



Research Article

Empirical Research in Hungary about Lay and Professional Judge Relations in Mixed Tribunals: Fair or Self-Distancing Aristocratism

Attila Badó^{1*}, Gábor Feleky² and János Lőrinczi³

Department of law, University of Szeged, Hungary

Abstract

This paper reports empirical research which addresses the impact and nature of lay participation in court proceedings [1]. This report is primarily based on assessments provided by lay and professional judges. The status characteristics theory has been tested and supported by similar empirical research into mixed tribunal systems and has led to the assumption that this specific problem-solving group is characterized by an internal hierarchical relationship that discourages increased lay participation, despite statutory provisions ensuring equal rights. However, it has also been assumed the lay judge system of a democratic society allows greater participation when compared to the 1960 research led by Kulcsár under the auspices of the single-party system period, even though no relevant changes in legislation have taken place. An attempt has been made to classify professional judges according to how they relate to lay judges in service that have no professional expertise based on this research revealing the lay and professional judges' opinions.

Introduction: The Purpose of Research

A mixed or collaborative tribunal [2] is defined as a body of professional and lay judges that form a judicial chamber and adjudicate in various types of cases. Theoretically, lay judges participate on equal footing in delivering the final judgment. Examples of such tribunals are in particular found within the Romano-Germanic legal family. This system of participation includes Germany [3], Austria [4], Finland [5], Norway [6], Sweden [7], post-socialist countries in general [8]; Northern Ireland among the common law systems as well as Post-Apartheid South Africa [9]. The common denominator of

*Corresponding author: Attila Badó, Department of law, University of Szeged, Hungary, Email: attila@badoat.hu

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these legal systems is that professional judges, holding a law degree and actively pursuing their careers, are paired with lay judges, people without a law degree. However, these judges work together in deciding cases on merit with equal rights in questions of law and fact as well as in sanctioning in criminal proceedings.

Lay judges in mixed tribunals may serve sensible purposes without actual and effective participation [10]; however, topical research shows that the legislator and the society electing expect more than from lay judges than a mere appearance. Practice also suggests that there is more to this than meets the eye and, apart from specific cases, there is no judicial forum where a modicum of lay participation would not be detectable when looking at the system in general. The question remains: What is the level of participation and implications of lay judges within these mixed tribunals? English, Scottish or French lay judges, competent in minor civil and criminal cases, exercise unfettered discretion in theory, which, of course, cannot be fully applied in practice [11]. Discretion can also be considered complete for common law juries where lay jurors are usually competent in fact-finding and possibly sentence determination. In this case, researchers are less motivated by issues of dependence upon professional judges. They are far more motivated by external effects on this decision-making group such as attorneys, prosecutors, the media or the appeal of the accused [12]. The research studying 3576 cases by Kalven and Zeisel may be regarded as a classic example. The focal point of research was to examine the difference between the actual decision of the jury and a hypothetical verdict of a judge as the decision-making powers of judge and jury are separated from each other. The jury possesses the power of decision whilst the judge can only offer opinions [13].

The situation is different regarding mixed tribunals. Here, lay judges theoretically display the same degree of adjudicative competence as a professional judge during the decision-making process. However, they are faced with the fact that the professional judge acting as president in the judicial chamber assumes such dominance in competence that lay judges are prevented from participating as equals in the proceedings. International research demonstrates that lay participation in Schöffentype tribunals is generally negligible [14]. Nevertheless, the authors of this article consider that the degree and nature of this negligible participation is not insubstantial if the main objectives of applying the lay judge system lie in channeling the sense of social justice; casting lay assessors in a monitoring role or enhancing the deliberative elements of democracy [15]. This empirical research is an attempt at determining the actual degree of participation of Hungarian lay judges in current systems compared to prior lay courts functioning in party-state settings [16]. It has been hypothesized that a lay assessor system of a political environment built on a market economy and a multi-party system could result in wider lay participation than a lay judge system consolidated in a totalitarian system. The lay judge system researched by Kulcsár in the 1960s has since lost its original political function. This hypothesis seems plausible even if no substantial change in legislation concerning lay selection and functions has taken place since the 1960s. Thus, this work attempts to determine professional judge attitude types regarding lay and professional judges in

order to provide an insight as to how mixed tribunal systems work. In the case of the German lay assessor system, which is similar to the Hungarian system, Machura has already carried out research into the relationship between lay assessors [17]. This research, however, does not endeavor to charter such territory.

Theoretical Framework for Research

Sanja Kutnjak-Ivkovic's approach for research into mixed tribunal systems appears to be rather convincing. She wishes to understand the internal mechanisms and hierarchical relations of mixed tribunals by applying the status characteristics theory developed by Berger and colleagues [18]. The theory is applicable to mixed tribunals because these tribunals are small and heterogeneous decision-making groups in which there exists a characteristic-oriented difference among the members of these groups, which is essential to the task they perform. In addition to specific characteristics, there may be other different diffuse characteristics e.g., gender, age, race. However, the decision-making mechanism; the interaction of the members; and their expectations of each other are determined by a specific characteristic difference. For mixed tribunals, the specific characteristic difference can be found in the superior legal knowledge that a trained judge possesses when compared to lay judges without legal training or prior judicial practice.

The existence of a hierarchical relationship between lay and professional judges with equal rights at a statutory level has previously been demonstrated by a large volume of research [19]. The German mixed tribunal system is the closest and the longest-standing system to its Hungarian counterpart. Research into German lay assessors shows that the dominance of professional judges arising from their professional superiority is present even without them having authoritarian personalities. Moreover, the power of influence on the lay assessors' side is generally considered to be not very significant [20]. This was also shown by research into lay judges carried out by Kalman Kulcsár. He observed lay inactivity and marginalization compared to a previous and active time period guided by political objectives [21]. Lay assessors, like professional judges, may ask the accused and the witnesses questions during trial. Research carried out in Germany in 1972 showed lay judges did exercise this right as it was found that lay judges were asking questions during more than half of the trials included in the research. However, other research also proved that questions asked by lay judges are often deemed insignificant by professional judges. Therefore, presiding professional judges are urged to try and minimize these questions [22]. The 2001 research by Machura into exploring the organizational sociological problem of mixed tribunals has pointed out that increasing the timeframe allotted for lay judges reduces the cases of disagreement between lay and professional judges [23]. In order to comprehend the development of the hierarchical relationship, it is important to see the two structural components of the situation in the case of the participants in the decision making process. On one hand, there is a politically motivated legal component which suggests that the valid normative order grants the professional judge and the lay participant equal status in adjudication. On the other hand, there exists an organizational sociological component which means that an asymmetrical relationship is formed latently between and regardless of the intentions of the two participants. This asymmetry is caused by the professional judge's dominance and the lay participant's subordination. In addition, the task of conducting the trial included in the presiding role of the judge involves an a priori

legally created hierarchical relationship. In this situation, lay participants are faced with the alternative of either accepting subordination or "deviant" exercise the powers granted to them by this formal right. However, the professional judge is also presented with options. In theory, they may be compliant with the requirement of formal equality before the law and may provide open spaces for lay judges. Furthermore, in accepting the lay opinions as equal to theirs, the judge may act with a view to promoting a joint decision. The professional judge may also construe their legal knowledge as not creating a prerogative to adjudicate the facts of a case or the issues of sentencing. Nevertheless, the above organizational sociological situation tends to orientate the professional judge to let their dominance arising out of this asymmetrical relationship prevail by applying diverging techniques. There are, however, layers wedged between these two attitudes that can be standardized.

