as well: in this case the requested state can't refuse the extradition, with the condition, that the political criminal isn't justiciable for the political crime.

The second paper refers that the state, which receives the refugees and gives asylum (with the refusal of the extradition) is obliged to practise the adequate surveillance and control over them, it is especially obliged to prevent the committal of criminal acts against a foreign state,

¹⁹ MORLIN, ERVIN: *A menedékjog kérdése (kiadatási jog szempontjából)*. (The question of asylum (from the point of view of the extradition)).

and in accordance with this rule the refugees are also obliged not to commit those kinds of acts.²⁰

In the third document the most productive author of the present case examines the question of the political asylum given to the Croatian refugees by Hungary, the question, whether the asylum given by Hungary was „exaggerated” from the point of view of the terrorist acts committed in Yugoslavia in alleged relation with the Croatian refugees installed in Hungary. The author refers to the fact, that in the last few years it was in only one case in which the Yugoslavian authorities could have confirmed the participation of the Croatian refugees installed in Hungary: that was the attentat in Koprivnica in which the criminal was arrested in Hungary, but in this case the act – in his opinion – was committed in Hungary and that was only the achievement which was accomplished in Yugoslavia. He mentioned that after the World War I. it was only one case, in which the criminal of a political attentat was punished in a foreign state, and he cited the cases in which the states gave handsomely asylum against the political interest of Hungary.²¹

The same author deals with the question of the limitation of the political asylum in the case of the assassination of a head of state.²² He divides the political crimes into groups: in the first are the acts, which are against the interest of the state, so in this case the attack offends the legal personality of the state. This group contains the cases of treachery, disloyalty, instigation, insurgence and the cases of lese-majesty which do not offend the right to life. He declares that in case of pure political crimes the state isn't obliged to extradite the criminal, and that way of action is supported by legal system of criminal law, which in general does not contain any rules concerning the crimes committed against a foreign state. Therefore none of the states will extradite a criminal because of an act, which is not to be punished in its legal system. This rule was in action in the case of the Hungarian emigrants after 1849 and in the case of the emigrants pursued by the nazi and fascist governments.

The second group of the political crimes contains the acts which offend simultaneously the interest of the state and the private interest defended by the criminal law. These are the mixed political crimes, such as the assassination of a king, the case of lese-majesty which is in the first place of the Hungarian penal code. The author refers to the liberal trend of the 19th century which made the refugee-politics more flexible, and created the possibility to accord asylum to the criminal who committed a non-political crime attached to the political crime as well. He analyses the rules of the extradite-treaties, and confirms the statement, that the majority of them accept the solution of the system of the Belgian extradite-law, namely the rule, that prescribe that in cases of political crimes the extradition can't be executed. That was the reason, on the bases of which the criminals of the Hungarian revolution of 1919 received asylum, and that was the bases of argumentation of the Hungarian government also in the case some German refugees. This second case (the mixed-cases) poses the main problem in the domain of extradition, and it was the problem as well in the famous case of the attentate against III. Napoleon in 1854, in which the Belgian authorities weren't able to give a common

²⁰ SZENT-ISTVÁNY, BÉLA: *A menedékjog kérdése (adalekok a nemzetközi jog elméletéből és gyakorlatából)*. (The question of asylum (contributions from the theory and practice of international law)).

²¹ SZONDY, VIKTOR: *Túlzott mértékben nyújtott-e menedékjogot Magyarország a jugoszláv emigránsoknak*. (Was the asylum given by Hungary to the Yugoslavian refugees exaggerated).

²² SZONDY: *A politikai büntetettek menedékjogának korlátozása államfők elleni merénylet esetében*. (The limitation of asylum to political criminals in case of attentate against head of states).

stand. This case was the ground for the elaboration of the French law, which contained the „attentate clause”, which determined that the attentate against a head of state can't be considered as political crime or crime attached to political crime. This solution means that in this case the extradition can't be refused.

The Italian „codice penale” in 1889 contains mostly liberal rules concerning the political crime and the extradition: its points exclude the allowance of the extradition in case of political crime, and it excludes that the political criminal will be condemned in Italy for acts committed by foreigners in foreign countries, though this code contains a new criminal case, the case of the assassination of a foreign monarch in Italy. The new „codice penale” in 1930 ruptured with the liberal traditions, and allows the extradition in political cases as well, but he mentions that new extradite-treaties haven't been concluded yet on the bases of the new code.

