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CRIMINAL PROCEEDINGS WITOUTH SUSPICION - CONSTITUTIONAL CONCERNS REGARDING THE PREPARATORY PROCEEDING

SUMMARY OF DOCTORAL THESIS

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„I leave it to the reader to decide what it is like to live
in this supposedly humane and moral, yet Orwellian world.”[1]
- Károly Bárd

I. OBEJCTIVES AND RESEARCH QUESTIONS

Covert intelligence activities are, in essence, as old as humanity itself. Since crime, by its very nature, is conducted in secrecy, it is unsurprising that similarly covert methods are employed in the fight against it. [2]However, the development of normative framework for covert intelligence was a long process, which initially relied on secret rules and instruction known only to decision-makers and practitioners. Over time, the norms became more refined and increasingly transparent, and, in accordance with the principles of the rule of law, eventually evolved into a detailed and openly accessible legal framework.

Act XC of 2017 on Criminal Procedure (hereinafter: CCP) has now been in force for more than seven years. With the declared aim of ensuring efficiency and expeditiousness, the legislator introduced a number of new legal institutions. Among these novelties is the legal construct of the preparatory proceeding, designed as a pre-investigative phase preceding the formal investigative stage of criminal procedure. It’s purpose to enhance the effectiveness and speed of crime detection and prevention within the boundaries of procedural guarantees established by law. According to Section 340 (1) of the CCP, the purpose of the preparatory proceeding is to determine whether a suspicion of a criminal offense exists. In this respect, the legislator departed from a centuries-old tradition of criminal procedure whereby proceedings could only be initiated upon at least a simple suspicion of crime. Simultaneously with the introduction of the preparatory proceeding, the legislator restructured the regulatory framework governing covert intelligence activities and codified the concept of covert surveillance measures.

The principal aim of this research is to conduct a comprehensive assessment of whether the preparatory proceeding complies with the guarantees of the rule of law, and whether it satisfies the requirements governing the permissible limitations of the right to privacy. The fundamental research question is to what extent the preparatory proceeding – i.e. criminal proceedings without the existence of a suspicion if crime – can be reconciled with constitutional principles

[1] BÁRD 2011, 267.
[2] NYESTE - SZENDREI 2019, 59.

and guarantees. In such proceedings, the legislator permits the use of covert investigative methods entailing serious restrictions of fundamental rights, on the basis of vague and indeterminate concepts. During the preparatory proceeding, covert measures not requiring prosecutorial or judicial authorization, as well as those subject to prosecutorial or even judicial approval, may be employed, alongside various forms of intelligence gathering.

The dissertation is structured in two main parts. The first part presents in detail the legal sources regulating covert intelligence activities, while the second systematises and analyses the requirements and principles of the rule of law applicable to fundamental rights. The closing chapter provides an overall evaluation of the preparatory proceeding, both by means of critical analysis of its procedural provisions and by assessing its compatibility with constitutional principles.

The historical analysis pursued two objectives. First, to demonstrate the gradual transition towards openness in the regulation of covert intelligence, highlighting the continuous refinement of the normative framework under the influence of rule-of-law principles. Prior to the CCP, covert intelligence was characterized by duality: covert information gathering under sectoral legislation coexisted with covert data collection under Act XIX of 1998 on Criminal Procedure. The earlies regulatory environment provides the key to understanding why the legislator deemed it necessary to create the preparatory proceeding.

The lack of transparency and clarity in the rules governing the applicability of covert procedures and measures, and the admissibility of the information obtained, gave rise to significant criticism in the literature and generated calls for reform. The arc of historical development thus culminates in the statutory and regulatory provisions of the preparatory proceeding, with the central question being whether proceedings conducted on the basis of information falling short of the threshold of criminal suspicion are regulated with sufficient precision. This issue must be addressed even prior to engaging in a constitutional assessment. In my view, certain elements of the preparatory procedure – such as its foundation on what has been termed "suspicion of suspicion", the vague designation of "a person potentially involved in the commission of a crime", or the authorization of covert measures dependent on the statutory penalty of the crime, all in the absence of suspicion – are not only inconsistent with the principles of the rule of law, but also grammatically and logically unintelligible. Furthermore, the framework lacks essential procedural safeguards, the inclusion of which would be justified given the seriousness of the fundamental rights restrictions involved.

