

PROFESSIONAL REVISION OF MEDICO-LEGAL EXPERTISES IN HUNGARY

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Introduction

Previously in Hungary, the competent Court had to adjust the contradictory opinions of medico-legal experts in the court proceedings in order to eliminate the contradictions.

In case the opinions could not be harmonised, the Court could rule on the revision of the expertises [1].

A team of professionals, a professional board, the so-called Medical Scientific Council's Forensic Committee had been organised for settling inconsonance between different experts' opinions in forensic medicine. This board was a unique institution in the world, supervising inconsistent expertises. It had a consultative competence for courts in the controversial matters of forensic medicine, according to its latest accomplishments.

Even the revised experts' opinion/expertise was not binding on the Court, as the main rule was the unbound and free deliberation of evidences [2].

The history

- Enacted on 30 December 1768, the *Constitutio Criminalis Theresiana* has ruled for the Habsburg Empire that in case of contradictory medical expertises the medical faculties of the universities should submit a supervisory expertise (Fakultätsgutachten) [3].

- In Hungary, before 1868, the revision of expert opinions/expertises was connected with medical education.

- Afterwards, it was assigned to public health care, mainly under the supervision of the Ministry of Interior.

- As a result of the multiplication of the tasks, in 1890 the revising body was transformed into an independent entity directed by the Ministry of Justice, and it existed for six decades.

- After the Second World War, as a consequence of the political changes, the revision of expert opinions/expertises was relocated under the authority of the Ministry of Health, more precisely, that of the Medical Scientific Council. This so-called "Forensic Committee" functioned in that structure for five decades.

- Only in 2006, as a late response to the change of the political regime, the system of the revision of forensic

opinions/expertises was reformed. The Forensic Committee was wound up; it was succeeded by the so-called Experts' Board, without any supervisory function.

The applied procedure

The notified judicial dossier was posted for preparation to an external professional, specialized in the actual matter. The external professional's written expertise was submitted to the **Forensic Committee**. After having discussed this expertise in the course of its regular monthly session, the Forensic Committee elaborated the final revision of expertises on the basis of the adopted common position. The Medical Scientific Council's Forensic Committee has elaborated almost 20.000 revision expertises during its existence.

The new structure

The Forensic Committee's traditional structure had been dissolved, and it was succeeded by the so-called Experts' Board. The Experts' Board consists of *ad hoc* committees with 3 to 5 members, which may be summoned to appear before the court. The members of this Board have scientific degrees or practical experience as forensic experts of 10 years at least.

The Experts' Board, functioning under the supervision of the Ministry of Justice continues to work as a body within the Medical Scientific Council's organisation. The Experts' Board has been actually working since 2006, since which time there is no legal possibility for the revision of medical expertises [4].

The aim

To demonstrate the traditional activity of the Medical Scientific Council's Forensic Committee from 1990 till the abolishment of the Committee with a focus on the representative case categories.

The importance of the research is emphasised by the modification of the legislative background and the total abolishment of the supervisory function.

Result

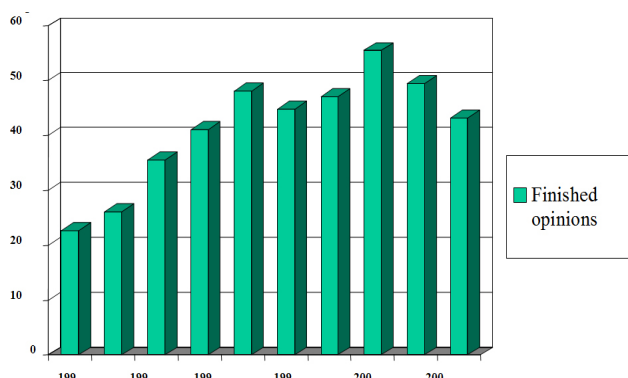
Since 1990 the number of submitted revision opinions had been continuously increasing (Figure 1). In this process, only the adjustment of experts' fees caused a minimal regress, and, in 2003, after the reform of the