The clause of „attentate against head of state” appeared in international law first in the accords concluded by Austria-Hungary²³, and the author refers to the fact, that this solution was adapted in most of the posterior accords.²⁴

The author declares that this case is important from the point of view of international law as well because that is the first case in which a head of state was assassinated in a foreign state.

4.3 THE QUESTION OF THE THEORY OF THE RESPONSIBILITY OF THE STATE FOR CRIMES COMMITTED AGAINST A THIRD STATE

In the last group of the essays the authors examine the question of the degree of the responsibility of the state, which could be in fact the principal question, because of the expected process against Hungary, so in these resumé's one can see the forming the base of the legal defence of the Hungarian government.

In the first of the two memoirs Szent-Istvány declares that it means a great problem that the accurate definition of the notion of the acts committed against the legal personality and the security of the foreign state is missing: so the notion remains elastic.²⁵ Therefore the rules concerning those kinds of acts are in the different national criminal codes, and most of the cases they don't contain any rules referring to this crime: the states don't defend the legal personality of a foreign state.

Despite the general rule of the traditional approach, there are some new initiations which contain a few articles concerning the cited case.

The solution of the European states can be divided into three groups, in accordance with the degree of rigour of the rules to be adapted. The author considers the new German plan as the most progressive, which would penalize the acts committed in Germany against a foreign state if the act committed against Germany accomplished the case of treachery, on condition of mutuality.

²³ For instance the accord between Austria-Hungary and Uruguay (1887). – 1896/XXX. tc.

²⁴ In the Hungarian-Jugoslavian accord as well. – 1930/XXIII. tc.

²⁵ SZENT-ISTVÁNY, BÉLA: *Az állam nemzetközi felelőssége a külállamok biztonsága ellen magánosok által saját területén elkövetett cselekményekért.* (The responsibility of the state for acts committed by private persons in its own territory against a security of as third state).

The French and Belgian codes have a moderate solution, which prescribe the examination of the effects of the act, namely these punish the act only in the case, in which the act can cause a danger of war or other reprisal against the own state. These rules in fact defend the interests of the own state in an indirect way, so the defence of the foreign state is connected with the examination of the political situation of the own state.

Most of the states don't penalize the crimes committed against a foreign state, though a few states, like Austria, Czechoslovakia, Greece and Switzerland initiated changes in relation with the criminal rules concerning those acts. The expert mentions the Yugoslavian code, as an exception, which orders to punish the acts committed in a foreign state by foreigners.

The measures against these acts are in the international treaties, which contain reference to these cases, for instance the treaty concluded by the states of Latin-America on 7 February 1923, in which the parties agreed with one another for the repression of the movements against the the governments of the parties, which is similar to the treaties concluded between the Soviet Union and the neighbouring states.²⁶

He poses the question, whether there is a general international obligation to penalize the acts committed against the legal personality or security of a foreign state by the national legislation, and gives the answer at once: that this obligation couldn't be based on international accords, despite the cited articles of the national legislations the unwritten law do not oblige the states to defend the interests of the foreign states with their national criminal law in a wider way.

The author refers to the tentatives of the solutions of this problem during the disarmament-conference and by the League of Nations, namely in the disarmament-conference was taken the plan which contained some points of criminalizing the actions committed against the security of a foreign state. This plan was a part of the title „désarmement moral” of the conference, which contained mostly the draft of the Romanian delegation, namely the plan of Vespasian Pella, the famous professor of international law. The plan contained the rules, that the contractant parties would be obliged to repress the acts and the preparations, which could harm the security of a foreign state. This solution was supported by the argumentation which refers to the obligation determined in the Pact of League of Nations, which prescribed that the member states are obliged to mutually respect, and maintain their territorial integrity and political independence against all external attack. In connection with the new efforts of renewing a part of the international law, the expert gives a short resumé of the forming of the legal position of the Hungarian government, which was influenced by direct political reasons. So that was the explanation for the strategy of the Hungarian delegate, Szent-Istvány, who considered the cited solution as an exception and referred to the fact, that the proposed rules exist only in a few European criminal codes, and the generalization of it wouldn't be reasonable.²⁷ The last question examined by the author was the problem of the measure of responsibility of the state concerning the acts committed against a foreign state. He divides

²⁶ For instance in 11 August 1920 with Lettonia, in 2 February 1920 with Estonia, in 18 March 1921 with Poland and in 1 Juni 1922 with Finland.

