

Gábor Hamza

The Outstanding Codifiers of Hungarian Private Law

Substantive and Procedural Law



Summary

The preparation of the codification of Hungarian private law is linked to the Act XVIII of 1791. The legal commission set up under this article was responsible for preparing a draft private law bill. This draft, which took two years to complete and could not be considered up-to-date, only appeared in print decades later, in 1826. Political developments also prevented the second codification attempt provided for by Act XV of 1848. From 1853, the Austrian General Civil Code came into force in Hungary and Transylvania, so codification work was not resumed until the Austro – Hungarian Compromise in 1867. The idea of creating a code governing private law, substantive law and procedural law became predominant from 1895 onwards, when the Minister of Justice, Sándor Erdély, set up a committee to prepare a unified draft of the Civil Code. The drafting of the Code of Civil Procedure and Procedure, Act I of 1911, was largely due to Sándor Plósz. Géza Magyary also played a major role in the drafting of the code, which entered into force in 1915. Károly Szladits played a prominent role in the preparation and dogmatic foundation of Hungarian private substantive law for decades. The Private Law Bill of 1928, which, since it was not enacted, was considered by the courts *as a ratio scripta*. The influence of Károly Szladits' ideas can be seen both in the Hungarian Civil Code adopted in 1959, which entered into force on 1 May 1960, and in the new Second Hungarian Civil Code adopted in 2013, which entered into force on 15 March 2014.

Keywords: codification in Hungary, Géza Magyary, Sándor Plósz, Károly Szladits

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SÁNDOR PLÓSZ

Sándor Plósz, jurist, university professor, state secretary, minister of justice, full, board and honorary member of the Hungarian Academy of Sciences, was born in Pest on 10 June 1846. He died in Budapest on 29 May 1925, a few months after his retirement. In recognition of his scientific work, he was elected a corresponding member of the Hungarian Academy of Sciences on 5 June 1884. Following his election as a Corresponding Member, he gave his inaugural lecture on “On the system of grounds and means of proof” on 17 June 1889. He was elected a full member of the Academy on 4 May 1894. After his election as a full member, he delivered his inaugural lecture on ‘The concept of nullity in civil procedure’ on 8 April 1895. An abstract of the lecture was published in the Bulletin of the Hungarian Academy of Sciences in the same year.

It was a sign of his scientific work that he was elected an honorary member of the Hungarian Academy of Sciences on 9 May 1902. Four years later, on 23 March 1906, the Academy elected him a member of its Board of Directors. For almost a year, between October 1909 and April 1910, Sándor Plósz was Vice-Chairman of the Philosophical, Social and Historical Sciences Division of Section II of the Academy, and between April 1910 and April 1913, he was President of the same Division. As President of Department II, he read out the thesis of Lajos Farkas (1841-1921), professor of Roman law at the University of Cluj, former colleague and corresponding member of the Hungarian Academy of Sciences, on the academic dissertation entitled ‘The Roman *Obligatio* Conceptually in Medieval and Modern Legal Theory’ on 9 December 1912.

Between 24 April 1913 and 4 May 1916, Sándor Plósz was the second president of the Hungarian Academy of Sciences - today this position is equivalent to the vice-president’s function. It is worth mentioning here that this term was used in the Statutes between 1869 and 1948, replacing the term “Vice-Chairman”(Terminus Technicus) used between 1830 and 1857 and the term “Vice-President” used between 1858 and 1868.

It is definitely worth mentioning that the Hungarian Academy of Sciences awarded Sándor Plósz the Grand Academic Prize in 1912 for his outstanding scientific and codification work. As a side note, for the sake of comparison, I would like to note that this exceptional recognition, which was only due to a few academics, can be compared today to the Academic Gold Medal, founded in 1960 and awarded for the first time in 1961.

Sándor Plósz’s father was Lajos Plósz (1809-1886), a renowned ophthalmologist, and his mother was Emilia Emmerling. His wife was Ilona Hamza (1852-1926), daughter of Máté Hamza, a prominent member of the Pest City Council.