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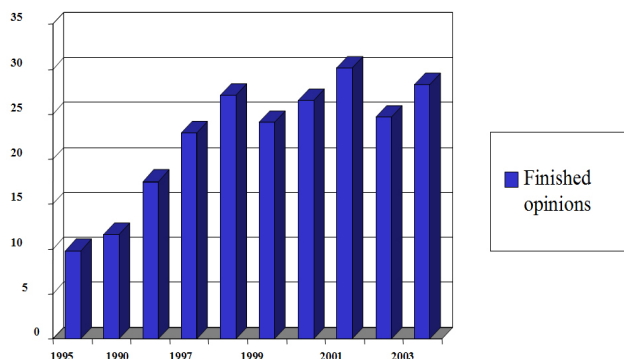
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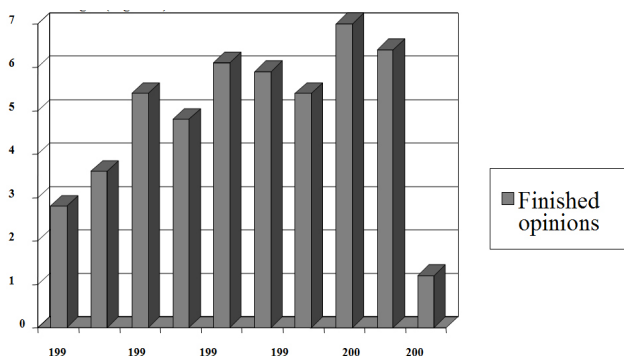
Act on Criminal Procedure generated a notable decrease in the number of criminal cases, which was accompanied by a temporary reduction of the total volume of forensic experts' workload.



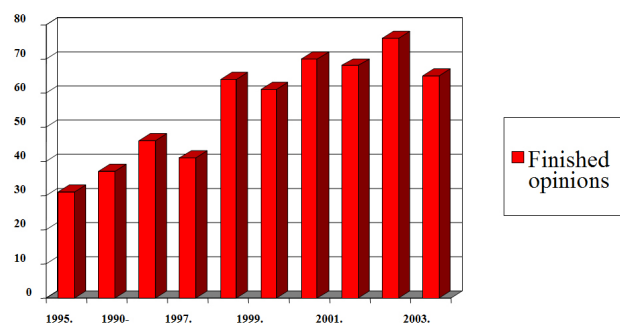
When analysing the different categories of cases, it can be ascertained that the number of matters submitted for judicial revision of decisions made by the social insurance organisation has continuously increased, and they actually represent a decisive proportion of the general workload (Figure 2). Until 2004, the examination of the deterioration in the capability to work made up nearly two-thirds of the total number of revisions.



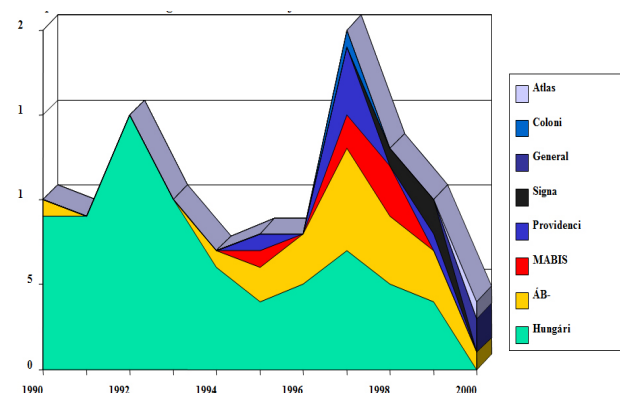
Until the reform of the Act on Criminal Procedure after the change of the political regime, the number of criminal cases showed a significant increase, indirectly indicating the shady side of social changes (Figure 3).



The rate of criminal trials in cases against physicians or medical services has been low. At the same time, the number of damage suits has increased significantly after the change of the political regime (Figure 4). The Committee has pointed out the violation of professional rules in half of the total number of criminal cases revised, while it gave an expert report on the case being attributable to the defendant's negligence in one third of cases filed for compensation for damages.



In the period between 1990 and 2000, the number of revisions of experts' reports in judicial cases related to business insurance has showed a long-term increase, in line with the growing number of insurance companies (Figure 5). The great majority of judicial cases were trials for compensation for damages for traumatic injuries.



Conclusions

The statistics on the functioning of the Committee show an increasing demand by the requesting authorities for revision experts' opinions, until the dissolution of the Forensic Committee.

Since the abolishment every second court requires a supervisory expertise from the Experts' Board, which has no such competence as did its forerunner. Therefore it was unavoidable that the modification of the Code of Civil Procedure reassured the abolishment of the supervisory expertise.

Seemingly, in Hungary, the traditional proceedings

in jurisdiction prevail over legal harmonisation with the European Union.

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