²⁷ On interdepartmental conference held on 22 June 1933 the main lines of the Hungarian strategy for the negotiations concerning the „désarmement moral” were elaborated, and on it was given the argument, that the defence of the interests of a foreign states wasn't adopted in general in the European crime codes. The conference gave the instruction to the deputation, that it must accept only a recommendation about the question (which is does not oblige the states), and it must adhere to the mutuality in the application.

these acts into two groups. In the first case the state gives direct support for the commission of the crime. Therefore this is not possible in our case, because it would effect the case of a crime of the state. The second one accomplishes the negligence, so that is the case, which can be the subject of the forming case.

The last essay was written by Szondy²⁸, who already made some papers in this affair. To begin with, he declares that the international law doesn't know any general rule, which could confirm the responsibility of the state because of an act committed by natural person in its territory, and only the general rule exists, that the defence of the criminal law must exist in the same base concerning the nationals and the foreigners. It can emerge therefore only in a particular case that the legal personality of a foreign state, its territorial integrity, or constitution is to defend by the crime code of another state. The expert refers also to the Italian „codice penale” from 1930, which doesn't punish the acts against the head of state committed abroad, even though the criminal is an Italian subject, with the argumentation, that in these kinds of cases the responsibility is taken by the host state. As against the Italian solution the German criminal code penalizes the acts committed abroad by German subjects as well, so the location of the committal counts in crimes committed by foreigners. Consequently the case in which a state is responsible for the acts committed abroad by foreigners is excluded even if the criminals left the state for the committal of the crime. The main question: what is the situation, if the foreigners make an alliance in the territory of the state to commit a crime abroad, and to this alliance preparatory acts are added. There is no general obligation for the persecution of these preparatory acts, and that was the cause of making international treaties against the traffic with human beings, namely with children and women, because these kinds of crimes start typically in one state and accomplish in another state, so as to assure the punishment of the crimes it was necessary to elaborate the fundamental principles.

Referring to the Hungarian crime code, the expert resumes, that one point of the cited law gives the possibility of criminalization and persecution of an alliance formed to assassinate a head of state, even if only the plot was formed in the territory of the state and the assassination was committed abroad, if a preparatory act was attached to the plot. About the question of the responsibility of the state he refers to the efforts of the states of entente to make the cases of the responsibility of the states wider: so the possibility for some acts - as crime in international law - the state should will be responsible. France expects from the strengthening of this trend political advantages as well, namely the assurance of the international post-war system founded in Paris. The author collected several cases which could prove his statement, that this kind of solution was applied mostly in non-equal cases in which one of the states was politically or economically subjected. He also enumerated the case of the assassination of the archduke Franz Ferdinand in Sarajevo in 1914, in the case the government of Austria-Hungary posed the relation between the crime and the Serbian government in his ultimatum, and the case of occupation of Oudja in Morocco in 1923, which was based on the attack against the French subjects, committed by the indigenious.

This expert reinforces the statement, that the security of a foreign head of state must be assured by the host state, therefore the responsibility must be assumed by this state as well. He

²⁸ SZONDY, VIKTOR: *Az államok felelőssége saját területükön elkövetett vagy ott előkészített bűncselekményekért.* (The responsibility of the state for the acts committed or prepared in its own territory).

refers to the elaborations of the international codification in this subject, namely to the plan accomplished by the Institut de Droit International in 1927, in which it was defined that the state is responsible for the acts committed by private persons and not its own authorities only in the case in which the state omitted to effect the rules which generally should have been effected to prevent or to repress the crime. This is the solution which echoes in the plan of the conference of the Hague in 1930, so we have already two plans from which the rejection of the statement of the Hungarian responsibility could be deduced in this case.

Epilogue

The Hungarian position was rather embarrassing after the assassination. Despite the expectable Italian support the dénouement of the quite complicated affair wasn't clear enough. As the Hungarian diplomacy couldn't influence the movement of the great policy in fact, the policy of drift remained the only way and the preparation for the expected events. Although Hungary was involved in this affair by the support given to the Croatian refugees, it wasn't Hungary at all the most important state in the events.

As the culpability of the Great Powers wasn't stable, it was Hungary alone, which could play the role given in return of the consequences of no importance.²⁹

Contact – email

bpalvolgyi@yahoo.com

²⁹ GERGELY, JENŐ: *Gömbös Gyula. Politikai pályakép*. Vince, Budapest, 2001., 280. (Gömbös Gyula. Political career.)