The second part of the dissertation focuses on fundamental rights and constitutional principles, and their application to the preparatory proceeding, with particular attention to the right to privacy and the conditions under which may be restricted, covert surveillance measures, including those applicable in the preparatory proceeding, necessarily entail limitations on fundamental rights. According to Section 214 (1) of the CCO, covert measures consist of special investigative activities carried out by authorized bodies in criminal proceedings without the knowledge of the affected person, entailing restrictions on the rights such as the inviolability of the home, the confidentiality of communications, and the protection of personal data.

The aim of this part of the research was to undertake a multi-level analysis of the right to privacy as a fundamental right most directly affected by covert intelligence activities. This required a review of the Fundamental Law, relevant national statues, the Charter of Fundamental Rights of the European Union and other supranational sources, as well as international instruments, in particular the European Convention on Human Rights.

A dedicated chapter examines the constitutional and international standards governing the limitation of fundamental rights, and specially the right to privacy, focusing on the criteria set forth in the Fundamental Law, national legislation, and the European Convention on Human Rights, with particular attention to the jurisprudence of the Constitutional Court and the European Court of Human Rights. These judicial decisions supply concrete content to the abstract provisions.

Applying criteria of legality, legitimate aim, necessity and proportionality to the provisions of the preparatory proceeding, I sought to answer the central research question of whether this legal institution can be reconciled with the requirements of a democratic rule of law. In my assessment, even the provisions regulating covert measures subject judicial authorization fail to meet the criterion of foreseeability inherent in the principle of legality, as they lack the required precision and clarity. This, in itself, excludes the possibility of demonstrating the legitimacy, necessity, and proportionality of their use.

Before adopting a final position on compliance with the rule of law, I considered it essential to evaluate the available public statistical data concerning the ordering of preparatory proceeding and the use of covert measures. The key question was whether practice confirms the necessity of this legal institution and whether the preparatory procedure contributes to effective criminal justice. The statistical analysis focused on the number of preparatory proceedings ordered, the number of authorizations of covert measures, and the extent to which of these led to the initiation of investigations. In my view, if a large number of preparatory proceeding and covert measures do not correspondingly result in investigations, that fact alone calls into question the justification, necessity, proportionality, and *ultima ratio* nature of such measures. This inquiry into statistical data thus closely linked to the broader issue of compliance with the rule of law.

Finally, the dissertation devotes a separate chapter to the presentation of the research findings and to a comprehensive evaluation of the preparatory proceeding, assessing its legitimacy as a legal institution in the light of the requirements of the rule of law.

II. RESEARCH METHODOLOGY

In my research, I focused specifically on the domestic legal framework governing covert intelligence methods. The primary method applied was legal doctrinal analysis. I examined the system of current law, decrees, and ministerial instructions, and within the historical section, I explored the previously applicable sources of law and their development.

Through historical analysis, the study traced the legal evolution of regulations on covert intelligence. I subsequently compared and interpreted the former regulatory system with the present applicable framework, with a view to uncovering the legislator's intent and underlying rationale in establishing the preparatory proceeding.

In close connection with this, I sought to present, analyze, and contrast the positions expressed in the relevant scholarship regarding both the previous and the current regulatory regimes. I systematically reviewed Hungarian legal literature, including monographs, academic studies, and other publications, with the aim of ensuring representativeness in the account of scholarly approaches to covert intelligence measures.

In the course of historical and literature-based analysis, I placed particular emphasis on integrating my own assessments, at times adopting my critical stance.

For the constitutional assessment, in addition to relying on the pertinent academic literature, I drew upon the jurisprudence of the Constitutional Court, the Court of Justice of the European Union, and the European Court of Human Rights, in order to provide as comprehensive an overview as possible of the doctrinal principles elaborated in their decisions.

Conceptual analysis played a central role in the research. This was necessitated by the fact that the focal point of my inquiry was the interpretation – or, in certain case, the very-non-interpretability – of the indeterminate and incomplete notions underpinning the preparatory proceeding. The dogmatic analysis of both the preparatory proceeding and the right to privacy, including limitations, served to expose the systemic deficiencies inherent in this legal institution.

