

**NATIONAL UNIVERSITY OF PUBLIC SERVICE
MILITARY SCIENCES DOCTORAL SCHOOL**

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**History of criminal intelligence, its particularities and sectorial
principles**

presentation of author on the doctoral (PhD) dissertation

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The scientific issue

The exact definition of the criminal intelligence matching the terminology of the EU, its modern, sectorial division, its place in the system of the criminal procedures, as well as the scientific examination of its relationship with the special investigative measures based on the professional historic base as well as its international comparative analyse is a “gap-filling” scientific task.

The particular field applying the law - lawyers, judges, professionals of the law enforcement agencies - is often not able to give a unanimous and integrated reply to practical problems, since they don't know the international praxis adequately and the professional background that could facilitate solving them.

Nowadays in Hungary more and more studies deal with researching the particular fields of the criminal intelligence activity and - what is more – there are a few experts that tried to address the issue in Hungary from legal approach, as a complex. Nevertheless the historical overview of the operational specialties of the criminal intelligence activity related to national security, furthermore comparative studies about different sectors of intelligence (intelligence, counter intelligence, criminal intelligence, specific, covert investigative measures) don't exist. The sectorial division of the modern criminal intelligence, as well as of criminal investigation have not been dealt with by the specialized literature in Hungary. Neither the intelligence activity preparing criminal justice, or criminal intelligence activity performable without suspect, nor its possible operational model or the specialized, undercover investigative measures have been identified as yet. Therefore my research is focusing at the historical basis of the criminal intelligence and its modern, sectorial division.

Research targets when choosing the topic of my thesis

The comparative introduction of the development of the criminal intelligence in Hungary and national security exploring and examining the tasks and structure of the criminal investigation, and the tasks the criminal intelligence related to national security, till the 2nd World War. I compare the different theories of the outstanding researchers dealing with law enforcement on the turn of the 19th and 20th centuries, and analyse the principles of the practical investigation to define the function of the criminal intelligence in law enforcement. Furthermore I analyse the changes of the tasks and structure of the investigation related to

national security in the period from the 2nd World War till the change of regime, in order to show how it has changed in relation to investigation.

I also compare the particularities of the tasks related to criminal investigation, and of the national security to discover the possible system-specific alterations.

I examine and analyse the different models of the Hungarian and major international criminal investigation activities in order to discover their individual sectioning. Further on I analyse the major directives and recommendations of the EU relating to the special investigative means and carry on comparative analyses in the member-states of the EU to become familiar with the criminal intelligence and pre-detective activities. As a result of the research I make recommendations to reform the system and duties of the Hungarian criminal intelligence and investigation and to determine the possible model of the criminal intelligence activity serving it.

Why did I chose even this issue, it's actuality

In the course of my carrier I have spent one decade working in different fields of criminal intelligence. Following this I have been teaching the discipline "criminal service" connected to criminal intelligence at the Faculty of Law Enforcement of the National University of Public Service. In the meantime I continuously carry on research activity on my thesis and take part in professional trainings at law enforcement agencies. During my research activity I regularly participate in professional conferences (training of senior detectives, further training of judges, conferences for prosecutors) and roundtable discussions. The experiences gained inspired me to write my dissertation.

Besides, the choice of my subject has been justified by the fact that the codification of the new Penal Procedure Law is in process, further by the demand for theoretical and professional background-support on the part of the law enforcement agencies, towards the Department Criminal Investigation and Economic Crime.

Similar requests have been received from the Prosecutor's Office as well that we should assist to create the theoretical base of the procedure law for the legislation of the specific issue.

My dissertation is also aimed at contributing to the European-oriented transformation of the relevant parts of the penal procedure codification being in process as well as of the sectorial legislation connected. In the course of my research I deal first of all with the history of the domestic criminal intelligence, its system-specific features and sectors. At the same time I make proposals for its possible perspective transformation – considering the relating regulations of the

European Union analysing the specific features and sectors of the National Security System to the necessary extent.

