

THE TEACHING OF LEGAL HISTORY AT EÖTVÖS LORÁND UNIVERSITY IN BUDAPEST (1635–2013)

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The paper gives an overview of the development of teaching legal history at the Eötvös Loránd University (ELTE) in Budapest from its establishment until today. First part presents establishment of the University, second part gives a review of the development of the Faculty of Law and of the Department of the History of Hungarian law while the third part presents the Department today, its members and their research profiles and interests. At the end, the author stresses proclamation of historical interpretation of the new Hungarian Constitution in its preamble as a source of possible practical challenges that could appear before Hungarian legal historians and the Department of the History of Hungarian law at ELTE.

Keywords: legal history, Department of the History of Hungarian law, Eötvös Loránd University

“ELFA stresses the importance of general subjects, e.g. legal history, Roman law, legal theory and philosophy of law, as well as other non-legal subjects, e. g. economics, sociology, as valuable fields of legal education.”¹

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¹ The European Law Faculties Association’s (ELFA) Resolution on the Bologna process, convening at its Annual General Meeting in Ljubljana, Slovenia, on 25–28th February 2010, <http://elfa-afde.eu/app/download/5788683716/resolution.ljubljana.pdf> (15th September 2013).

I. THE UNIVERSITY

Eötvös Loránd University (ELTE²) was established in 1635 by Cardinal Péter Pázmány in Nagyszombat³ and has operated as a higher education institution ever since. Although it was not the first Hungarian university to be established⁴, it is the oldest continuously active university in Hungary. Initially, it had only two faculties: Faculty of Philosophy and Faculty of Theology.⁵ Universities of Western Europe at the time had already included four fields, but ELTE was soon to follow. The Faculty of Law was founded in 1667 by Cardinals Imre Lósy and György Lippay. This left only the field of medicine missing for ELTE to be a whole and complete university. The Faculty of Medicine was established only a hundred years later, in 1769 (just after Queen Maria Theresa had taken the University into “her custody”).

Historical developments prompted the need for a more suitable seat of the University. Queen Maria Theresa moved the University from Nagyszombat to Buda in 1777 and shortly afterwards, in 1780, it was declared a Royal University.⁶ In the 20th century the institution went through many changes: after the shock of the First World War and the subsequent Treaty of Trianon, the university was given a new name; it was called Pázmány Péter University.

The name did not last too long as after the Second World War, which marked the beginning of the communist era in Hungary, it became unacceptable for the biggest Hungarian university to bear the name of a Cardinal. It was consequently renamed Eötvös Loránd University.⁷ Unfortunately, in that era the University had to relinquish two faculties, as the goal was to create a ‘socialist university’. The Faculty of Theology and the Faculty of Medicine were both

² Eötvös Loránd Tudományegyetem, <http://www.elte.hu> (15th September 2013).

³ At the time it was part of the Hungarian Kingdom. It is now called Trnava and is situated in the Slovak Republic.

⁴ The first Hungarian university was established in Pécs by king Louis I the Great in 1367, the second by Sigismund von Luxemburg in 1395 in Óbuda, but both closed shortly after opening and did not operate for centuries.

⁵ Borsodi, C.; Tüskés, A., *Az Eötvös Loránd Tudományegyetem Bölcsészettudományi Karának története képekben 1635–2010*, Budapest, 2010.

⁶ The beautiful Diploma Inaugurale could be seen as a second deed of foundation. This was the last document to be signed by Queen Maria Theresa before her death, <http://mnl.gov.hu/images/ups/345.jpg> (15th September 2013).

⁷ Baron Loránd Eötvös (1848–1919), the world-famous physicist, became rector of the University in 1891.

detached and became separate universities.⁸ Despite the loss, since the fall of the Iron Curtain, Eötvös Loránd University is nowadays the largest Hungarian science university with approximately 30 000 students (of which 8 000 are first-year students) and 1 500 teachers. It is ranked as the first university in Hungary in most academic fields and the best Hungarian university in the international rankings (usually between the 300th and 400th place in the world). As of 2003 the University has eight faculties: Faculty of Law and Political Sciences (ÁJK), Bárczi Gusztáv Faculty of Special Education (BGGyK), Faculty of Humanities (BTK), Faculty of Informatics (IK), Faculty of Education and Psychology (PPK), Faculty of Social Sciences (TÁTK), Faculty of Elementary and Nursery School Teachers' Training (TÓK) and Faculty of Science (TTK).