It is worth mentioning that Sándor Plósz’s brother, Pál Plósz (1844-1902) was a renowned biochemist, a full professor at the University of Cluj and later at the University of Budapest, and a corresponding member of the Hungarian Academy of Sciences. His other brother, Béla Plósz (1863-1945), a veterinarian and college teacher of national fame, was a member of the Hungarian Academy of Sciences.

Sándor Plósz studied law in Vienna and Pest. He finished his studies in Pest in 1866. He practised law in Pest for two years. First in a law firm, and from the following year at the

Financial Prosecutor's Office in Pest, as a trainee lawyer. In 1868 he was inaugurated as a Juris Doctor. In the same year he was admitted as a general lawyer, and the following year as a deputy lawyer. In November 1867 he became a clerk at the Pest City Court, in 1871 a deputy judge at the Single Court of Lipótváros, and in 1872 a judge at the Royal Court of Justice in Pest. Between 1872 and 1881 he was a full professor of civil law and of the law of promissory notes and commercial law at the University of Pest.

From 30 July 1894 to February 1899, he was Secretary of State at the Ministry of Justice. From 26 February 1899 to 18 June 1905, he was Minister of Justice in the government of Kálmán Széll, in the first Khuen-Héderváry government, and in the first government of István Tisza.

For more than a decade he was a member of the constituency of Baja, then of Regőce, and between 1910 and 1914 of Lugosi. In 1914 he became a member of the Upper House.

Sándor Plósz was the most authoritative representative of Hungarian civil procedural law in his time. On behalf of the government, he drafted the Code of Civil Procedure in 1885. A few years later, between 1889 and 1894, he also drafted several orders of the law on proceedings upon request ("sommás" procedure in Hungarian) and the complete code of procedure published in 1893.

As a member of Kálmán Széll's government, he started to rework the proposals on the judiciary. He presented the revised proposal to the House of Representatives, which became the basis for the amendment of the law.

During the discussion of the budget of the Minister of Justice, he envisaged the entry into force of the Code of Criminal Procedure on 1 January 1900, a more extensive reform of the Criminal Code than had been planned so far, and the creation of a law regulating the uniform civil procedure. It is important to emphasise that Sándor Plósz also planned to create a private law and to amend the bankruptcy law.

The most significant result of his work is undoubtedly the first article of Act I of 1911 on the Code of Civil Procedure. His name is inextricably intertwined with the outstanding, internationally acclaimed work of modern Hungarian codification, the Civil Procedure Code of 1911. It is worth mentioning that as a professor of the law of legislation, of promissory notes and of commercial law, he left behind significant works in all three fields.

Sándor Plósz established his scientific reputation early in his career. In 1876, he published his study on the law of action, in which he conceptualised the so-called abstract theory of the law of action. Published in 1895, and reprinted in 1895, his Handbook of the Law of Bills of Exchange was considered by his contemporaries to be one of the most valuable works on the law of bills of exchange. His studies, written in German, earned him considerable international prestige. On the occasion of the 500th anniversary of the University of Leipzig, founded in 1409, he was awarded an honorary doctorate, Doctor Honoris Causa, in 1909.

Sándor Plósz spent more than half a century in the university cathedra. In 1873 he was appointed to the chair of procedural law at the University of Cluj. He only took a break from teaching during his time as Secretary of State and Minister. At the end of his political career, he declined the post of President of the Curia, saying that his place was at the university chair.

Despite half a century of teaching, Sándor Plósz did not write a textbook. The texts of his lectures, entitled “Hungarian Civil Law”, were collected by one of his students, Károly Vass. The work “Hungarian Civil Law”, based on the lectures of Dr. Sándor Plósz, professor emeritus at the University of Budapest, compiled by K. Vass, in Budapest, 1906. He summarized the experiences of his teaching career, abundant in critical comments, in his work “On the Reform of Legal Education”, published in 1922.