In evaluating the preparatory proceeding from the perspective of the rule of law, I tried to present the widest possible range of scholarly and doctrinal positions. Within the constitutional assessment, I also attached great importance to the articulation and systematic integration of my own standpoint.

For the evaluation of the practical experience, I relied on publicly available statistical reports of the Office of the Prosecutor General. The quantitative data were reviewed, analyzed, and compared. Quantification – and, more specifically, the comparative presentation of statistical data – was employed to support the assessment of the legitimacy and necessity of this legal institution.

III. ANSWERS TO THE RESEARCH QUESTIONS

The interpretations of criminal proceedings conducted in the absence of suspicion of an offence is itself a challenge, and no less difficult it's the examination of specific provisions within the regulatory framework of the preparatory proceeding. Behind its apparent simplicity lie complex and critical details which are decisive in determining whether the preparatory proceeding complies with the requirements of the rule of law.

In my research, I sought to answer what justified the creation of the preparatory proceeding as a legal institution and whether, in its current form, it can be reconciled with the constitutional principles and guarantees.

A review of historical development shows the gradual emergence and increasing openness of the regulatory framework of covert intelligence. The differentiation between criminal justice, policing, and national security purposes evolved slowly, and the integration of rule-of-law principles into this framework progressed even more gradually.

A key milestone was Act X of 1990 on the temporary regulation of special covert service methods, the first open legal source on covert intelligence. Even more significant was the establishment of regulatory system for covert information gathering through the Police Act XXXIV of 1994 and the National Security Act CXXV of 1995. Yet, the most substantive step forward from a rule-of-law perspective was Act XIX of 1998 on Criminal Procedure. As the first procedural code, it expressly regulated covert data collection within criminal proceedings, providing detailed rules, while sectoral laws continued to govern covert information gathering.

Before the CCP came into force, the coexistence of covert information gathering and covert data collection created serious challenges for practitioners. The lack of clarity and coherence often left even authorities uncertain about whether covert operations should remain outside criminal proceedings or trigger their initiation, thereby permitting covert data collection. This unstructured regulation also jeopardized the admissibility of evidence obtained through covert means.

Recognising the risk of evidentiary loss, the legislator was compelled to provide a clear solution: to determine the limits of sectoral covert information gathering, to establish a unified framework or law-enforcement-related covert operations, and to secure the highest possible level of procedural safeguards.

The legislative response was the unification of covert intelligence measure applicable in criminal proceedings. The CCP introduced the category of covert surveillance measure and laid down their detailed regulation, thereby eliminating the previous overlap between procedural and sectoral regimes.

The legislative response to the problem also included the creation of the preparatory proceeding, functioning as a pre-investigative stage, which forms the central focus of this research, and the basis of its key questions. I examined in detail the possible grounds for initiating such proceedings, the authorities entitled to conduct them, the system of covert surveillance measures available, the rules on the admissibility of data, and the scope of intelligence-gathering activities.

From the perspective of the pre-CCP legal environment, the fact that covert investigative activities within criminal proceedings are now regulated exclusively by the CCP, with no parallel regime under sectoral laws, might appear a welcome development.

However, in my view, the analysis of the preparatory proceeding cannot be limited to acknowledging its creation or the unification of covert measures within criminal procedure. A thorough examination of its details is indispensable, since seemingly minor provisions may conceal significant inconsistencies, shortcomings, and sources of potential problems.

III.1. Dogmatic problems of the procedure

My central research question – prior to any constitutional assessment – was whether the provisions governing the preparatory proceeding are sufficiently well-defined. Using doctrinal analysis, by *"gasping individual concepts"*[3], I arrived at the following conclusions.

The authorities entitled to conduct the preparatory proceeding are set out in detail, as are the grounds on which such proceedings may be ordered and conducted. With respect to the so-called "suspicion of suspicion", the CCP provides a tripartite list of bases for initiating

[3] BÉKÉS 1995, 114.

proceedings. Yet the problem remain. For example, the category of “official knowledge” is defined only in non-exhaustive terms by Government Decree 100/2018 (VI.8.), leaving uncertainty as to its precise scope. By contrast, information in rejected complaint is at least factual, and the use of data from covert information-gathering is tied to deadlines and discretion.