Methodology of Research

The basis for the empirical research carried out during 2015 and 2016 by a paper-based (PAPI) questionnaire supplemented by an online (CAWI) questionnaire targeting the younger generation. At the same time, professional judges who used computers on a daily basis were also invited to complete an online questionnaire. In order to conduct research, permission was to be sought from the National Office for the Judiciary (NOJ), a new and centralized organization responsible for court management since 2011. Permission to conduct the research was granted based on the outlined research plan and the dispatched questionnaire. Data collection was based on the idea that questionnaires would be delivered on site to lay assessors arriving at court to be filled in individually or in groups and then collected. The organization of data collection had been initiated at courts of law. In some counties, only preparatory work was in progress whereas in some other counties data collection was almost finished. At this point of research, the president of the NOJ unexpectedly put an end to data collection, claiming that the NOJ management had not been aware of what questions had been included in the questionnaire. After the authors had signaled that much of the rather costly preparatory work would go to waste in the wake of the decision, the NOJ gave permission for the questionnaire to be completed online. This, however, only yielded little success, which came as no surprise. Thus, the authors' vision of carrying out a full-scale comparison using the Kulcsár research eventually faded. That research had come up with a 1,223-person database (known as a multi-stage sampling method), while the authors' research could rely on a sample of merely 348 people. The silver lining, however, was that an opportunity was offered to seek professional judges in the matter of completing an online questionnaire on assessing lay participation - 109 professional judges sent a completed questionnaire. A number of them shared detailed views on the lay judge system, which in itself is of considerable value. Naturally, the authors as empirical sociologists are well aware of where the essential methodological difference lies between data analysis relying on a sample that represents the population or one that is eventually formed from that. For this very reason, an alternative solution was contemplated in earnest. For the sake of partial explanatory force, all the data acquired during research would be discarded and, thus, be left without further analysis. In the end, the authors arrived at the conclusion that, regardless of methodological limitations, the analysis of the archive of lay participation as a document of an era would still be completed. In the meantime, downsizing lay participation in the Hungarian justice system was already in progress and it is a point

of view that this process can be regarded as ‘forceful narrowing’ or ‘removal’. This, in turn, means that the research might well be the last report on the lay assessor system of the post-socialist period. In addition, due to the questionnaire-based research being thus rendered moot, additional research was conducted concerning lay participation at the end of 2016. It consisted of interviewing lay assessors, during which three former lay judges from Budapest, the capital, and seven from the country were encouraged to provide more detail on what the questionnaire-based research had been silent. Similarly, in order to refine the questionnaire answers collected from professional judges, interviews were held with professional judges who had been working with lay assessors for a longer period of time, one from Budapest and four from outside the capital.

The Hungarian Lay Judge System: Past and Present-A Compendium of Essential Features

Debates regarding the jury system, established in the 19th century, have provided the most well-known arguments in favor of or against the necessity or superfluity of lay participation [24]. The ephemeral Hungarian jury system was based on the French system with Germany acting as intermediary. This can be traced mostly in its composition and selection methods [25]. However, the Hungarian jury system was eradicated by World War I. The subsequent Horthy system was not interested in a tribunal that could give rise to conflict and to add insult to injury, a tribunal that might not even take legislation into account if its sense of justice was gravely infringed. 1948 and 1949 saw the socialist change when the communist party takeover laid down the bases for a Soviet-type state apparatus. Act No. XI of 1949 that limited appeal in criminal matters also provided for the introduction of the popular lay assessor system. From then on, in select cases, a judicial chamber consisted of professional judges and lay judges known as popular lay assessors at various levels of the court system. This was achieved with the judicial chamber consisting of one professional judge and two popular lay assessors enjoyed identical rights. Pursuant to the first act on popular lay assessors, this form of adjudication had been established in order to ensure the working people’s convictions, sober take on life, natural sense of justice as well as to allow for democratic checks on the judge. Notwithstanding, it is not difficult to figure out that the primary goal of this system was to keep judges, socialized in the former Hungarian ancient régime, in check. However, the institution started to lose its political significance in the post Stalinist period.

This lack of significance was also paired with the increased dominance of professional judges. This meant that from the 1960s, the need for politically-oriented utilization of lay judges ceased to exist with the simultaneous consolidation of the communist regime and the gradual turn-over of the judiciary. Furthermore, lay assessors were required to take a back seat compared to the loyal judiciary with an ever-increasing technocratic view [26]. The legal sociological research conducted by Kálmán Kulesár at the end of the 1960s bore witness to the above process. The only empirical research of legal sociological importance to this day was aimed at having a comprehensive picture of lay participation. In the research carried out with a sample base in excess of 1000 people, researchers examined a variety of factors concerning lay judges. The research encompassed factors ranging from the distribution according to occupation, demographic features, gender ratio, selection, invitation, lay activity, legal awareness to legal knowledge. Based on the findings, lay activity proved to be rather modest and their participation in the final decision was regarded only

as an exception [27]. A number of reasons were found for this by the research and one of the most significant reasons was to be perceived in the selection procedure. It was usually the elderly pensioner group that were called into service and only those who would not “disturb” the judge’s work. Research in other Soviet bloc countries regarding Soviet-type lay adjudication told the same story as Hungary [28]. They all affirmed compelling dominance of professional judges and the marginal role attributed to lay assessors. This situation has been present and can also be traced now in ironic names given to lay assessors [29]. There was a virtually instantaneous demand for the reform of lay adjudication following the free elections held in 1990. The main objective was to introduce the jury system [30]. This demand was seen as quite logical for many following dictatorship, and the underlying reasoning put an increased emphasis on its political advantages. Regardless of historical traditions, the concepts and ideas about reintroducing the jury system were gradually removed from the agenda. In the 2000s, a referendum proposal was initiated, yet it was blocked by the decision of the National Election Commission followed by the Hungarian Constitutional Court [31]. The lay judge system remained unaltered with the mere cosmetic change of removing the adjective ‘popular’. A comprehensive reform of the Hungarian justice system took place in 1997. The Reform Act also contained changes concerning the lay judge system. Most of the rules laid down are still in effect. Pursuant to the Act, the tribunal’s decision-making process still required the participation of lay judges, whose mandates were conferred based on the principle of popular sovereignty. The act fixed the age of eligibility to 30 instead of 24. This constituted an amendment running parallel with the raise in age necessary for judicial appointment. Lay selection was basically subject to prior regulations which is still true nowadays. Excluding political parties, lay judges are nominated by Hungarian citizens with voting rights residing in the area of competence of the tribunal or local municipalities operating in the area of competence of the tribunal and civil society organizations. Various self-government bodies are entitled to elect lay members, depending on which level of the judicial system lay assessors are assigned to. The Act did not change the fact that the lay judge’s mandate expired after four years. Preparatory works for election and determining which court the electing body is to elect a set number of lay assessors used to fall within the competence of the Office of the National Council of Justice. Today it is the NOJ that is responsible for court management. The date of lay election is set by the President of the Republic of Hungary. Lay judges are assigned to judicial chambers by the president of each court. Compared to prior legislation, the Act provides for detailed rules as to when and how a lay assessor’s mandate is terminated. There is a provision parallel to that of professional judges that such mandate shall not continue beyond the age of 70. As for decision-making, lay assessors possess the same rights as professional judges. Pursuant to the Act adopted in 1997, the unjustifiably low remuneration has been raised and is now proportionate to the responsibility attributed to the exercise of the judicial office [32]. Since the 1997 reform, no substantial change has taken place concerning lay judges. However, a single essential change did take place regarding impartiality. While the Act No. LXVII of 1997 did not exclude political party members from being eligible for lay service, the Act No. CLXII of 2011 excludes them similarly to the legislation on professional judges. In all other respects, only minor amendments occurred; however, without prejudice to the basic features of the institution. As a result, the 1997 reform successfully tackled one of the most significant practical problems, the “chronic” shortage of lay assessors.