Hypotheses of the Researcher

1. Before the 2nd World War the tasks and the organisational system of the criminal intelligence/investigation and of the national intelligence service were not separated from that of the law enforcement agencies. However by the communist regime having been built up the tasks of the national intelligence were separated from the criminal intelligence and for the executional tasks a separate, new organisational system came into existence.
2. Following the 2nd World War the national intelligence and criminal intelligence were actually operating out of penal procedure, on basis of secret law and secret instructions.
3. The up-to-date criminal intelligence activity of the law enforcement in the recent Hungary is done observation, prevention and exploration, while those elements are built on each other.
4. The criminal intelligence can be divided into two different sectors: intelligence and counter-danger activity, further special, undercover (conspired) investigative activity delivering information for the investigation.
5. The authority investigating crime can become aware of the counter-danger-type information first of all with the help of the intelligence service. The individual tasks of the criminal intelligence can be executed without crime-suspicion as well.
6. The information of the criminal intelligence activity containing circumstances referring to crime-case, respectively making it probable that crime is to be committed, can be controlled legally – within the frame of a so called “preliminary investigation” - keeping the requirement of “necessity and proportionality” in mind.
7. In the phase of the cognitive process following the preliminary investigation - based on specific suspicion - special, investigative (covert) measures can be performed. The preliminary investigation and the investigation itself have the primary aim to prepare the jurisdiction therefore it should be only the prosecutor that can dispose of it.
8. The intelligence related to national security is a secret and open source activity, primarily aimed at disclosing risks, threats and challenges and also to their prevention. It can be

directed only exceptionally to “explore” crime-case. The reason for using quotation mark is that it is not an exploration in forensic sense of the word.

9. The two activity-fields (criminal intelligence aimed at crime investigation and national security) can demand different type of work however the intelligence activity directed to crime- investigation and that of national security and counter intelligence are closely connected. Their cooperation is manifested first of all in sharing information, making by this the tasks of public order and security, as well as of the national security more effective.

Research method

1. As a starting point of my research I have analysed and collected the professional literature related to the specific issue, the relative legal regulations and internal norms.
2. To research in libraries, to analyse the sources in the internet, including first of all the professional historical overview in Hungary and the model-elements of the international law enforcement.
3. As to the historical part of the research I have made an overview and evaluated the correlations.
4. When outlining the theoretical views I have used critical methods as well.
5. By professional consultations and by participating in further trainings I have updated the home professional knowledge base relating to criminal investigation.
6. By professional consultations and using advanced methods of international questionnaires I have discovered the most important components of the effective criminal intelligence used in the European member-states.
7. In the course of my research I have analysed the most important resources of the international professional files relating to the survey results, as well as the relevant legal regulations and recommendations.
8. After having processed the knowledge based on theoretical and practical experiences and necessary to reach the goals set, I have systematized the results and prepared my dissertation.

The structure of my dissertation

The first part of my dissertation deals with the historical overview of the development of the criminal intelligence and intelligence relating to state security, from the 20th century till the end of the 2nd World War. This chapter contains the tasks referring to the investigation conducted on basis of the first penal procedure law and also that of the preliminary investigation, which can be done in the preparation phase, as well as the tactical rules of the investigation of the age. The chapter deals with the “military-civilian intelligence service” of the law enforcement agencies besides the police /Evidenzbureau, Hungarian Royal Gendarmerie, Hungarian Royal Border Gendarmerie, Hungarian Royal Border Police, Hungarian Royal Customs Police, Hungarian Royal River Guard/. Having analysed the legal regulations and instructions of the age as well as the practical manuals of penal and penal procedure law I have stated that criminal intelligence activity has first come into existence at the end of the 19th century, as the task of the detective body within the Metropolitan Police. After having introduced the tasks and duties of the law enforcement agencies of the age in question and analysed the law enforcement systems elaborated by the outstanding researchers of the age I came to the conclusion, that besides the public order activity it was the duty of the detectives to execute the tasks of the state police or higher police duties.

I have introduced that after the 1st World War new types of political crime appeared as a consequence of the following phenomenon: political crime representing a danger for the whole society. I have also proved that up to the 2nd World War the tasks of the criminal intelligence and investigative activity and intelligence aimed at state-security have not been separated from those of the law enforcement agencies and their organisation, determined by law regulations.

