

UNIVERSITY, LAW, JURISPRUDENCE, AND HISTORY

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Legal education has been one of the most venerable branches of university education; the legal sciences have been among the pivotal components of university activities; and the faculties of law have been integral parts of universities. Throughout Europe universities' social and political role, and environment, were always crucial factors that influenced the evolution and development of university education. Among the factors that called universities into being, the functions defined by the state and immediate social environment were of decisive importance at all times. In Western Europe the relationship between the state and the universities were marked by numerous explicit requirements. Examples include the requirements of state administration and modern state bureaucracy, and the need to work out a new theory of state in the wake of political confrontations between states and the papacy. At the same time, universities were among the circles of freedom; autonomous entities operating with papal or royal approval; organizations that defined and exercised their own rights. A university was a real *universitas* for students and instructors alike; a beneficiary of privileges within city walls.

That having said, in the case of Hungary, following epochal events in the 16th century (when Hungary came under Osman Turkish occupation and was partitioned into three parts) the country's power centre was transferred abroad (to Vienna) and, consequently, the addressees of the above expectations were not the Hungarian legal practitioners any more. Under Habsburg rule there was no demand for young Hungarian law school graduates by public administration and other organizations. Neither was there need for the circles of freedom in a Western European style (on the contrary: the state discouraged the emergence of privileged entities of that type); in fact, even municipalities found it difficult to safeguard their autonomy. Society did not honour universities' right to self-government, instead, subordinated them to interference by Church and state. The university was an artificial institution—the spontaneous cooperation between instructors and students in the Western sense was totally absent. As in Hungary education was to a large extent under the influence of the Jesuits, the university soon became a part of the Jesuit system of education, and the *Ratio Studiorum* became its guidance. (The university at Nagyszombat, today Trnava in Slovakia, was transferred from Jesuit to state supervision when on 17 July 1769 Maria Theresa placed it under imperial patronage.)

It is well known that in Hungary university education began rather late. The first attempts to establish a university (1367, Pécs; 1389, Old Buda and 1467, Pozsony, today Bratislava in

Slovakia) did not bring lasting results, and the university at Nagyszombat could only begin operation in 1635 as a modernization attempt of absolutist rule, which coincided with the Catholic Church's efforts to consolidate its educational monopoly. (A faculty of law was added to that university only in 1667.) For several centuries that was the only institution within the Hungarian borders to offer legal education. As a mostly theoretical curriculum could hardly be used in Hungarian legal practice and in Hungary a university diploma was not a requirement for legal practitioners (either for judges or lawyers), the courses at the faculty of law - some of which lasting for more than a decade (12 years in the case of adjective law and 15 years in the case of substantive law)—only attracted dozens of students. Dictation, that is, the dominance of theory characterized the method of education. Few instructors were employed. In fact, when systematic legal education began in 1686, Ferenc Koller was the only instructor and in 1696 Mihály Bencsik joined him. In 1766 there still were only two instructors of law in Hungary: Gábor Nitray and János Zelenay. Initially the number of students barely reached two dozens and, because the subjects taught had little practical use and education lasted over a long period, the number of students only grew slowly. Until 1672 the curriculum consisted of canon law and Roman law; which were later complemented by Hungarian law (whose regular instruction only began in 1686). Hungarian law consisted of two parts: *theoreticum* and *practicum*. The instructors took turns in teaching substantive and adjective law. For a long time no printed textbooks were available. András Huszti was the author of the first legal textbook in Hungary (1742, Nagyszeben, today Sibiu in Romania), and a few years later István Huszty published his *Jurisprudentiapractica* (1745). That textbook was the mainstay of education at the faculty for a long time to come. Although *Ratio Educationis* favoured university-level education and tuition became more orderly as a result of the reform, and the faculty received backing from the government, it could not become the dominant educational institution of Hungary until after the middle of the 19th century, the era of Hungary's transition from feudalism to capitalism.

Bringing several anniversaries, the year 2010 offered ample opportunities for the Eötvös Loránd University to remember and reflect. We could celebrate momentous events in the history of our institution, events that meant more than just facts of history. By becoming paragons of responsible and committed action, those events influence our present and future and convey noteworthy messages. In 2010 the university that has been in an uninterrupted operation for the longest time in Hungary celebrated the 375th anniversary of its foundation; the *Norma Studiorum*, which has become synonymous with the reform of the institution's organization and operation, was issued 240 years before, and the *Diploma Inaugurale*, which was issued on the occasion of the university's transfer to Buda and is seen as its second deed of foundation, turned 230 years old.

Among those anniversaries the one that obviously has the most outstanding importance is the 375th anniversary of the establishment of the university in 1635; and the university as a whole as well as each of its faculties celebrated it in a worthy manner. Thanks to a thorough preparation, careful organization and effective realization of related events, throughout the year of 2010 the Loránd Eötvös University marked the 375th anniversary with valuable

conferences, noteworthy exhibitions and other programmes of contemporary relevance, thereby attracting the attention of both of academia and the broader public.

During the anniversary year the Faculty of Law and Political Sciences, a faculty that ever since its foundation in 1667 has been playing a key role and producing outstanding results in the ELTE University's life, was the venue of numerous important events. They included a conference entitled "State and Church, and Pázmány, the founder of the University" in March 2010; in April a festive conference that the faculty's Doctoral Council organized on the occasion of the anniversary of the establishment of the university, in October a temporary book exhibition entitled "The contribution of the instructors of the Faculty of Law to the development of jurisprudence in Hungary 1667-1948"; a permanent photo exhibition entitled "A history of the Faculty of Law and Political Sciences in pictures", which was opened in the same month; and finally in November a conference whose title was "Constitution and Constitutionality".

The events of the anniversary celebrations offered ideal opportunities for reflections on the institution's past. The festive occasions were permeated by our respect for our noblest traditions and by our tribute to the memory of persons who played a crucial role in the history of the university and in promoting its cause. They did not document onerous obligations; instead, they expressed spontaneous and self-evident commitment. They expressed responsibility for cherishing the values that have been passed on to us and have an influence on our present and future.

We are proud that during the nearly four hundred years since foundation in 1635 and despite all the troubles and tribulations, the university has managed to evolve a community that has been both a source and guarantee of the institution's continuous development, expansion and renewal.

The history of the Eötvös Loránd University can be a success story because the university has been both cherishing its time-honoured values and has always been able to renew itself. It has been able to encourage and incorporate new values, respond to the challenges of successive historical periods and adjust to the changing circumstances. In every stage of its history, its instructors always discovered the new opportunities that served the further development of the institution; and by utilizing those opportunities they could proceed along a road that could ensure for ELTE University a leading role in the system of higher education in Hungary.

In the future that openness and initiative continue being prerequisites for ELTE University to ensure the hope of success. Doubly true is that observation today when the fast-changing environment, the changing circumstances require, sometimes even demand, that the university acquire a matching new attitude and also put that into practice.

Amid tumultuous economic and social changes the Faculty of Law and Political Sciences has been doing everything in its power to respond to the growing challenges. The ever more complex living conditions, the growing list of objects that come under legal regulation and the ever more intensive and varied international relations have created a situation in which continuous research is both possible and necessary. That the Faculty of Law and Political

Sciences has managed successfully to use that opportunity has been eloquently demonstrated by its outstanding scholarly accomplishments and its active participation in a research university project called “For Knowledge on a European Scale, ELTE”, which in 2010 obtained substantial financial support.

The essays of this volume express this dedication—the scholarly creed of the Faculty of Law and Political Sciences. Read them with an open mind.