In 2016, the Hungarian Ministry for Justice put forward a proposal to restructure the system of lay judges under the criminal procedure reform [33]. The intention of lessening the role of lay judges in dispensing justice without a legal degree as of 2018 fits within the process post-Socialist countries have been characterized by since the 1990s. In the period of the single-party system, lay courts based on the Soviet model were in no way reinforcement for lawyers that popular representation served any purpose. Lay participation remains restricted to military and juvenile criminal proceedings. In practice, the reform leads to the consequence that the legislator will utilize lay judges' special (military, pedagogical or psychological) knowledge and not their general life experience. Arguments for the considerable curtailment of lay participation seem rather uncertain and reference to historic ties appears overwrought due to the similarly functioning mixed judicial system in various democratic states. Yet, this tendency is without a doubt in line with the expectations of a significant segment of the legal community. In post-socialist countries, very similar arguments are used to lessen the role of the lay element. Michal Bobek, in his 2011 research paper on the reform of the Czech lay adjudication system, also mentions the legislative reasons for whittling the lay element: their inactivity and modest participation coupled with technical difficulties arising from the functioning of the lay assessor system [34]. A research group consisting of the authors of this study, unaware of the objectives of the reform, had determined to carry out comprehensive empirical research on the opinions of lay assessors and professional aimed at detailing the system of lay judges. The commonly perceived negative view on lay assessor activities was thought to have been induced by myth, professional superiority and negative statements also similarly made in other countries rather than the very views of those who actually had an insight as lay or professional judges into the effective functioning of the system. This research also pointed out the way the participants (professional and lay judges) behave in the force field of the decision-making process including, but not limited to, the strategies devised by the professional judge acting as "games master". It is hoped that the Hungarian findings will prove a useful addition to international research into mixed tribunals [35].

Lay Participation During Trial and Decision-Making. Empirical Research Findings

A fundamental question regarding the actual functioning of the lay assessor system is whether the equality of rights conferred upon lay judges is acknowledged in the course of any trials and the disposal of any cases. However, this is merely formal equality. Thus, the actual prevalence of what is included in lay judges' status that is formally identical to that of the professional judge is rather person-related (personified) – this is dependent upon the very practice adopted by the professional judge. This research involves four dimensions of lay participation. From the judge's point of view, these are (1) preparation, (2) involvement in trial, (3) seeking opinions and (4) influence (taking the received opinions into consideration). Among these, the first two can be classified under procedure-related, with the remaining ones to be called content-related (decisional) dimensions.

The Preparatory Phase

Overall situation from a lay aspect

The "preparation" dimension was measured according to what was the most typical practice followed by the judge. More specifically, lay assessors were asked whether during their service the judge

provided any access to the docket with a sufficient level of detail on the specific case. Inquiries were also made as to whether access to the docket had been granted without further detail; only a basic level of detail on the case had been available; or neither docket access nor further detail had been granted. Based on the answers given to the above queries, a positive picture gradually appears. Professional judges, apart from an infinitesimal (4%) number of exceptions, provide a sufficient level of preliminary detail on the case and, therefore, put lay assessors "more in the picture". In fact, professional judges act this way with a view to facilitating collaboration with lay judges due perhaps to both satisfying formal legal requirements and living up to their own professional standards. Of course, divergent practices maybe observed that prevail in this field. The most common form of providing information on a case is verbal briefing by the judge (accounted by two-thirds of lay judges). In contrast, only a quarter of the lay judges asked reported to have been provided with full access to the docket in addition to having been given general information. Finally, in a (fortunately) more limited area, a practice has evolved in which the presiding judge does not treat lay assessors as equals and, thus, they will not provide them with the opportunity of preliminary orientation (Table-1).

	Cases
Docket access and a sufficient level of detail on the case were granted	80
Only docket access was granted	8
Only general information on the case was granted without access to the docket	209
Neither docket access nor further information on the case was granted	12
Subtotal	309
No answers received	39
Total	348

Table 1: Information access levels for lay assessors.

Judicial Views

As a matter of interest, the authors' online (non-representative) data collection regarding judges (N=109) creates a similar picture in its broad outlines, which seems to substantiate the dominance of the briefing practice. The obtained percentages have shown the following ratio: in 9.6% of the cases docket access with case briefing was provided, while for 1.1% only docket access. As for briefing only, the percentage is established at 81.9% and as regards denial of both docket and briefing, a 7.4% ratio can be observed.

Background Context for Lay Assessor Perceptions and Experience of Judicial Preparatory Work [36]

Placing the lay assessor in the picture during preparation must depend on the judge's own role perception. However, it may prove interesting to examine whether certain conditions or circumstances exercise influence upon the frequency of such judicial practice or its perception. As for lay assessor status characteristics, the most welcoming practice (26%) [37], where both briefing and docket access were granted, was perceived above average by lay judges. More specifically, those assigned to Hungarian courts of law (34%) [38], those spending their third or more service periods (39%) [39], those about to be released from lay service (42%) [40] and lay assessors in Bekes county (43%) [41] present above average findings. Social background characteristics did not show any correlation with experiencing a

favorable judicial practice unlike differences in attitudes. This experience was shared above average by those who were satisfied with the acknowledgement of their service (30%) [42], those who do not express any interest in politics (37%) [43], or profess themselves uninformed of political issues (38%) [44]. There was a discernible link to institutions of the justice system; however, such correlation did not prove to be significant. Consequently, it can be rationally interpreted that a favorable judicial practice establishes a correlation with lay assessor status characteristics and even the above-mentioned indicators of satisfaction. Concerning the latter, experiencing a favorable judicial practice obviously increases lay judges' sense of acknowledgement and their satisfaction regarding the operation of the institution. However, no explanation has emerged concerning the correlation with the "apolitical" attitude.

Involvement of Lay Judges in the Trial Process

The situation from a lay perspective

The "involvement" dimension was assessed based on opportunities given by the presiding judge to lay judges to ask questions of trial participants to be heard e.g., accused, witness, expert witness. The queries were all directed at outlining the prevailing practice including how common or widespread the above opportunities were similarly to the foregoing procedural element, a relatively favorable picture was painted by the respondents. The adjective "favorable" is only viewed as an allusion that the picture is basically a positive one. Once the original possible answers are aggregated, it can be seen that nearly two-thirds of the judges grant this opportunity to lay assessors. However, this also means that one third of the judges follows a practice that is regarded unfavorable [45] (either alternating or exclusionary practice) from a lay perspective (Table -2).