The second part of my dissertation contains the short historical overview concerning the transformation of the criminal intelligence and intelligence related to national security from the end of the 2nd World War till the change of regime. By this I have unfolded and analysed the operative activity aimed at crime-detection and relating to state-security. Further I have examined the role and importance of the criminal intelligence in the penal procedure during the socialist regime and also the means of taking evidence outside of penal procedure (operative procedure) in the course of the confidential investigation and the operative proceedings. I also disclosed that following the 2nd World War the criminal intelligence and same relating to state-security were sharply separated both as to its legal regulations and

organisational structure. Further I have stated that covert intelligence activity performed by the Ministry of Interior and its organs were not under the supervision of the Prosecutor's Office.

In the third part of my dissertation I disclosed the characteristic features of the criminal intelligence and intelligence activity related to national security from the 1990-ies till nowadays. In the course of this I have compared the major, system-specific characteristic features of covert intelligence activity related to national security. Further on I have unfolded the sectorial tasks of the criminal intelligence and determine – from the strategic intelligence tasks - the strategic intelligence aimed at crime-detection, as a new sectorial element of the criminal investigation.

In the fourth part of the dissertation I have made a comparative analysis, by introducing the special, investigative measures performed in the member-states of the European Union. I have demonstrated that it is a typical task of the intelligence activity to prevent the coming up of the crime and criminal phenomena determined in law or penal procedure law of the member-states, to identify the perpetrators. This activity can be realized in the course of the criminal investigation and can be considered as the pre-stage of the penal procedure. The purpose of this activity is to check and make the initial information more exact, to obtain further information or eventually proofs. It has also been demonstrated in my dissertation that the legal regulation and framework of this activity is different in the individual member-states. Without the comprehensive analysis of the decisions of the European Court of Human Rights, but having analysed the sectorial legal regulations and the professional documents of the EU relating to the major, special investigative, undercover activities I have disclosed that processual justice can be granted by law and preliminary investigation and investigation activity functioning on basis of the principle of necessity and proportionality and executable by external control. In the phase of the cognitive process - following the preliminary investigation - on basis of exact suspicion - special, undercover measures can be applied also in the course of the investigation, which is regulated in details by the penal procedure law or other acts of the member-state. The primary aim of the preliminary investigation and of the investigation itself can be the preparation of the justice, therefore it should be under the supervision respectively disposition of the Prosecutor.

In the fifth part of my dissertation I have analysed models of foreign criminal intelligence and law enforcement.

In the sixth part I have made a suggestion to create – on basis of international examples and the domestic regulations – a criminal intelligence model the new regulating element of the criminal intelligence: the preliminary investigation. As the conclusion of my dissertation I have summarized the new scientific results, confirmed the hypothesis and made a proposal for their practical utilisation.

The new scientific results explored on basis of the research-issue

1. On basis of theoretical, historical comparisons of the law enforcement I have systematized the tasks and institutional system of the domestic criminal intelligence and intelligence relating to state-security, till the change of regime. On this basis I have demonstrated that till the criminal intelligence tasks – also those relating to state-security -have been performed till end of 2nd World War by specialized units within the law enforcement organs, further by detectives and officials of the public administration. However it has to be stated that they have performed these tasks without party-leadership. I have also explored that – following the 2nd World War till the change of regime - the criminal intelligence tasks – also those relating to state-security have been performed – within the Ministry of Interior, but sharply separated, under the strict leadership of the party, by the dominancy of the state-security organs.
2. I have demonstrated that before the 2nd World War the criminal intelligence was constituted by observation, prevention and detection activity of the law enforcement agencies. I have also proved that – in order to effectively prevent and detect crime - as a confidential part of preliminary investigation respectively - an ascertaining procedure has been used.
3. I have disclosed and proved that the criminal intelligence activity – contrary to the one widespread in Western Europe, which has been striving for processual justice – after the 2nd World War till nowadays has become an activity outside of criminal procedure and not having close contact to it, providing general, preventive tasks on basis of secret legal regulations.
4. I have analysed the legal background of the special investigative measures applied in the European Union and on basis of international comparative analysis and have disclosed that the criminal intelligence having no relation with concrete counter-danger activity regulated by sectorial act, belongs to the sectorial tasks of the criminal intelligence for

intelligence purpose on the one hand, while measures serving controlling information of primary, on the other hand. I have demonstrated that the other sectorial activity of the criminal intelligence is constituted by the special investigative measures that can be performed within the frame of the crime-investigation.