The core problem, however, lies in the boundaries between “suspicion of suspicion” and simple suspicion. How can one distinguish between behavior sufficient to amount to simple suspicion? This uncertainty poses significant challenges for practitioners, and the vagueness easily invites subjective assessments. It creates the risk that authorities interfere in processes devoid of criminality.[4]

Even more fundamental problems concerns the provision on covert surveillance measures requiring judicial authorization. The CCP sets personal and material “limits” to their application. Yet the key question is whether these limits truly operate as safeguards in practice.

The personal “limit” is particularly problematic. The concept of “a person who may be considered as a perpetrator of a criminal offence” is unknown in criminal procedure doctrine. It does not correspond to the long-established notion of the accused, nor does it match the statutory category of “a person reasonably suspected of committing an offence”. It is so vague that the authority conducting the preparatory proceeding is left with broad discretion to decide who qualifies. The circle is expanded further by including persons in direct or indirect contact with such individuals. This renders the suppose “limit” effectively meaningless, since, in practice, surveillance could be ordered against almost anyone. In this way, the CCP legitimizes surveillance during a procedure that can be initiated even without the simple suspicion of a criminal offence.[5]

The material “limit” is similarly problematic. The CCP ties applicability to offences punishably by imprisonment of up to five years, and in some cases three years, under the Act C of 2012 on the Criminal Code. But if there is insufficient information even to establish simple suspicion, how can a classification of the offence and its penalty be determined? In practice, this depends solely on the subjective judgement of the authority and the strong incentive the use intrusive covert measures.

Consequently, neither the personal nor the material “limit” provides a genuine check deciding on the use of covert measures requiring judicial approval. This raises serious concerns regarding tools capable of fully intruding into private life.

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[4] KORINEK 2023, 27.
[5] PARTI 2019, 308-309.

In my assessment, the provisions on the preparatory proceeding are characterized by vague, undefined terminology and excessively broad discretion for authorities. The use of indeterminate concepts and pseudo-limits created a fertile ground for arbitrariness. As Árpád Erdei has observed, *"the translation of legislative ideas into statutory form, when coupled with dogmatic ignorance, may lead to confused rules that create difficulties in practice"*.[6]

From a guarantee-based perspective, one safeguard is that if no investigation is launched following the conclusion of the preparatory proceeding, the person named in the judicial authorization must be informed about the use of covert investigative tools. On one hands, it is left to the discretion of the authority applying the tools to decide whether such notification would endanger the effectiveness of another criminal procedure or covert intelligence gathering, a determination that is also subjective and lacks specific conditions. On the other hand, even if such notification does occur, it only pertains to the fact that a covert tool requiring judicial authorization was used. It does not include the reason for its application, its duration, or the scope of data obtained through its use. Moreover, no legal remedy is available in response to the notification, even though in cases where no investigation is launched based on the results of covert tools used in the preparatory proceeding – i.e., where even simple suspicion is not established – the necessity and proportionality of restricting fundamental rights are highly questionable.

With respect to the process of applying and implementing covert tools requiring judicial authorization, the court is empowered to review the legality of their use. However, this is only an opportunity for the court; there is no statutory obligation to request and examine the relevant documents. It would be an important guarantee of legality if the authority using the covert tools were required to report on the results of their use at regular intervals, not only when requesting an extension of their use. By imposing such a reporting obligation, it would be possible to monitor not only the legality of the entire process, but also the justification and indispensability of using such tools.

Finally, the law is silent on whether preparatory proceeding may be ordered repeatedly against the same person on the basis of the same information. In my view – after six or nine months of inquiry ending without even establishing simple suspicion of a crime – it should be prohibited, otherwise proceedings could be endlessly renewed without ever establishing simple suspicion.

[6] ERDEI 2008, 518.

Taken together, the vagueness, indeterminacy, and regulatory deficiencies cast serious doubt on the rule-of-law compatibility of the preparatory proceeding. On this basis, one could already question its legitimacy. Nevertheless, it remains necessary to turn to the examination of fundamental rights affected by covert measures and to evaluate the constitutional implications of the preparatory proceeding.

III.2. Constitutional Concerns

As Géza Finszter has observed, *" a progress may called constitutional if it is characterized by impersonality, normativity, limited and controlled criminal power, and if human dignity does not suffer impairment".*[7] Safeguards and protecting fundamental rights is indeed the cure duty of a democratic state governed by the rule of law.