II. THE HISTORY OF THE FACULTY AND THE DEPARTMENT OF THE HISTORY OF HUNGARIAN LAW⁹

I. The Beginnings

The teaching of legal history started as early as 1667 with the founding of three departments at the Faculty: one for Roman Law and two for Hungarian Law. Four full-time professors were employed at these three departments. Their task was not only to teach Roman and Hungarian law but to improve the local law with the help of new research ideas. In the 17th century teaching legal history had a different meaning than nowadays: every piece of legislation that had not been repealed or overruled was considered as law in force. This meant that teaching was a kind of “applied science” in those days. It basically consisted in debates about topical issues and the *Tripartitum*:¹⁰ there were no textbooks for the students and the teachers enjoyed substantial freedom in designing courses. That also meant that the Faculty curriculum remained unchanged for the most part since its foundation. Gradually, however, contradictory tendencies seemed to emerge: the state needed more and more lawyers and civil servants but the knowledge that the graduates displayed was inappro-

⁸ Szögi, L., *Az Eötvös Loránd Tudományegyetem története képekben*, Budapest, 2010, and Knapp, É.; Szögi, L., *Az Eötvös Loránd Tudományegyetem Egyetemi Könyvtára*, Budapest, 2012.

⁹ This section is mostly based on Pálvölgyi, B., *A Magyar Állam- és Jogtörténeti Tanszék története (A tanszék története a kezdetektől Eckhart Ferencig)*, <http://majt.elte.hu/Tanszkek/Majt/TanszkekTortenet/KatedraTortenete.pdf> (29th September 2013).

¹⁰ István Werbőczy collected Hungarian law in 1514 and gave it the title *Tripartitum opus iuris consuetudinarii in clyti regni Hungariae*.

priate and obsolete. In the 1760s there were some attempts at reforms by the government but they all failed. In 1770 Maria Theresa decided to implement a reorganisation based on the structure and curriculum of the University of Vienna. The first dean (György Lakics) was also elected at the time and it was the first time that the teaching of legal history appeared in the curriculum. In 1775 the *Planum iuridicae facultatis* created a new structure: the students (who studied three years) were taught by five full-time professors and Legal History (titled Roman Law) was taught in the first year. According to the *Ratio Educationis* of 1777 being acquainted with the history of Hungarian Law was essential for law students, so it had to be taught as part of substantive law in force. Following the second *Ratio Educationis* (1806) a new subject was introduced in the curriculum entitled “Introduction to the criticism and diplomatic of the history and law of Hungary”, which was a huge step for the teaching of legal history. Unfortunately, being optional, the course ended up not being taught at all.

2. The 19th Century

In 1820 the first textbook in the field was created by János Markovics – it was called *Epitome institutionum iuris Hungarici privati*.¹¹ It was still only a descriptive presentation of different legal acts ordered chronologically by kings who ruled the country, and not a comparative one. The first person to raise the teaching of legal history above a mere descriptive method was Ignác Frank, who became professor of the University in 1827. He stated that all legal sources should be handled applying scientific care and methods. After Frank’s death in 1850, it was Gusztáv Wenzel who became the professor of civil law and who acknowledged that a modern university and a modern faculty of law could not exist without the teaching of the history of local law. So, in 1854 he started a course called “The history of the law of the German Empire”.¹² This course was later extended and renamed “The universal history of European laws and states”.¹³ Although still not entirely satisfied, the circumstances of the day

¹¹ Markovics, J., *Epitome institutionum iuris Hungarici privati*, Buda, 1819 (http://books.google.hu/books?id=USdRAAAAcAAJ&hl=hu&source=gbs_book_other_versions, 29th September 2013).

¹² Eckhart, F., *A Jog- és Államtudományi Kar története 1667–1935*, Budapest, 1936.

¹³ The entire textbook for the course can be found on Google Books: http://books.google.hu/books/about/Egyetemes_Eur%C3%B3pai_jogt%C3%B6rt%C3%A9net.html?id=GQ8wAQAAMAAJ&redir_esc=y (29th September 2013).

(the aftermath of a failed revolution and a lost war) prohibited the teaching of Hungarian legal history (the plan was to implement Austrian legislation into Hungarian legislation and teaching). Therefore, he retained the title of the course and taught Hungarian legal history under the European designation.

The first professor to teach the history of Hungarian law proper was Imre Hajnik, in 1872.¹⁴ Two departments of history of law were created in 1890: the Department of the Universal History and Comparative Law and the Department of the History of Hungarian Law. Hajnik became head of the latter, while Wenzel headed the former. As Hajnik had stated that legal history is the foundation of the law in force, he wanted to help lawmakers to have a solid historical ground they could further build upon. The title of his main work was “Hungarian constitution and law during the reign of the Árpád kings”.¹⁵

The famous professors of the time were Imre Hajnik, Ákos Timon and János Király.¹⁶ After Hajnik’s retirement, the other two professors had different opinions about the two courses – Király was in favour of teaching them separately, while Timon opposed this idea, proposing to blend them into one course.