5. I have analysed several models of international law enforcement and criminal investigation also intelligence models and have demonstrated that they can be strategic and exact ones those facilitating exact, tactical models. On basis of the analyses I have made a suggestion for the transformation of the relevant legal regulations and the creation a new, possible law enforcement intelligence model.

The practical usability of the research results

My part-study titled “The necessary and possible reform of the criminal intelligence” has been commented by the heads of department of all law enforcement agencies dealing with criminal intelligence, who have agreed with my conceptual ideas relating to the transformation of the present system. At the professional meeting of the Penal Procedure Law Codification Committee held at the Faculty of Law Enforcement the members of the Committee have also declared their support regarding my professional work saying that it is worth for further consideration. On basis of experts’ opinion and declaration as well as on basis of my international comparative research activity carried out in the meantime I propose to make use of the statements demonstrated in my dissertation in the codification work relating to penal procedure law.

The results demonstrated in my dissertation are suitable for practical usage in the criminal intelligence training of the BA and MA education of the law enforcement professionals at the Law Enforcement Faculty of the National University of Public Service. The results of my dissertation could be also made use of in the course of the professional further training of the prosecutors and judges. The results are suitable for further scientific examination aimed at criminal intelligence in the higher education and also in the practical professional activity.

List of the publications of the author in this topic

PROOF-READ BOOKS, TENDERS, NOTES (ON-LINE, TOO)

Péter NYESTE: *The basis of the criminal intelligence activity*. In. László KORINEK (edit.): *Thesises of the Policing*. Budapest, NKE RTK, 2014. p. 331–343.

Péter NYESTE: *The past and future of the criminal prevention control in Hungary*. In. Istvan SÁRKÁNY (edit.): Organised crime handbook. Budapest, NKE RTK, 2012. p. 11–12.

Péter NYESTE: *Criminal intelligence activities under judicial approval and proactive investigative measures with judge authorisation*. Criminal Service Studies, General part. Budapest, NKE RTK, 2013. 127/3/2013. („Restricted”) p. 285–301.

Péter NYESTE: *The rules of the data restriction and data protection in the field of the criminal intelligence activity of police*. Criminal Service Studies, General part. Budapest, NKE RTK, 2013. 127/3/2013. („Restricted”) p. 27–57.

Péter NYESTE: *The roll of the criminal intelligence and the proactive criminal investigative measures in the criminal procedures*. Criminal Service Studies, General part. Budapest, NKE RTK, 2013. 127/3/2013. („Restricted”) p. 317–340.

Péter NYESTE: *Secret Search*. Criminal Service Studies, General part. Budapest, NKE RTK, 2013. 127/3/2013. („Restricted”) p. 302–316.

Péter NYESTE: *The planning of the criminal intelligence activity*. Criminal Service Studies, General part. Budapest, NKE RTK, 2013. 127/3/2013. („Restricted”) p. 341–346.

Péter NYESTE: *The roll of the criminal intelligence in the criminal procedures*. *Scientific tenders of the Home Office*, Budapest, 2010. p. 1–40.

PROOF-READ PROFESSIONAL ARTICLES (ON-LINE, TOO)

Péter NYESTE: *Criminal Intelligence*. Hungarian Police, 2012/3–4. p. 25–32.

Péter NYESTE: *Comparative assessment on the strategic intelligence/counter intelligence in the service of national security and the strategic intelligence in the service of criminal investigation with a special regard to fighting against organised crime*. National Security Review, 2013/1. p. 100–113. <http://knbsz.gov.hu/hu/letoltes/fsz/2013-1.pdf>

Péter NYESTE: *Initial options of the criminal intelligence activity of the police*. Hungarian Police, 2014/6. p. 69–82.

