



Magyar Helsinki Bizottság



**Relevant provisions of Act CXLIX of 2013 on the Amendment of Act II of 2012 on Petty Offences, Petty Offence Procedure and the Petty Offence Registry System and of Act CLXIV of 2005 on Commerce
in Relation to the Fourth Amendment of the Fundamental Law
(in force since 15 October 2013)**

Section 3

Following Section 178, the Petty Offence Actⁱ [*Chapter XXIII., Petty offences punishable with confinement*ⁱⁱ] shall be supplemented with the following Subchapter 133/A:

“133/A. Construction without the permission of the owner

Section 178/A. Constructing a build-up on public premises without the consent of the owner or the person entitled to dispose over the area qualifies as a petty offence.”

Section 5

The Petty Offence Act shall be supplemented with the following Chapter XXIII/A.:

“Chapter XXIII/A.

Petty offences punishable with community work

133/C. Infringing the rules of residing on public premises for habitation

Section 179/A. (1) If a person

- a) resides for habitation on public premises qualifying as a cultural heritage area in accordance with the Act on Cultural Heritage or on public premises designated by the local government in its decree under Section (2) (hereafter: designated area), and,
- b) despite the request of the police, the persons set out in Article 39 (2) a), e) and f), and – if complying with the condition included in Section 39 (3) – the request of the persons set out in Article 39 (2) g)–i),ⁱⁱⁱ does not leave the designated area,

they commit a petty offence.

(2) The local municipality, and with respect to the capital the metropolitan municipality, may, in order to protect public order, public safety, public health and cultural values, designate in a decree those parts of the public premises where residing for habitation qualifies as unlawful.

(3) With regard to public premises owned by the district municipality, the metropolitan municipality in its decree

a) upon the suggestion of the district municipality designates and

b) upon obtaining the opinion of the district municipality may designate

such areas of public premises owned by the district municipality, where residing on public premises for habitation qualifies as unlawful.

(4) When applying Section (1), residing for habitation may cover conducts on the basis of which it may be established that a person resides for habitation in the designated area, without the intent to return to a domicile or place of residence, or to other accommodation, with the aim of residing in the designated area for a longer period of time, and the circumstances of residing in the designated area or the person's behaviour may lead to the conclusion that the person carries out his/her activities in the designated area serving typically as a domicile – especially sleeping, cleaning up, eating, dressing, keeping animals – regularly and in a recurring way with small intervals in the designated area.

(5) If the conditions set out in the present Act of Parliament prevail, the petty offence set out in Section (1) may be punished with community work. If the perpetrator does not undertake to carry out community work, a fine may be imposed on him/her.

(6) Regarding the enforcement of community work and non-paid monetary fines the general rules shall apply, whereas monetary fines may not be substituted with community work.^{iv}

(7) If the person involved in the procedure has been found liable in a final decision for committing the petty offence set out in Section (1) already two times within the last six month, he/she may be sentenced to confinement for repeatedly committing the petty offence set out in Section (1).

(8) If a person is caught on the spot for committing the petty offence set out in Section (1), no one-the-spot fine may be imposed.”

Section 7

Section 250 of the Petty Offence Act shall be supplemented with the following Subsection (4):

“(4) The local municipalities and in case of the capital, the metropolitan municipality are empowered to designate in local decrees such parts of public premises, where, in accordance with Section 179/A (2)-(3), in the interest of protecting public order, public security, public health and cultural values, residing on public premises for habitation qualifies as unlawful.”

ⁱ „Petty Offence Act” stands for Act II of 2012 on Petty Offences, Petty Offence Procedure and the Petty Offence Registry System.

ⁱⁱ General rules of confinement: Confinement may only be imposed by courts. The shortest period of confinement is 1 day, while the longest is 60 days. In case the perpetrator, due to the petty crime serving as basis for confinement, has been in detention or under short time arrest exceeding 4 hours, the time spent in detention or under short time arrest exceeding 4 hours shall be deducted from the period of confinement. Each hour spent in detention or under short time arrest (after the 4th hour) shall substitute one hour of confinement.

No confinement may be ordered in case the perpetrator

a) qualifies as disabled person or lies in hospital

b) is a pregnant woman exceeding the fourth month of pregnancy, is a single parent raising a child under 14 or is such person who takes care of his/her relative requiring constant attention alone.

ⁱⁱⁱ The Bill refers e.g. to the clerks of certain public administration offices and public employees responsible for supervising public premises.

^{iv} General rules of monetary fine and community work:

The lowest possible amount of monetary fine is HUF 5,000 while the highest is HUF 150,000. In case the petty crime may be punished with confinement, the maximum amount may be HUF 300,000.

In case the perpetrator, due to the petty crime serving as basis for the monetary fine, has been in detention or under short time arrest exceeding 4 hours, the time spent in detention or under short time arrest exceeding 4 hours shall be calculated when determining the amount of the monetary fine (each hour spent in detention shall decrease the amount of the monetary fine with HUF 200 – less than EUR 1!)

In case the monetary fine is not paid, the court substitutes it to confinement (one day of confinement substitutes HUF 5,000 monetary fine). Such part of the non-paid monetary fine which may not be divided by 5,000 shall not be taken into consideration when determining the length of the confinement.

Monetary fine may not be substituted with confinement if the perpetrator meets any of the requirements elaborated above (disabled person, pregnant woman etc.) or if the monetary fine has been substituted by community work. In its resolution, the authority shall inform the perpetrator of the possibility to substitute the non-paid monetary fine with community work and shall indicate the period of community work which would substitute the monetary fine, furthermore, shall call the perpetrator's attention that he/she should turn to the national employment agency in order to conduct community work instead of paying the fine. Six hours of community work shall substitute HUF 5,000 of monetary fine. Such part of the non-paid monetary fine which may not be divided by 5,000 shall not be taken into consideration when determining the length of community work.

In case of imposing community work, the perpetrator shall conduct the ordered work, however, his/her personal freedom may not be limited in any way. The length of community work shall be determined in hours. The minimum period is 6 hours, while the maximum is 180 hours. Community work may not be imposed if the perpetrator meets the above elaborated requirements (disabled person, pregnant woman etc.). In case the perpetrator does not render the ordered community work, the court substitutes the community work with confinement, whereas 6 hours of community work shall be substituted with 1 day of confinement. If the length of community work does not reach 6 hours, it may not be substituted with confinement.