By their very definition, covert surveillance measures – and covert information-gathering more broadly – necessarily interfere with fundamental rights belonging to the sphere of privacy: the inviolability of the home, the confidentiality of communications, and the protection of personal data. By their nature, such measure also implicate the right to a fair trial.

The right to privacy and the right to fair trial are both interpreted broadly and accorded strong protection by the Constitutional Court, the Court of Justice of the European Union, and the European Court of Human Rights. The enhanced protection of privacy is reflected not only is constitutional, European Union, and international instrument, including the European Convention on Human Rights, but also national legislation. The Act LIII of 2018 on the protection of private life sets out content and safeguards, while the Act V of 2013 on the Civil Code, the Act C of 2012 on the Criminal Code, and the Act II of 2012 on Misdemeanours all attach civil, criminal, or administrative consequences to violations of privacy.

Yet high levels of protection do not imply absolute immunity from restriction. The limitation of fundamental rights subject to strict conditions, and particularly demanding criteria apply to restrictions on the right to privacy. Balancing the enforcement of the state's criminal claim against the protection of fundamental rights requires "*legislation that clear and comprehensible to individuals, that shields them from vulnerability, and that equal access to rights".*[8]

The criteria for lawful restriction are legality, a legitimate aim, and the principle of necessity and proportionality – all must be satisfied cumulatively. In practice, it is the jurisprudence of the Constitutional Court and the European Court of Human Rights that gives

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[7] FINSZTER 1997, 111.
[8] KADLÓT 2021, 37.

these criteria substantive meaning. Applying these conditions to the detailed provisions of the preparatory proceeding allows one to ask whether the institution can be reconciled with the requirements of a democratic state governed by the rule of law.

Formally, the legality criterion may seem unproblematic, since covert measure in preparatory proceedings are codified in the CCP, and detailed rules are provided by the Government Decree 100/2018. (VI.8.). However, legality also embodies the requirement of legal certainty: that norms be precise, foreseeable, and understandable. Vague and indeterminate provisions therefore undermine legality itself.[9]

The undefines notion of the "suspicion of suspicion" jeopardies foreseeability by leaving individuals unable to determine which of their actions might ground the initiation of a preparatory proceeding, i.e. a criminal proceeding. This uncertainty, compounded by reliance on subjective discretion, leaves individuals unable to foresee why proceedings are initiated and covert measures employed against them.

Even more problematic is the indeterminacy surrounding the "person potentially implicated in the commission of a crime", as referenced in the legislation governing the authorization of covert surveillance. this formulation is inherently vague and fails to identify a clearly defined group of individuals who may be subjected to the most intrusive forms of surveillance. In addition, the legal provisions permit the extension on surveillance measure to those maintaining either direct or indirect contact with such undefines individuals. This broad and unqualified discretion is incompatible with the constitutional requirements for the limitation of fundamental right.

From this follows that the assessment of legitimate aim, necessity, and proportionality becomes largely theoretical. If the provisions themselves are indeterminate, the regulation cannot enable meaningful scrutiny of whether restrictions on privacy are necessary or proportionate.

The situation I aggravated by the abandonment of the principle of purpose limitation. Not only may covert measures applied against virtually anyone, for periods of up to nine months, but the CCP also permits the use of data for purposes beyond those for which authorization was granted. This expands the risk of misuse and undermines the rule-of-law requirement of targeted, narrowly tailored surveillance.

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[9] Rue, FRANK: *Promotion and protection of the right to freedom of opinion and expression (*A vélemény-és véleménynyilvánítás szabadságához való jog előmozdítása és védelme*)*, United Nations Digital Library, A/68/362. In: https://digitallibrary.un.org/record/768352?ln=en&v=pdf

The underlying conflict is between rule of law and efficiency. As Tibor Király warned: *"arbitrary criminal proceedings violating the law, as social experience shows, are extremely dangerous to society – far more dangerous than the benefits of uncovering crimes and criminals by unlawful means".*[10]

It is evident that if the available information is too weak to establish even suspicion, detection becomes an even greater challenge for the authorities. While this may appear to justify providing them with more effective tools, the more dramatic – and thus seemingly effective – the instruments, the greater the risk that the state itself will overstep and violate rule-of-law principles.[11]