	Cases
No (mostly not or never)	56
Changing	58
Yes (mostly yes or always)	198
Subtotal	312
No answers received	36
Total	348

Table 2: Questioning opportunity during trial as experienced by lay.

Judicial Views on Ensuring the Opportunity for Questions

In this field, professional judges paint a definitely more favorable picture about themselves. 11.7% of them express self-criticism (never or almost never giving lay judges the opportunity to ask questions). 6.4% report a changing practice whilst the vast majority (82.0%) claims to always or mostly grant this opportunity.

Background Correlations of Judicial Practice Allowing for Opportunities to ask Questions as Perceived and Experienced by Lay Judges

Certain elements of the lay assessor status establish a correlation with the judicial practice of ensuring opportunities for asking questions. This means that those spending at least their third term

in service (71%) experienced such judicial practice in a somewhat above average (64%) ratio. Also, some divergence can be established regarding court divisions. Among the various divisions, an above-average participation opportunity (75%) is presented for lay judges serving (also) in the civil division. However, this correlation did not prove significant as they represent a small number (n=32). This may obviously correlate with the fact that professional judges see partners in lay judges with experience and established routine. Thus, their involvement in the trial process is not regarded as a risk factor. Moreover, it is a remarkable, albeit not significant, correlation that members of the lay assessor association (representing 49 members in the sample) only encountered this judicial practice in a below-average ratio (51%). Nevertheless, profound significance can be attributed to glaring territorial (county-based) disparities. They seem to suggest that organization according to dissimilar territorial units establishes distinct judicial socialization patterns. The sample collected by the authors does not have territorial representativity and only a few counties are represented in a ratio that can be viewed as relatively significant (75 lay judges from Bekes County, 55 from Borsod-Abaúj-Zemplén County, 75 from Budapest and Pest County and 47 from Csongrad County). It is however, more than conspicuous that striking dissimilarities occur in the answers to the questionnaire. On one hand, there seem to be above-average ratios based on answers received from Bekes County (83%) and Borsod-Abaúj-Zemplén County lay judges (76%). On the other hand, this procedural opportunity is experienced by their Pest County counterparts in a lower (47%) ratio, while lay judges in Csongrad County only represent a low 32% ratio. Thus, the authors are inclined to view this as patterns of judicial role perceptions prevailing in identical organizational units and not as a mere aggregation of randomly occurring dissimilarities. Lay social background does not show material correlations with practices of lay involvement. Where such a correlation is found, it is merely through the intermediary of a related effect. More specifically, the settlement level of a lay assessor's place of residence reflects the above disparities. While only 46% of those residing in the capital, Budapest mention a similar practice, 70% do so living in county seats. It is rather interesting to see that lay judges from rural areas almost unequivocally (15 out of 16) recount a similar favorable participation opportunity. Also, there exist a surface correlation with age groups and work activity status (regarding gainfully employed or pensioner lay judges). However, the higher ratio among the elderly age or pensioner group conveys an already mentioned feature of the lay status that more experienced lay judges, who have been in service for a number of terms, are more likely to be granted the opportunity to ask questions. The degree of satisfaction for lay attitudes concerning the acknowledgement of lay service plays the most pivotal role. The 34% ratio of those expressing dissatisfaction is hopelessly outnumbered by the 70% ratio representing the vast majority. Therefore, in all probability, dissatisfaction can result from the fact that for a certain group of lay assessors this involvement (questioning) opportunity is not granted. Substantially, the same correlation may exist regarding the degree of satisfaction with tribunal work. Here the 68% ratio of those expressing satisfaction is countered by a 40% ratio of dissatisfaction. The position taken in the issue of abortion and euthanasia exerts an intriguing, albeit insignificant, effect. The ratios of those preferring severity or extenuation show a 61 to 74 and a 60 to 84 disparity. Therefore, the extent of the questioning practices is viewed in a definitely different way. Those in favor of extenuation see it in a more negative, whereas those supporting severity view it in a more

positive way. The correlation with the mysterious relation to politics emerges again albeit not in a significant manner. The apolitical view is paired with a more positive perception. Those professing themselves uninformed of political issues see the establishment of this practice as more favorable than average (77% and 73%). Those replying that among the current political parties or organizations they do not have their favorite ones show a higher ratio (67%) compared to those sympathizing with a political organization.

Judicial Need for Lay Opinions

The Situation from a lay perspective

In addition to the two procedural elements, this research also encompassed the two content-related elements. The dimension of seeking opinions involved that assesses lay judges' views on whether professional judges requested their opinions during adjudication. Based on the figures showing the degree of how widespread this practice is, this content-related element prevails over ensuring the procedural opportunity. In other words, it is more characteristic of a wider group of professional judges. According to lay judges, it can be established that four out of five judges are likely to seek lay judges' opinions in adjudicating legal disputes (Table-3).

	Cases
No (mostly not or never)	16
Changing	34
Yes (mostly yes or always)	260
Subtotal	310
No answers received	38
TOTAL	348

Table 3: Does the presiding judge elicit lay opinion in the assessment of a case?

Judicial Views on Seeking Lay Opinions

Lay and judicial views coincide on this matter. Those who do not (necessarily) need lay opinion input have a 5.4% ratio, while those adopting a changing practice represent 13.8%. The vast majority, however, report a practice that is favorable for lay assessors (79.8%).

Background Correlations of Lay Experience of Opinion Seeking Practices

As in this area there is quite a widespread practice (with 84% frequency), it was anticipated that, compared to the above, relatively profound disparities would not eventuate. Here a solution is chosen to be examined in which correlation the average 5% negative practice establishes a higher ratio. In other words, it means examining the practice where lay judges experience that the professional judge never or almost never turns to them for their opinion. Among the elements of the lay status, this is the case concerning the opinions of the “departing lay judges [46] (whose service is voluntarily or involuntarily dispensed with in the following term) amounting to 14% as well as the wealth of experience of the members of the lay association (12%) [47]. As for the elements of social background, types of settlement and age show a correlation. Those residing in a settlement inferior in size to that of a county seat report negative (exclusionary) practice in an above-average (9%) ratio. Similarly, the younger generation experiences a different practice compared to that experienced by the elderly

generation (with a 28% [48] ratio among those aged under 50 and a 9% [49] ratio among those aged under 60). There is a correlation with work activity status as well (where 16% of the gainfully employed experience a negative practice). However, this only conveys the effects related to age. In addition, there are some correlations with the level of schooling [50] and the current or former sphere of employment [51]. As far as lay attitudes are concerned, the degree of acknowledgement of lay service plays a prominent role in the evaluation of the situation. More precisely, 41% of those dissatisfied with their service acknowledgement (58 lay judges) experience exclusionary practices. What is more, there exist some correlations referring to being satisfied with the work of tribunals. Here 13% (7 lay judges) of those not satisfied (53 lay judges) experience an exclusionary practice. In all other respects, no attitude-related effects can be shown.