Péter NYESTE: *The relationship between criminal intelligence and criminal procedures*. National Security Review, NKE, 2013/1. p. 20–38.

Péter NYESTE: *Necessary and possible reform of the criminal intelligence*. Home Review, 2015/1. szám. p. 59–79.

Péter NYESTE: *Criminal Strategic Intelligence*. National Security Review, 2015/2 p.92-104.

Péter NYESTE : *The future of domestic criminal intelligence model*. National Security Review 2016/1. p. 146-170.

Péter NYESTE: *Special investigative methods in the EU Member States*. Home Review 2016/3. p. 16-43.

PUBLISHED IN DOMESTIC PROFESSIONAL CONFERENCE MATERIALS

Péter NYESTE: *The past, present and future of the criminal intelligence*. „Military Scientific and XXI. century” conference, conference material, 2015. p. 81-95.

Vocational-scientific curriculum vitae

Name: Peter NYESTE
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Studies

- 2015.09. National University of Public Service -Faculty of Military Sciences and Officer Training - Doctoral School of Military Sciences - pre-degree certificate
- 2014 - National University of Public Service - Institute of Executive Training and Continuing Education – consultant training of Basic Examination for Public Servants
- 2012-2015. National University of Public Service -Faculty of Military Sciences and Officer Training - Doctoral School of Military Sciences – PhD student
- 2008 – Postgraduate legal qualification exam
- 1998 -2003. lawyer (doctor of Laws (LLD)) – University of Szeged Law Faculty, correspondence training
- 1995 -1998. criminal police officer – Police Academy Hungary, Budapest – full time training
- 1989-1993. Deák Ferenc High School, Szeged Hungary
- 1981-1989. Primary School Szatymaz Hungary

Vocational experience

- 2015- National University of Public Service -Faculty of Law Enforcement Sciences
Institute of Criminology Department of Criminal Intelligence and Economic
Crime – assistant lecturer
- 2013 - National University of Public Service – member of the Disciplinary Board
- 2013-2015. National University of Public Service -Faculty of Law Enforcement Sciences
Department of Criminal Intelligence and Economic Crime – assistant lecturer
01. 01. 2013. Awarding the position of Assistant Lecturer
- 2008-2012. Police Academy Hungary Criminal Intelligence Department – instructor
- 2000-2008. inspector - Ministry of Justice and Law Enforcement – Protective Service of
Law Enforcement Agencies
- 1999-2000. detective – Csongrád County Police Headquarters Criminal Inspectorate
Department
- 1998-1999. detective – Budapest Municipal Police Headquarters Vehicle Theft Department

Continuing Education Trainings

- 2015 . Annual Executive Training for Police Criminal Intelligence Units, Siófok,
Hungary
2014. Annual Executive Training for Police Criminal Intelligence Units, Szanazug,
Hungary
2013. MEPA German intensive language training
2012. Seminar of Hungarian Justice Training Academy on criminal intelligence
activity
2010. Erasmus mobility programme - Hochschule für Wirtschaft und Recht, Berlin
2009. CEPOL conference on Crime Victims, Rome, Italy
2008. 4 months practical training at International Cooperation Centre of Hungarian
Police Headquarters – Budapest, Hungary
2008. CEPOL „Police cooperation and Europol” training, Budapest, Hungary
- 2006 . Intensive English training course in International Training Centre of
Hungarian Ministry of Justice and Law Enforcement

Others

- 2014- Member of the Hungarian Law Enforcement Scientific Society
- 2009- Member of National Society of Law Enforcement PhD Candidates
2011. Thesis advisor in National Students Scientific Association, Head of the Criminal Intelligence and Economic Crime Section
2010. Thesis advisor in Faculty Students Scientific Association of the Hungarian Police Academy, Head of the Criminal Intelligence and Economic Crime Section
- 2008 – Member of the Final Examination Board, Thesis Advisor on Hungarian Police Academy
- 2014 . Intemediate state exam from German language (written and oral)
2006. Intemediate state exam from English language (written and oral)
- 2016 . „E”-type (unified) national security clearance (according to Hungarian legal provisions)
2011. „C”-type (highest) national security clearance (according to Hungarian legal provisions)