The department remained strong even after the creation of the Department of the History of Universal European Law in 1948. At the time the Department of the History of Hungarian Law had long been run by Ferenc Eckhart, one of the most famous Hungarian legal historians.¹⁷ He stated that “as the economical and societal development of the neighbouring Slavic nations is similar to the Hungarian one, in the teaching and research of the history of Hungarian Law, comparisons should be drawn with those countries instead of England.”¹⁸

¹⁴ Horváth, A., *A jogtörténetírás históriája*, <http://majt.elte.hu/Tanszettek/Majt/TanszekTortenet/JogtortTudTortenet1.html> (29th September 2013).

¹⁵ Hajnik, I., *Magyar alkotmány és jog az Árpádok alatt*, Pest, 1872 (http://books.google.com.au/books/about/Magyar_alkotm%C3%A1ny_%C3%A9s_jog_az_%C3%81rp%C3%A1dok_a.html?id=3vIrAQAAAMAJ, 29th September 2013).

¹⁶ János Király was appointed to the Department because Ákos Timon refused to teach the history of universal European law.

¹⁷ Csizmadia, A., *A magyar jogi felsőoktatás fejlődése*, *Felsőoktatási Szemle*, no. 10, 1969, pp. 577 – 583.

¹⁸ Quotes according to Mezey B., *A jogtörténet oktatása a királyi magyar egyetemen és az Eötvös Loránd Tudományegyetemen*, <http://majt.elte.hu/Tanszettek/Majt/TanszekTortenet/JogtortOktTortenet1.html> (29th September 2013).

In 1959 Kálmán Kovács became head of the Department and started to teach a brand new generation of legal historians.¹⁹ He was succeeded by Mihály T. Révész and Barna Mezey. Professor Mezey has been head of the Department since 1993.

III. THE DEPARTMENT NOWADAYS

Hungarian legal history is nowadays taught at the Department of the History of Hungarian Law at the Faculty of Law and Political Sciences.²⁰ The educational task of the Department these days is to give an overview of the history of the system and of the terminology of the branches of law by teaching about the principal historical tendencies in Hungarian law. The department teaches the features and the traditional elements of Hungarian legal culture. It acquaints the students of politicalology with Hungarian parliamentarism and the history of the Parliament in the framework of the history of European parliamentarism.²¹

The main research profile of the Department of the History of Hungarian Law is the historical development of the Hungarian legal institutions with special regard to the development of law of the neighbouring countries and the rest of Europe.²² There are eight staff members at the Department with a single research programme: Kinga Bódiné Beliznai PhD (Hungarian law of marriage, legal symbols), Gergely Gosztonyi PhD (the history of press and media law and topical issues in the pertinent legislation), Attila Horváth PhD (history of commercial law, legal systems in dictatorships), György Képes PhD (impact of the laws of the United States and Scandinavian laws on Hungary), Gábor Máthé CSc (public administration and the rule of law), Barna Mezey DSc (development of the law of enforcement), Mihály T. Révész PhD (freedoms, civil rights, press law), and Levente Völgyesi PhD (history of ecclesiastical law, legal protection of cultural monuments). The history of parliamentarism and the

¹⁹ Kovács, K., *A magyar jogtörténeti kutatások útja és jelenlegi feladatai*, Magyar Tudományos Akadémia Osztály Közleményei, no. 1-2, 1969, pp. 55 – 75, and Nagyné Szegvári, K., *A jogtörténettudomány kutatási eredményei és perspektívái a felszabadulás után*, Budapest, 1975.

²⁰ While there is another department for Roman Law and Comparative Legal History.

²¹ Stipta, I., *A hazai jogtörténet-tudomány helyzetének áttekintése*, Jogtörténeti Szemle, no. 1, 2003, pp. 24 – 29.

²² [Http://majt.elte.hu/Tanszkek/Majt/International/English.html](http://majt.elte.hu/Tanszkek/Majt/International/English.html) (29th September 2013).

place of legal symbols in the history of law are common research topics at the Department. In addition to the staff, there are around twenty-five Hungarian and foreign visiting lecturers at the Department: attorneys at law, historians, archivists, judges and other scholars.

The principal courses taught by the Department are: The History of Hungarian Constitution, The History of Hungarian Law and The History of European Constitutions and Parliamentaryism.