He retained his office during the short-lived Khuen-Héderváry government (27 June 1903 - 3 November 1903), and then during the first government of István Tisza (4 November 1903 - 18 June 1905). As Minister of Justice, he submitted a revised and amended version of the bill on the Code of Civil Procedure to the House of Representatives on 29 January 1902. His detailed report on the proposal was submitted to the House of Representatives by the Committee on Justice, which, however, did not discuss the proposal during the term of Sándor Plósz’s ministership, due to ‘the political circumstances that had arisen’.

Sándor Plósz’s first study, published in 1871, was followed by treatises in Hungarian and German, as well as manuals, small monographs, bills, explanatory memoranda and drafts. His most important studies were collected by his colleagues in a volume entitled “Collected papers of Sándor Plósz”. The volume was published two years after his death, in 1927.

Sándor Plósz’s study “On the Law of Action”, published in 1876, is of particular importance. A year after the publication of this study, Karl Heinrich Degenkolb (1832-1909) published his study *Einlassungszwang und Urteilsnorm. Beiträge zur materiellen Theorie der Klagen insbesondere der Anerkennungsklagen* (Leipzig, 1877), in which the eminent German jurist made the right of action independent of the existence of the right asserted in the action. Although three years later Sándor Plósz published his theses on the law of action in German in his *Beiträge zur Theorie des Klagerechtes* (Leipzig, 1880), international jurisprudence still considers Degenkolb, a legal Romanist (Roman jurist) and litigator, to be the founder of the so-called abstract theory of the right of action. In this context, it is worth noting that Degenkolb, in his work *Beiträge zum Zivilprozess* (Contributions to Civil Procedure), published in Leipzig in 1905, acknowledges the primacy of Sándor Plósz, while at the same time highlighting the differences between their positions.

Sándor Plósz considered it an important task to develop and regulate the concept of legal protection. For the realization of this task, he undertook the preparation of a proposal for a code of civil procedure based on the verbal and non-verbal system, following the Western civil procedure codes, in 1882, in compliance with the order of the Minister of Justice Tivadar Pauler.

Published in 1885 Draft of the Hungarian Code of Civil Procedure a 613-section bill by Sándor Plósz. The bill was based on the German Civil Procedure Code (*Zivilprozessordnung*) of 1877.

However, the draft has come in for criticism from many sides. Domestic jurists considered the English and French ideals of procedural law to be more important than German dogmatics. The heated controversy over the draft hampered the work of the Hungarian legislature. The reform was launched years later, in 1889, when Dezső Szilágyi became Minister of Justice, who intended to implement the reform of the law not in one step but in several stages.

He therefore started the reform where it seemed easiest, namely with the procedures upon request (i.e. *sommás*), since a large part of it was oral anyway. Once again, Alexander Plósz was commissioned to draft the bill and the explanatory memorandum. The Law of 1893: XVIII was a significant step towards the reform of civil procedure. It was a comprehensive reform of the *sommás* procedure, establishing a district court procedure based on verbal, non-verbal and the free consideration of evidence.

Dezső Szilágyi, Minister of Justice, had asked Sándor Plósz to prepare the draft bill on the Code of Civil Procedure. Plósz completed and slightly revised his earlier proposal of 1885. However, the draft, published in 1893 and submitted for discussion in 1895, was not submitted to the House of Representatives. Although Sándor Plósz was Secretary of the State for Justice in 1894, no progress was made towards a complete reform of civil procedure in the last decade of the 19th century.

It is a well-known fact that between 1903 and 1910, five governments and seven ministers of justice succeeded each other. As a result, the codification of civil procedure was not a priority for the government and the legislature during these years. The second Wekerle government, which had brought relative political stability to the country, tried again to reform the law of procedure. In 1907, the Minister of Justice, Antal Günther, again submitted a proposal based on the 1902 draft by Plósz. However, he made significant changes to the text of the draft. The draft bill only reached the House of Representatives' Committee on Justice. However, the debate was interrupted in 1908 after a few sections had been discussed.