Also it should be not forgotten that the primary function of criminal procedure is to enforce the state's punitive claim in response to crimes already committed. Nonetheless, criminal power often exploits fear of crime to persuade the public that dismantling procedural safeguards leads to greater security.[12]

The real question I not whether security and effective law-enforcement regulation are necessity, but whether legal certainty, legality, necessity, and proportionality may be sacrificed in the name of efficiency. My firm positions is that the they may not. As Géza Finszter stated *"one cannot fight legal violations by unlawful means; any lack of success must be borne by the state itself, for history shows that this causes less harm to the community than if the state itself begins to act like a criminal".*[13]

Public sensitivity regarding covert intelligence activities is not unfounded. In a democratic state governed by the rule of law, it is a legitimate expectation that restrictions on the right to privacy be imposed only foreseeable, predictable, necessary, and proportionate manner. The current regulations does not meet this standards. Such powers of public authority *"almost inevitably lead to practices that infringe human rights"*.[14]

Statistical data reinforce these concerns. Despite the mass application of covert measures, only small proportion of preparatory proceedings result in investigations. In the second half of 2018, only 4,4% led to the opening of investigations; in 2019 20%, in 2020 24,1%, in 2021 21,7%, in 2022 26,3%, and in 2023 31,3%. These modest figures must be viewed alongside the thousands of decisions authorizing covert measures each year: in the second half of 2018 524

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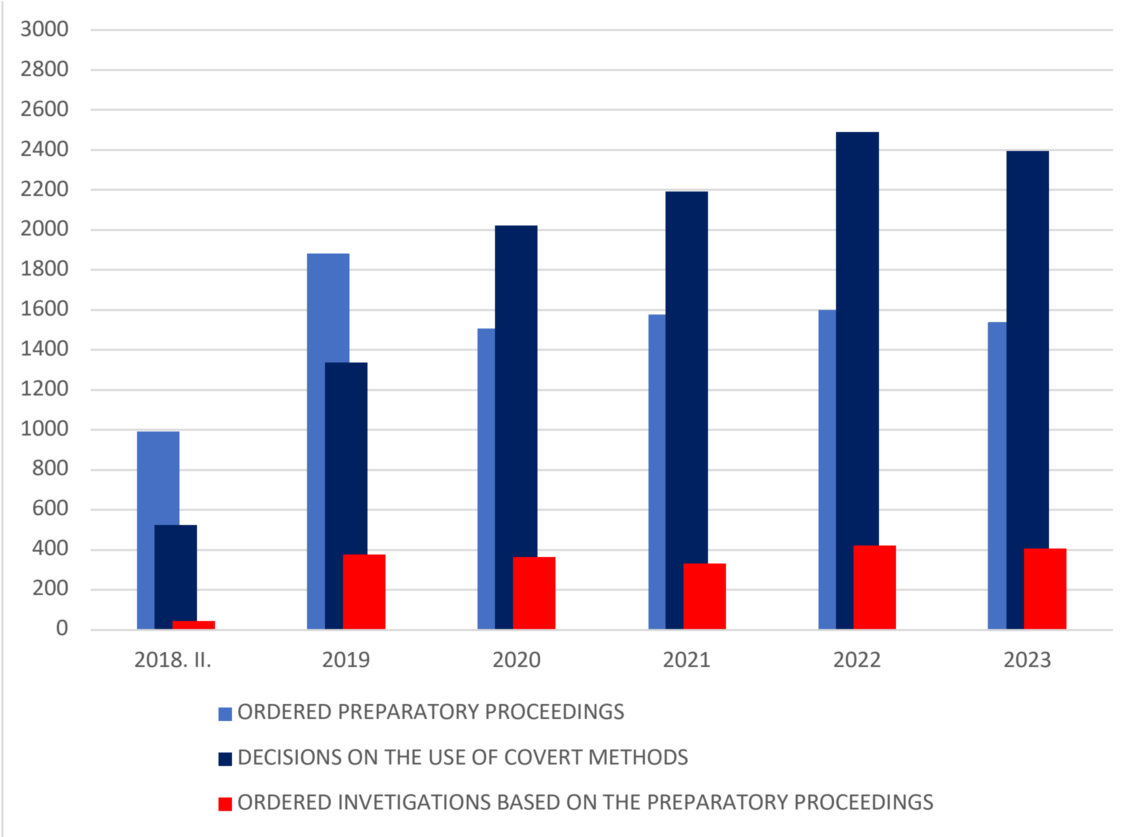
[10] KIRÁLY 1972, 140.
[11] FARKAS 2000, 63.
[12] BÓLYAI – SZIKINGER 2006, 32.
[13] FINSZTER 2007, 12.
[14] KORINEK 2025, 213.