The Frequency of Lay Opinions Different from Those of Professional Judges

This point may slightly shade the picture to reveal the subtle nuances of lay (in) action. Admittedly, two out of five lay judges (representing 42%) have never happened to have had an opinion different from that of the professional judge [52]. Moreover, one out of five lay judges (21%) reported a single occurrence of this practice. As a result, two out of five judges remain (37.5%) to note a relatively high number of such cases. It can be argued in favor of either the lack of lay autonomy (subordination to the professional judge) or the convincing justification of professional judicial arguments from the available data. However, whether lay judges openly express their divergent opinions better highlights lay activity. On the whole, it can be seen that roughly half (52%) of lay judges, who have different opinions did express their different viewpoints. More than one third of them (38%) followed a changing practice of expressing or withholding their opinions. Nevertheless, about 10% of them chose to remain silent [53]. By overlaying these to indices, it can be seen that almost half of the 312 lay judges responding to the questionnaire (151 lay judges) did not have a divergent opinion from that of the professional judge on a specific matter or, if they did have one, they did not express that opinion [54]. Nevertheless, it seems that expressing the strongest form of lay opposition known as a dissent only has a rare occurrence. More specifically, only five out of 297 lay judges did so in a single instance, whereas also five lay judges report to have taken this opportunity on multiple occasions [55].

Lay Influence on Judicial Decisions

The situation from a lay perspective

The other content-based element—the “influence” dimension of taking lay opinions into account—could be regarded as the most important factor. The authors were interested in what role lay opinions play in the formulation of judicial (final) decisions. This is an aggregating criterion since it measures whether lay judges that participate in the proceedings experience the results of their personal input – whether they themselves contributed to the (final) decision. This is the basis for assessing the material role of the lay judge system and it can be established that in practice the channeling of the lay element into the justice system does take place. A broad majority of lay judges (84%) report that their views do matter in adjudication. However, dual empiricism lies behind this group accounting for this positive assessment. 25% report a “judge-as-a-partner” experience, yet almost 60% view this as more or less subject to professional judicial dominance.

Therefore, the layer of empiricism establishing a lack of material contribution by lay judges to adjudication is less important (16%).

- As regards expressing their opinions, popular lay judges of the ancien regime were more inactive (64% of them only rarely expressed their views, if any).
- Three quarters of the lay judges of the former period were characterized by the very same practice.
- Due to the small number of dissenting lay judges, eventual correlations between this type of activity and one of the lay characteristics can only be established tentatively. The authors did find one: While the ratio of males in the sample is a mere 29%, they represent the majority in the dissenting group (6 participants) (Table-4).

	Cases
Changing, little or no importance is attributed to opinions	50
Opinions taken into consideration, but dominated by judicial opinions	183
Opinions taken seriously	79
Subtotal	312
No answers received	36
TOTAL	348

Table 4: Presumption of lay opinion influencing judicial decisions.

Judicial Views on Lay Influence

In this respect, there is a noticeable disparity between lay and judicial perceptions of reality. In comparison to professional judges, lay judges have a far more positive take on the prevalence (or at least the appearance) of their opinions in judicial decisions. The disparity can be explained by a social psychology approach. It is the authors' belief that lay judges need to assess a practice of an external factor (a professional judge) directed at them but it is about a phenomenon whose assessment contains a self-reflective element. This is perhaps why lay assessment of a situation is shown far more positively as ignoring lay opinions may be experienced as involving a self-degrading element. A large majority of professional judges (70.5%) take the view that lay opinions matter less (more or less or do not matter at all) in formulating (final) judicial decisions. According to 27.4% of these judges, their opinions do matter but however, they are ultimately subject to judicial professional dominance. Finally, there are hardly any (2.1%) of those who attribute a key role to lay opinions.

Factors Showing Correlations with Perceiving Lay Influence

It is an overall experience that a quarter of responding lay judges view their opinions as key factors in formulating (final) judicial decisions. Therefore, it is now examined which lay groups show a substantial divergence from the above statement. As for lay status characteristics, four factors can be accounted for: organizational level, territory, term of lay service and court divisions. This means that lay judges at Budapest district courts provide such favorable assessment in a rather low ratio (only one out 15 participants). There is a visible contrast between the highly outstanding ratio of those in Bekes County [56] (44%) and that of Budapest and Pest County [57] (12%). 35% of lay judges spending at least their third term in service [58] express satisfaction and those serving in the civil division [59] are more satisfied (38%) than those placed in other divisions. Social

background exerts influence on this assessment in various correlations, based on settlement level, age and level of education. Lay judges from the capital (60 participants) are the least satisfied (showing a mere 10% ratio) as opposed to the small number of those not residing in towns (17 participants) with a satisfaction ratio of 41% [60]. Also, there is a marked divergence for the younger generation in this situation. They include only 18 participants aged under 50. Only one person seemed satisfied with how their opinion is regarded. It appears that the greater level of education results in a more critical attitude expressed. Amongst those (100 participants) with and (15 participants) without a certificate of secondary education show an above-average (40% and 32%) satisfaction, this ratio is reduced to 21% among those holding a university or college degree. The effect of lay attitudes on assessment takes different ways as there exists a more indirect effect that is deemed perhaps more professional. 59 lay judges (representing 14%) that are dissatisfied with the reputation of lay service view that lay opinions do matter in the formulation of judicial decisions unlike those who are satisfied (representing 29%). However, a more indirect effect can be seen which appears as sifted by lay judges' visions for society. It can be seen that those who view the institutional functioning of society with more satisfaction are said to be more satisfied than on average (25%). They include lay judges that are satisfied with the government (32%) [61], the economic situation of Hungary (37%) [62], the work of the police (36%) [63], public prosecutors (31%) [64], the Parliament (31%) [65], local municipalities (32%) [66], political parties (*66.7%) [67] and the European Union. (40%) [68].

Summary of Practices Perceived by Lay Judges and what Professional Judges Believe Prevails of Such Practices

Lay assessment concerning the researched four dimensions

The operationalized interpretation of lay participation is illustrated by the scheme below, while the percentage distribution of the degree of judicial practices perceived by lay judges in the four dimensions is also shown below. On the whole, it can be said that the judges' take on their own roles can reveal considerable individual and, as a matter of fact, wide disparities. However, it is unthinkable to assert that lay assessors would only serve as inactive extras in the trial and the decision-making process. Professional judges are likely to take great care not to offend (at least not so visibly offend) lay judges' formal co-judicial status. Notwithstanding, a clash of the lay and professional elements is visible. The prevalence of professional judicial dominance is perceivable by lay judges in the judicial decision and this dominance mostly reflects professional aristocratism (Table-5).

Summative Types of Judicial Practices Outlined by Lay Assessment

It was also attempted that the judicial practices perceived by lay judges in the examined four dimensions should be depicted in a summative manner. In order to do so, links among the degrees of judicial practices (positive=3, mixed=2 and negative=1) were examined. The analysis was supported by a cluster analysis [69] in four dimensions (preparatory involvement, questioning involvement, need for opinions and weight of opinions). The table below shows the averages of the forming clusters measured in each dimension. Taking these values jointly into consideration, the authors see four characteristic attitudes being outlined behind judicial practices. These attitudes are co-judicial perception, fair aristocratism, ambivalence and self-distancing.

	Fair (co-judicial perception)	Fair aristocratism	Ambivalence	Self-distancing aristocratism
	n = 142	n = 60	n = 57	n = 46
	46.60%	19.70%	18.70%	15.10%
Dimension	Averages 1 to 3			
preparatory involvement	2.2	2.7	1.98	1.93
questioning involvement	2.99	2.88	1.42	1.52
need for opinions	2.98	3	3	1.65
influence (weight of opinions)	2.45	1.65	2.18	1.48

Table 5: A summary of judicial practice types as viewed by lay judges.