Decades of procrastination ended in 1910-1911. On 16 July 1910, Ferenc Székely, Minister of Justice in the short-lived second Kluen-Héderváry government, submitted to the House of Representatives a bill on the Code of Civil Procedure, the fifth since 1885. The bill, which Sándor Plósz drafted together with Ármin Fodor and Gyula Térfy, did not differ significantly from the 1907 version. The Committee on Justice forwarded the 792-section bill to the House of Representatives with a favourable opinion.

The House of Representatives completed its deliberations on the bill in quickly, in just a few days. Both government and opposition speakers highlighted the outstanding role of the rapporteur, Sándor Plósz, in the reform of the Hungarian civil procedure law. The text adopted by the House of Representatives was discussed by the House of Lords on 20 December 1910. The House of Representatives approved the text of the draft without any changes or amendments. After its ratification on 8 January 1911, the first article of Act I of 1911 on the Code of Civil Procedure was promulgated in the same month. However, the law did not enter into force until years later, on 1 January 1915.

In the following year in, 1912, Sándor Plósz was awarded the Grand Prize of the Hungarian Academy of Sciences in recognition of his work in the drafting of the first article of the Civil Procedure Act of 1911, which can be considered the predecessor of the Academy Gold Medal, established in 1960 and awarded for the first time in 1961 by the Presidium of the Hungarian Academy of Sciences.

In the last decade of his life, in the 1920s, Sándor Plósz was preparing a major work on the development of the Hungarian law, including an international perspective, but his serious illness prevented him from working on the material.

From 1898, he was awarded the Order of Lipót, from 1899 he was an internal privy councillor, and from 1902 he was awarded the Order of the Iron Crown, first class. It is worth mentioning that Sándor Plósz was elected honorary citizen of Újpest. The celebration of his seventieth birthday in 1916 was a sign of respect for him.

At the Hungarian Academy of Sciences, Géza Magyary (1864-1928), a full member of the Hungarian Academy of Sciences, was a full professor of Roman law at the beginning of his teaching career, then of commercial law, the law of bills of exchange and civil law, who was also awarded the Grand Prize of the Hungarian Academy of Sciences posthumously in 1929, an honorary presentation was delivered in 1927, too.

In the second half of the 19th century and the first decades of the 20th century, Sándor Plósz was one of the most respected jurists in Hungary, especially in the fields of common law and litigation. His very wide-ranging works analysing a number of legal institutions and his outstanding work in the field of codification are of great value even in the first third of the 21st century.

Sándor Plósz's main works

- On the Law of Action. Magyar Igazságügy, 1876.
- Handbook of the Hungarian Law of Bills of Exchange. Budapest, 1877.
- Contributions to the Theory of the Right of Action. Magyar Igazságügy, 1879.
- Contributions to the Theory of the Right of Action. Leipzig, 1880.
- Reform of Civil Litigation. Budapest, 1883.
- Draft of the Hungarian Civil Procedure Code. Budapest, 1885.
- The Evidential Value of Private Documents, in Particular Their Form. Hungarian Justice (Magyar Igazságügy) 1886.
- The Hungarian Civil Code. Budapest, 1888.
- Draft of the Law on the Right of Appeal in the Sommás Procedure (draft Bill commissioned by the Royal Hungarian Minister of Justice). Budapest, 1889.
- Commercial Law (after lectures notes by Dávid Kohn). Budapest, 1890.
- Draft of the Law Amending Article XXII of Act No. 1877 on the Procedure in Small Claims. Budapest, 1890.
- Draft of the Law on the Hungarian Code of Civil Procedure (draft bill commissioned by the Royal Hungarian Minister of Justice). Budapest, 1893.
- Explanatory Memorandum to the Draft of the Hungarian Civil Procedure Code. Budapest, 1893.
- Hungarian Civil Law. Budapest, 1906.
- On Admission at Trial. Budapest, 1907.
- The Structure of Civil Proceedings in the New Code of Civil Procedure. Budapest, 1911.
- The Nature of the Legal Presumption. Rule of Law, 1912.
- The Code of Civil Procedure. Budapest, 1912.
- On the Burden of Proof. Budapest, 1916.