decisions were made, 1338 in 2019, 2023 in 2020, 2192 in 2021, 2491 in 2022, and 2395 in 2023.

Thus, while the number of covert surveillance authorizations has steadily increased, the yield in terms of confirmed suspicions remains strikingly low. This mismatch casts further doubt on the necessity, proportionality, and ultimately the rule-of-law compatibility of the preparatory proceeding. The figures are illustrated in the diagram below.



[15]

In my view, it is a matter of serious concern that since the entry into force of the CCP, only about 20% of the preparatory proceedings have resulted in the ordering of investigations, that is, in the establishment of simple suspicion. This has occurred despite the fact that statistical data show the massive use of covert surveillance measure during such proceedings.

The initial fear raised by the introduction of the preparatory proceeding was that proceedings would be initiated without factual probability of crime, on the assumption that "something will be found" or "if they want to, they will find something". The statistics, however do not confirm even this. Rather, they give rise to even greater apprehension: the suspicion of suspicion rarely materializes into simple suspicion, despite the extensive reliance on covert

[15] Diagram created by the author. Based ont he date published in the Statistical Bulletin of the Office of the Prosecutor General: https://ugyeszseg.hu/wp-content/uploads/2016/02/buntetojogi-szakag-2023.-ev.pdf

measures by practitioners. On this basis, my central research question must be answered in the negative: the preparatory proceeding cannot be reconciled with the requirements of the rule of law.

III.3. The problem

In examining the reasons for introducing the preparatory proceeding, I identified the regulatory deficiencies that the legislator sought to address through this new institution. Despite the lofty rhetoric of unification and the promise of reinforced guarantees, the reform produced not a solution, but a new problem.

A legal institution enabling such strong and sweeping restrictions of right, yet contributing little too effective criminal justice, represents a problem rather than a solution. As László Korinek aptly noted, it *"renders the individuals entirely – and unjustifiably – vulnerable".*[16]

The difficulty lies in how to approach a genuine solution. At stake is whether, in the name of unifying covert law-enforcement activities, we can accept the very interpretability of criminal proceedings without suspicion. More specifically, whether we can abandon centuries of tradition and accept that even simple suspicion should no longer be necessary to trigger the enforcement of the state's punitive power. Importantly, covert information-gathering remains available outside criminal proceedings under sectoral laws, even for the purpose of generating information that may later justify preparatory proceedings or investigations.

I reject the constitutional and doctrinal legitimacy of the preparatory proceeding. The activation of the state's punitive claim cannot be linked to information falling short of the probability threshold of suspicion of crime – information pointing more to individuals than to criminality. Accepting such a basis would pave the way for total prevention, which is incompatible with the rule of law. While the state has a duty to act effectively against crime, it also has the duty to "endure" that in the absence of suspicion there is no ground for proceedings, and certainly none for grave interferences with the right to privacy.

At the same time, it must be emphasized that effective law enforcement is inconceivable without covert methods. The possibility of using such measure, and ensuring their effectiveness, is indispensable. The rule of law does not prohibit covert intelligence such as, what is prohibits is its use without doctrinal clarity and constitutional safeguards. As Gyula Moór warned *"definitions of law usually move between two extremes: identifying it with morality and justice, or with naked force. But law is identical with neither".*[17] The essential task is to find balance

[16] KORINEK 2025, 212.
[17] MOÓR 1945, 77.

between covert intelligence and the rule of law – a balance that begins with doctrinal clarity. In its absence, the preparatory procedure and the covert measure employed within it violate the very principle of the rule of law.

The aim must indeed be security and effective action against increasingly organized and sophisticated criminality. But the aim cannot justify the means.

IV. LIST OF PUBLICATIONS

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