The following research topics are of special importance at the Department: The History of Hungarian Criminal Law and Prisons, The Evolution of Justice Policy in Hungary, The Evolution of Constitution and Law in Transylvania, Instances of Codification in the Hungarian Legislative History, Historical Patterns and Contemporary Models of Parliamentaryism, The Soviet Constitutional Model and the Evolution of Hungarian Constitutional Law in the 1950s, Historical Foundations of Hungarian Private Law, Historical Study of the Symbols of Law, The History of Parliamentaryism in Hungary with Special Reference to European influences, and History of the Legislation concerning the Press.

The results of the work of the Department staff are published in several regular and non-series volumes. The Department's regular proceedings are the *Jogtörténeti Szemle*²³ (in Hungarian), the *Ungarische Rechtshistoriker*²⁴ (in German), the *Rechtsgeschichtliche Vorträge/Lectures on Legal History*²⁵ (in German and English) and the *Junge Ungarische Rechtshistoriker*²⁶ (in German).

In addition to teaching Hungarian legal history, the Department has developed an extensive international network. It offers a possibility of international cooperation and exchange for the teaching staff and for the students. The researchers of the Department take part in international conferences mostly with Austrian and German colleagues while the students take part in summer seminars organised in cooperation with universities in Germany and Switzerland.²⁷

²³ [Http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/Jogtorteneti_Szemle.html](http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/Jogtorteneti_Szemle.html) (29th September 2013).

²⁴ [Http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/UR.html](http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/UR.html) (29th September 2013).

²⁵ [Http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/RV.html](http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/RV.html) (29th September 2013).

²⁶ [Http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/JUR.html](http://majt.elte.hu/Tanszekek/Majt/TanszekiKiadvanyok/JUR.html) (29th September 2013).

²⁷ [Http://majt.elte.hu/Tanszekek/Majt/Nemzetkozi/Nemzetkozi.html](http://majt.elte.hu/Tanszekek/Majt/Nemzetkozi/Nemzetkozi.html) (29th September 2013).

The number and intensity of the Department's ERASMUS programmes are constantly growing. Its main connections are with the University of Poitiers in France, Heidelberg University, University of Hamburg, Friedrich Schiller University of Jena, Georg August University of Göttingen in Germany, University of Vienna in Austria, University of Amsterdam in the Netherlands, University of Basel in Switzerland, Comenius University in Slovakia, and Josip Juraj Strossmayer University of Osijek in Croatia.

IV. CONCLUSION

The Dean of Eötvös Loránd University Faculty of Law and Political Sciences signed in 2010 the above mentioned resolution on the Bologna process of The European Law Faculties Association's (ELFA) which emphasises the importance of studying legal history for law students nowadays. In Hungary the incorporation of legal history in the curriculum was a long process and there are no indications at the moment that different approaches may be taken.

With the new Fundamental Law of Hungary (i.e. the Constitution) adopted on 25th April 2011²⁸, further, albeit yet unknown tasks are to be put before the Department and the teachers of legal history. Article Q (3) states that "The provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal and the achievements of our historical constitution."²⁹ As there is no practice of interpretation in the mentioned manner as of yet, legal history could become even more significant in the future.

²⁸ It took effect on 1st January 2012.

²⁹ See the full text of Constitution in English: http://www.parlament.hu/angol/the_fundamental_law_of_hungary_consolidated_interim.pdf (29th September 2013).

Sažetak

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**NASTAVA PRAVNE POVIJESTI NA SVEUČILIŠTU EÖTVÖS
LORÁND U BUDIMPEŠTI (1635. – 2013.)**

U radu se daje prikaz razvoja nastave pravne povijesti na Sveučilištu Eötvös Loránd u Budimpešti od njegova osnivanja do današnjih dana. U prvom dijelu rada navedeni su osnovni podaci o osnivanju Sveučilišta. Nakon toga, u drugom dijelu, detaljnije je obrađena povijest Fakulteta i Katedre za povijest mađarskog prava s naznakama istaknutih profesora (Frank, Wenzel, Hajnik, Timon, Eckhart i dr.). U trećoj cjelini je izloženo ustrojstvo Katedre danas, nastavni predmeti koje održava, njeni članovi i njihovi znanstveni interesi. U zaključku autor ističe povijesno tumačenje prema članku Q (3) novog mađarskog Ustava usvojenog 2011. godine kao izvor mogućih praktičkih izazova koji stoje pred mađarskim pravnim povjesničarima i Katedrom za povijest mađarskog prava na Sveučilištu Eötvös Loránd.

Ključne riječi: pravna povijest, Katedra za povijest mađarskog prava, Sveučilište Eötvös Loránd

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