The picture is still a favorable one, since almost half (47%) of lay judges encounter an unequivocally positive judicial practice. In contrast, the practice denying cooperation on the merits of a case occurs in the lowest ratio.

Under “fair” judicial practice (47%), which seemingly follows a co-judicial perception, professional judges tend to provide lay judges with information on the case all the time (with occasional docket access). Furthermore, they always ensure the opportunity for questions during trial. Moreover, they always require lay opinions in adjudicating the legal dispute. Finally, lay judges believe their opinions are seriously taken into account during the formulation of judicial decisions. The professional judge attitude labeled “fair aristocratism” (20%) reflects nearly the same characteristics. However, there is a rather considerable difference, because they act in a rather autonomous way in decision-making. Although they hear lay opinions, they do not take them into account.

The “self-distancing aristocratic” practice (15%) is deemed to be the exact opposite of the co-judicial practice. Concerning the provision of information, it approaches the average practice. However, the opportunity for lay judges to ask questions during trial is not preferred. Furthermore, professional judges do not require lay opinions in adjudication. Similarly, lay opinions play the least important role in formulating the judicial decision.

The analysis resulted in separating a fourth type as well. This type referred to as “ambivalence” (19%) is characterized by meeting the obligation of information. However, it tends to exclude the possibility of lay judges asking questions during trial. In spite of that, lay opinions are always consulted and they seem to be taken into consideration to a certain extent.

Comparison of Lay and Professional Judges’ Situations

Parallel to lay data collection, professional judges also reported on the practices they had adopted regarding lay involvement during preparation and trial as well as asking for and paying attention to lay opinions. This way, an opportunity presented itself to compare the practice perceived (or projected) by lay judges to the practice that gradually unfolded following professional judicial self-characterization. As it was demonstrated above, the four-component practice shows both conformity and similarity. However, a striking difference can also be observed. In connection with preparation (information), the lay and professional sides view judicial practice more or less similarly. For involvement i.e., questioning opportunity during trial, professional judges project the adopted practice to be substantially more positive compared to lay judges. Concerning seeking opinions, the

pictures seen by both sides are almost identical. However, the greatest disparity is found in the most essential dimension regarding the degree of taking lay opinions into consideration during the formulation of judicial decisions. Lay judges project a substantially more positive image of their own influence on judicial decisions, while the majority of professional judges are of the opinion (or report on the actual situation) that lay opinions play no material role in this respect (Table-6).

Summative Types of Judicial Practices Based on Judicial Self-Characterization

Another cluster analysis was carried out on the database of professional judicial data collection (N=109) with the same set of variables. Following 6 iterative steps, the program arranged 93 responding professional judges into three groups (types) also subject to well-founded empirical interpretation (Table-7).

The “*fair*” type of professional judges (28%) always inform lay assessors (even though they do not provide them with docket access). Moreover, floor time is always permitted to ask questions during trial. Finally, they always consult lay assessors, and the opinions received are taken into consideration to a certain extent.

Professional judges representing “*fair aristocratism*” (56%) differ from those under the previous type. Although full opportunity is given to lay participation and the expression of opinions, the professional judges decide regardless of these lay opinions (and with professional autonomy). Those representing “*self-distancing aristocratism*” (16%) almost always provide information; however, they would prefer not to involve lay judges in the trial process. Regarding the need for opinions, professional judges here follow a sharply erratic practice. Also, they tend to remain immune to lay opinions (or influence). *Mutatis mutandis*, no aspect refers to “*ambivalence*” in the typology created from a lay perspective as it was not expected of professional judges to characterize themselves to be following an inconsistent practice.

Correction of the Participatory Model

In light of professional judicial views, the model serving as a starting point needs to be amended. Originally, two procedural (preparatory and involvement) dimensions were assumed to be paired with two decisional (opinion and influence) dimensions. The actual judicial practice, however, seems to override this structure in one respect. The judicial need for lay opinions is not a decisional, but a procedural element. The vast majority of professional judges formally satisfies expectations by consulting lay judges for their opinions. Nevertheless, these opinions are in fact disregarded in the formulation of judicial decisions.

	Fair (co-judicial perception)	Fair aristocratism	Ambivalence	Self-distancing aristocratism
	n = 142	n = 60	n = 57	n = 46
	46.60%	19.70%	18.70%	15.10%
Dimension	Averages 1 to 3			
preparatory involvement	2.2	2.7	1.98	1.93
questioning involvement	2.99	2.88	1.42	1.52
need for opinions	2.98	3	3	1.65
influence (weight of opinions)	2.45	1.65	2.18	1.48

Table 6: A summary of judicial practice types as viewed by lay judges.

	Fair	Fair aristocratism	Self-distancing aristocratism
	n = 26	n = 52	n = 15
	28.00%	55.90%	16.10%
Dimension	Averages 1 to 3		
preparatory involvement	2.19	1.98	1.93
questioning involvement	2.96	2.94	1.4
need for opinions	2.96	2.88	1.93
influence	2.08	1	1.13

Table 7: Types of judges resulting from judicial self-assessment.

Conclusion

This research was based on lay and professional judicial assessment and aimed at answering the question of what degree and nature of lay participation can be seen in court proceedings, a question that is already present in research into mixed tribunals. Addressed and supported by similar empirical research into mixed tribunal systems, the status characteristics theory has led the authors to the assume that, despite statutory provisions ensuring equal rights, this specific problem-solving group is characterized by such an internal hierarchical relationship that discourages increased lay participation. However, it has also been assumed that, compared to the 1960 research led by Kulcsár, the lay judge system of a democratic society allows greater participation even if no relevant changes in legislation has since taken place.

With a fresh pair of eyes on the judicial practice of the former (state socialist) period, it is observed that political intentions were gradually overridden by the organizational sociological element in parallel with the consolidation of the communist rule. It may even be stated that the latent function defeated the manifest one. This is especially intriguing considering that the political system formally attempted to prove its legitimacy by presenting itself as a system that had enforced “people’s power”. One of the tenets of the ruling ideology was that politics were directed in favor of the “people” symbolized by those working in manual professions. This meant this “people” would send their representatives to both the legislative and the judicial branches. The name attached to such lay participants (“popular lay assessors”) also refers to this ideological component. The authors’ hypothesis was that social changes, especially those concerning the established set of values, that took the place of the ceasing ideological and political pressure created favorable conditions to dilute asymmetry. It is true even if the natural landscape of the most essential structural factor, the judicial decision itself, has remained unchanged. There is still not any

“qadi judicial practice” [70] in the working, but formalized (rational) law, in which the judicial decision remains a professional decision. Also, this decision is made to adjust itself to the normative order with a law enforcement or legal nature, [71] regarding the consequences of which the ensuing responsibility is shouldered by the professional judge. Naturally, this would not exclude a stronger expression of the lay contributor’s participatory needs [72]. However, the authors may have difficulty turning a blind eye to the effect of the condition (or weakness) of the civil society that influences this act of expression. Notwithstanding, this research resulted in acknowledging a more elevated level of lay activity compared to the former period in certain fields. The increase in activity can only be proven with respect to formulating and representing opinions that are different from those of the professional judges. However, due to the lack of data-based comparability, only suppositions can be supported in other fields. Lay judges today dare state their opinions in a significantly higher percentage. This, of course, does not considerably alter the fact that the scene is still dominated by professional judges who, depending on their role perceptions ensure procedural rights of lay participants. However, as a general rule, professional judges struggle to maximize their own autonomy and independence when it comes to a decision on the merits of a case. Based on the findings of the two empirical studies, the authors attempted to typify judicial attitudes as well. The applied types (fairness, fair aristocratism, self-distancing aristocratism and ambivalence) are thought to adequately classify professional judges that regard lay judges in different ways. However, the authors may most certainly state that, compared to the general opinion found in offensive names attributed to lay assessors, the lay judge system shows a positive picture. While the selection process that ignores representatively may give rise to trenchant criticism, [73] lay participation (both in the procedural and decisional stage) can be established as quite favorable under organizational sociological circumstances that are necessarily characteristic of mixed tribunals. The findings of the completed professional and lay judicial questionnaires demonstrate that lay judges are not theatrical extras in the trial and decision-making process. Their activities, often acknowledged even by professional judges, contribute to the functioning of the justice system in a more active way than is suggested by the general opinion about them.