- Two lectures from the Hungarian Civil Procedure. Berlin, 1917.
- On the Reform of Legal Education. Budapest, 1922.
- Collected Essays of Sándor Plósz. Budapest, 1927.

GÉZA MAGYARY

Géza Magyary, jurist, university professor, full member of the Hungarian Academy of Sciences, was born on 16 September 1864 in Alsólóc (Bratislava County), he died on 9 October 1928 in Budapest. In recognition of his scientific work, he was elected a corresponding member of the Hungarian Academy of Sciences on 12 May 1905. Following his election as a Corresponding Member, he gave his inaugural lecture entitled “Newer trends in international procedural law” („Újabb irányzatok a nemzetközi perjogban”) on 10 December 1906. The lecture was published as an abstract in volume 13 of the series “Lectures from the Social Sciences” (Értekezések a Társadalmi Tudományok köréből) in the Academic Bulletin in 1907. He was elected a full member of the Academy on 3 May 1917. After his election as a full member, he delivered his inaugural lecture entitled “International adjudication in Hungarian law” („A nemzetközi bírászkodás a magyar jogban”) on 8 October 1917. The abstract of the lecture was published in volume 2 of the series “Lectures on Philosophy and Social Sciences” (“Értekezések a Filozófiai és Társadalmi Tudományok köréből”) in the Bulletin of the Hungarian Academy of Sciences (Magyar Tudományos Akadémia Értesítőjében) in 1918.

It is definitely worth mentioning that Géza Magyary was awarded the posthumous Grand Academy Prize by the Hungarian Academy of Sciences in 1929 for his outstanding scientific work. By way of comparison, this exceptional award, which is bestowed on only a few academics, can be compared to the Academic Gold Medal, established in 1960 and awarded for the first time in 1961 by the Presidium of the Hungarian Academy of Sciences. It should also be mentioned that Géza Magyary was elected a full member of the Szent István Academy in 1916.

He was also a member of the Board of the Hungarian Lawyers’ Association. He held a number of highly attended lectures in the Litigation Section of the Hungarian Bar Association, of which he also served as President.

Géza Magyary’s father was Mihály Magyary, his mother Anna Kákonyi. It is worth mentioning that Géza Magyary was the uncle of Zoltán Magyary (1888-1945), an internationally renowned scholar and teacher of administrative law.

Géza Magyary continued his secondary school studies in Nagyszombat, at the prestigious Archbishop’s Catholic High School where he also passed his school examination. He began his higher education at the Royal Academy of Law in Bratislava. After moving from Bratislava to Budapest, he continued his studies at the Faculty of Law and Political Science of the Budapest University of Sciences, receiving his doctorate in law in 1887. In order to broaden his professional knowledge, he spent extended periods of study in France and Germany.

Between 1887 and 1889, he worked as a trainee lawyer, then for a short time he was a law clerk at the Royal Court of Budapest. He later passed the bar exam in Budapest as a teacher at the Reformed Law Academy in Kecskemét, where his friend Béla Szászy (1865-1931) -

who was elected a corresponding member of the Hungarian Academy of Sciences shortly before his death on 15 May 1931 - was a fellow teacher.

His academic teaching career began in 1890. From 1890 to 1893 he was a teacher of Roman law at the Reformed Law Academy in Kecskemét. In 1892 he published his work on Roman law, “On liability for damages based on misconduct.”, based on both secondary literature and a thorough exegesis of the sources.

In his works, Géza Magyary often referred to institutions known in Roman law and also took into account the Hungarian legal historical tradition. He also followed the legal traditions of European states, carefully studying and presenting the latest findings of foreign literature.

From 1893 to 1905, he taught commercial law at the Law Academy in Oradea, as well as promissory and litigation law. In 1895 he was qualified (habilitated) as a private lecturer in commercial law at the Budapest University of Sciences. In 1905, he became an extraordinary public lecturer in civil law at the Budapest University of Sciences. In 1907 he was appointed full professor on the subject. He taught civil law in Budapest until his death which was in 1928. In the academic year 1909-1910 he was also Dean of the Faculty of Law and Political Science.