References

1. The research was carried out in the framework of a project Reg. OTKA, No. K 120693 entitled Ensuring impartiality in justice. A comparative analysis.
2. John D, Kovalev N (2016) Lay Adjudication in Europe: The Rise and Fall of the Traditional Jury. *Onati Socio-Legal Series* 6: 368-395.
3. Stefan Machura: *Fairness und Legitimacy* (Baden-Baden, Nomos Verlag 2001) p. 385.

4. (2015) Stinking and jurors in Austria. Federal Ministry of Justice Page no: 1-83.
5. Pihlajamaki H (2001) From Compurgators to Mixed Courts: Reflections on the Historical Development of Finnish Evidence Law and Court Structure. *Revue internationale de droit penal* Page no: 159-174.
6. Asbjorn S (2001) Lay Participation in Norway. *Revue internationale de droit penal* 72: 225-251.
7. Christian D (2001) Lay Judges in Sweden. *Revue internationale de droit penal* 72: 313-315.
8. Thaman S (2006) Juries and Mixed Courts in the former Soviet Republics of Central Asia, Lecture at the Cornell Law School Clarke Program, East Asian Law and Culture Conference: Citizen Participation in East Asian Legal Systems.
9. Seligson M (2001) Lay Participation in South Africa from Apartheid to Majority Rule. *Revue internationale de droit penal* 72: 273-284.
10. Anderson S (1990) Lay Judges and Jurors in Denmark. *The American Journal of Comparative Law* 38: 839-864.
11. Darbyshire P (1997) An essay on the Importance and neglect of the magistracy. *Criminal Law Review* Page no: 633-640.
12. Attila B (1998) Pszichologiai vizsgalatok az eskudtszekkel kapcsolatban: Hogyan dont 12 duhos ember Magyar Jog Page no: 479-481.
13. Kalven H, Zeisel H (1967) The American jury. *Washington and Lee Law Review* 24: 158-175.
14. Chojniak L, Wisniewski L, Kubicki L (1970) Udzial Lawnikow w Orzekaniu in Kubicki L, Zawadzki S (red.): *Udzial lawnikow w postepowaniu karnym: opinie a rzeczywistosc: study prawnoempiryczne* Warszawa: Wydawnictwo Prawnicze. Klami HT, Hamalainen M (1966) Lawyers and laymen on the bench : a study of comparative legal sociology Helsinki : Suomalainen Tiedeakatemia: Distributor, p 559 ateeminen Kirjakoppa (1992). Kutnjak S, Ivkovic (1999) Lay Participation in Criminal Trials: the case of Croatia Lanham. Austin & Winfield 582. Machura S, (2001) Fairness und Legitimitat: Baden-Baden, Nomos Verlag Page no: 385. Perron W, (2001) Lay Participation in Germany. *Revue internationale de droit penal* 1: 181. Rennig C, (2001) Influence of lay assessors and giving reasons for the judgement in German mixed courts. *Revue internationale de droit penal* 1: 481. Ivkovic SK (2007) Exploring Lay Participation in Legal Decision-Making: Lessons from Mixed Tribunals. *Cornell International Law Journal* 2: 441.
15. Attila B (2016) A laikus biraskodss letjogosultsaganak korlatairol a tudomanyos vizsgalatok tukreben. *Allames Jogtudomany* 2: 3-15.
16. Kalman K (1971) A nepi ulnok a birasogon. 127.
17. Machura S (2001) Interaction between lay assessors and professional judges in German mixed courts. *Revue internationale de droit penal* 72: 451-479.
18. Berger J, Famit Fisek H, Norman robert Z, Zelditch M (1978) Status characteristics and social interaction: an expectation-states approach. *American Journal of sociology* 84: 533-540.
19. Klaus E (1972) Ehrenamtliche Richter: Ihre Auswahl und Funktion, empirisch untersucht. 1: 234-235.
20. Casper Zeisel. Rennig, op. Cit; Kulcsar, op. cit.
21. Kulcsar, Kalman, op.cit.
22. Renning C (1993) Decision making by lay judges and professional judges in legal and psychological terms. 724.
23. Machura, op. cit. p. 240.
24. Andor C Az (1966) eskudtbirosag Magyarorszagon a dualizmus koraban in: Andor C Ed., *Jogtorteneti tanulmanyok I.* Budapest: Kozgazdasagi es Jogi Konyvkiado 131-147. Antal T (2015) Lessons and Criticism of the Criminal Jury in the History of Hungary. *Canadian Social Science* 11: 215–220.
25. Bonis G, Degre A, Varga E (1996) History of the hungarian court organization and litigation. Zala county court –Hungarian Lawyers Association 298. Antal T (2009) The Codification of the Jury Procedure in Hungary. *The Journal of Legal History* 30: 279–297. Antal T, (2008) The Jury in Hungary *Зборник Радова* 42: 927–939. Antal T (2012) A Hundred Years of Public Law in Hungary (1890–1990): Studies on the Modern Hungarian Constitution and Legal History. Novi Sad: Agape Doo 15–36.
26. Attila B, Bencze M (2007) Reforming the Hungarian Lay Justice System. Cserne P (2007) *Theatrum Legale Mundi Symbola Cs.* Varga Oblata. Budapest: Szent Istvan Tarsulat Page no: 1–13.
27. Kulcsar, Kálmán, op. cit. p. 127.
28. Pomorski S (1975) Lay judges in the Polish Criminal Courts: A legal and Empirical Description. *Reserve Journal of International Law* 7: 198-209. (Based on this research, lay assessors tended to overestimate their own roles, whereas the opinion of attorneys and professional judges pointed toward only limited lay participation.)
29. They have been nicknamed as “judicial bodyguards” in the former Soviet Union and later in Russia, “cabbages” in Croatia and “the ears of the deaf” in China.
30. Gabor B (1992) Az eskudtbirosag ujboli bevezeteseril. *Rendeszeti Szemle* Page no: 11-51.
31. Decision No. 30/2007 of the Hungarian Constitutional Court Sections 122-128 of the Act No. CLXII of 2011 on the status and remuneration.
32. Sections 122-128 of the Act No. CLXII of 2011 on the status and remuneration of judges.
33. Draft legislation on the Hungarian Code of Criminal Procedure No. ME/163/2015. Eloterjesztés a Kormány részére az új büntetőeljárás törvény szabályozási elveiről. (A proposal for the Government on the legislative principles of the new code of criminal procedure) Drafted on 30 January 2015 in Budapest by the Ministry for Justice, 2015. Page no: 32. Retrieved 10 October 2016 from BOBEK, Michal: Judicial Selection, Lay Participation and Judicial.
34. Bobek, Michal, (2014) Judicial Selection, Lay Participation and Judicial Culture in the Czech Republic: A Study in a Central European (Non) Transformation. *Research Paper in Law. European Integration* 3: 27.
35. Peters K, Sources of error in the criminal case, Vol 2. Karlsruhe: Mullwe CF (1972) Tausch AM, Langer I (1971) Social behavior of judges against defendants. Features, effects as well as changes through a self-training. *Journal for Developmental Psychology and Educational Psychology* 3: 283-303. Casper G, Zeisel H, The lay judge in the criminal proceedings. Four empirical studies on comparative law. Karlsruhe: Muller CF, (1979) Juristische Verlag. p. 81. Rennig C, Decision-making by lay judges and professional judges in legal. Peters K, Sources of error in the Strafprozess, Vol 2. Karlsruhe: Mueller CF (1972) Tausch AM, Langer I, (1971) Social Conduct of judges against defendants. Features, effects and changes through Self-Training. *Journal of Developmental Psychology and Educational Psychology* 4: 283. Empirical, legal-dogmatic and psychological-theoretical investigations to the lay participation in the criminal jurisdiction. Marburg: Elwert NG (1993) Rennig C, Machura S, Cooperation between jury members and professional judges in Hasso Lieber -Ulla Sens eds. Honorary judges - democracy or decoration at the judge’s table? Wiesbaden: Municipal and school publishing house (1999) 65-70. The Cooperation between Lay Assessors and Professional Judges, Machura S, A culture of cooperation between Schoffen and Professional judges Richter ohne Robe (2000) 111-116. Machura S, (2001) Interaction Between Lay Assessors and Professional Judges in German Mixed Courts. *Intl Rev Penal L* 72: 451-479. Malsch M, (2009) Democracy in the Courts: Lay Participation in European Criminal Justice Systems. Routledge. Page no: 248. Goldbach TS , Hans V (2013) Juries, Lay Judges, and Trials. *Encyclopedia of Criminology and Criminal Justice.* Bruinsma G, Weisburd D, (2013) *Cornell Legal Studies.*

- 13-87. Dubber M, Philajamaki H, (2015) Lay Participation in Modern Law: A Comparative Historical Analysis. *Comparative Legal History*. 2: 223-230. Kutnjak S, Ivkovic, (2015) Ears of the Deaf: The Theory and Reality of Lay Judges in Mixed Tribunals. *Chicago-Kent Law Review* 3: 1031.
36. While designing the questionnaire, the authors had been working on the supposition that beside lay status and personal social background, personal attitudes would bear relevance. Lay status was characterized by continuity (whether lay assessors replying to the questionnaire are expected to renew their service or discontinue it), organizational form (district court, administrative or labor tribunal, court of law), the number of terms spent in service, lay tribunal division (criminal, civil, labor or other), the approximate number of cases disposed of and membership in the Hungarian Lay Assessor Association. Social background was measured with gender, age group, level of schooling, municipal level, activity status, occupation and position category, employment sector and ethnicity. Personal attitudes encompassed satisfaction with personal life and institutional participants of society, confidence in people, partiality toward severity or extenuation in a variety of legal issues and attitudes toward politics.
37. Note that only mathematically and statistically significant ($p \leq 0.05$) correlations are dealt with.
38. 15 out of 44.
39. 39 out of 100.
40. 22 out of 52.
41. 32 out of 74. This is rather interesting and valuable data; however, attention must be paid to the fact the sample does not have territorial representation.
42. 67 out of 228.
43. 28 out of 75.
44. 15 out of 40.
45. Strictly speaking, this practice may only be termed unfavorable if it is proven to clash with lay judges' interests. However, these interests were not included in the questionnaire.
46. 7 out of 52.
47. 6 out of 49.
48. 5 out of 18.
49. 8 out of 86.
50. 3 out of 15 without a certification of secondary education experience such a practice.
51. In contrast to those from the public or the private sector, lay judges from the civil sector representing a small number (11 participants) experience a negative (exclusionary) practice in a higher ratio (3 participants).
52. Kulcsar, op. cit., Based on calculations using his data, lay judges represented an even higher ratio (54%) at the time Page no: 92.
53. As regards expressing their opinions, popular lay judges of the 'ancien régime' were more inactive (64% of them only rarely expressed their views, if any).
54. Three quarters of the lay judges of the former period were characterized by the very same practice.
55. Due to the small number of dissenting lay judges, eventual correlations between this type of activity and one of the lay characteristics can only be established tentatively. The authors did find one: While the ratio of males in the sample is a mere 29%, they represent the majority in the dissenting group (6 participants).
56. 75 participants.
57. 76 participants.
58. 101 participants.
59. 32 participants.
60. 7 participants.
61. 93 participants.
62. 67 participants.
63. 100 participants.
64. 173 participants.
65. 70 participants.
66. 127 participants.
67. 21 participants.
68. 76 participants.
69. The SPSS K-means procedure was used to include all the four variables (information, questioning involvement, need for opinions, weight attributed to opinions) in the classification procedure in a three-category (positive, mixed, negative) version. Versions resulting in clusters of varying numbers were eliminated and only the one with 4 clusters was adopted. The underlying reason is that all four groups contain a relatively great number of participants compared to the small size of the sample. What is more, all four groups have a content subject to well-founded empirical interpretation. The program created this group structure based on the answers of 305 lay judges including 7 iterative steps. (Not every one of the 348 participants provided a reply to each question.)
70. Max Weber's legal sociological work presented this ideal type of justice in contrast with rational, formal and predictable justice. It is characterized by Karoly Mannheim as adjudication where "deliberation happens case by case and the decision on the merits is based on situation and legal sense" Mannheim C, (2000) sociological studies of knowledge. Osiris publisher 7-385. Trubek DM, (1972) Max Weber on Law and Rise of Capitalism. *Yaley Law School* 3: 720-753. Shapiro M, (1980) Islam and Appeal. *California. Law Review* 2: 350-381. Jerome Frank viewed the jury institution as the "qadi" element of the American justice system. However, he saw such an element even in the judicial function. Others (e.g. Roscoe Pound) regarded administrative tribunals as the embodiment of qadi-justice. Paul J, *The Legal Realism of Jerome N. Frank: A Study of Fact-Skepticism and the Judicial Process*. Springer 7: 3-128. Nemzer L, (1959) The soviet union between the 19th and 20th party congresses 1952-1956. *American political science review* 2: 561. Jackson SK, (2001) Islamic law and the state: the constitutional jurisprudence of Shihab al-Din al-Qarafti. *Law and religion* 1: 413-416. Leiden, (1996) New York: Brill EJ. 147.
71. The authors regard Kulcsar's relevant conclusions as acceptable to this day. Kulcsar, op.cit., 80-84.
72. Kulcsar, op.cit. He correlates this partly with institutional factors and partly with the concept of lay "role perception" Page no: 84-88.
73. Attila B, Gabor F, Janos L (2016) *Reprezentativitás a magyar ülnökrendszerekben: Egy empirikus vizsgálat alapkérdése* I. MTA Law working papers Page no: 1-18.



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