At the beginning of his career, Géza Magyary was mainly involved in commercial law, the settlement of monetary claims (securities, bills of exchange, cheques) and certain aspects of insurance law. As a jurist, he later dealt with questions of private law, especially civil procedure, taking into account the results of European jurisprudence, especially German, French and Italian.

His nearly thousand-page work on Hungarian civil procedural law, published in 1913, was for decades considered a fundamental work. More than a decade after the author’s death, the work was revised by Endre Nizsalovszky (1894-1976) and published in a third edition in 1940.

It is important to note that in 1920, Géza Magyary edited the series of publications entitled the *Tára Civil Law* (*Tára Polgári Törvénykezési Jog*) was launched. In addition to a comprehensive examination of domestic and international civil and criminal procedural law, Géza Magyary also dealt in depth with several important issues of these branches of law, such as the rules of procedure, admissions, appeals and review.

During the years of World War I, Géza Magyary was involved in the Central European Economic Association. He wrote on Hungarian-Bosnian economic relations and the legal tasks that could be carried out in the East to promote economic interests. There is little knowledge of that he played a major part for the legal preparation of Law XVII of 1916, which provided for the recognition of the Islamic religion.

It is definitely worth mentioning that Géza Magyary took an active part in the work of the Higher Education Association. The Higher Education Association, which is unfortunately only known to a small circle of people today, was founded in 1911 on the initiative of Frigyes Medveczky (1855-1914), a full member of the Hungarian Academy of Sciences, who also studied law at the Budapest University of Sciences, on the model of the French *Société de l’Enseignement Supérieur*. Frigyes Medveczky was also President of the Association for Higher Education.

The Association of Higher Education was made up of 350 public full professors from higher education institutions in Hungary. It is worth noting here that it would be desirable to prepare an overview of the Hungarian history of quality assurance in higher education, universities and colleges in Hungarian and in foreign languages, which, regrettably, has not yet been done.

We should also mention the so-called Science Emergency Committee (Tudománymentő Bizottságot), which was established in the autumn of 1922 on the initiative of Géza Magyary and modelled on the German organisation (Notgemeinschaft der Deutschen Wissenschaft), which had a similar function. The chairman of the Committee was Albert Apponyi (1846-1933), a highly respected member of the board of the Hungarian Academy of Sciences. The Commission was to operate for three years.

The task of the Association for Higher Education and the so-called Science Emergency Committee was primarily to ensure quality in the field of science in Hungary, which was facing serious financial problems.

Géza Magyary published several studies - among others - in the Legal Gazette (Jogtudományi Közlöny) between 1894 and 1918. The Legal Gazette published, to mention only a few, "The powers of the representatives of the general partnership, The New German Code of Civil Procedure (1899), The Role of the Royal Prosecutor's Office in Civil Procedure 1-2 (1903), Comments on the Draft Code of Civil Procedure 1-2 (1910), Kornél Emmer (1912), On the Verge of Enforcement of the New Civil Procedure (Az új polgári perrend életbeléptetésének küszöbén) (1915) and his works on Scientific procedural law (1918).

After the First World War, Géza Magyary took an active part - representing Hungary - in international scientific life. He was the only Hungarian member of the Institut de Droit International.

Tihamér Fabinyi (1890-1953), a jurist and politician, who was elected as a member of the Board of Directors of the Hungarian Academy of Sciences on 11 April 1940, delivered a memorial speech on Géza Magyary at the plenary session of the Hungarian Lawyers' Association on 20 October 1929. Béla Szászy, a friend of Géza Magyary and for many years a colleague and President of the Hungarian Lawyers' Association, gave the opening and closing remarks.

János Vinkler (1886-1968), a corresponding member of the Hungarian Academy of Sciences, and a full professor of Hungarian Civil Law at the University of Pécs, delivered the memorial lecture.

Géza Magyary, a versatile, outstanding scholar of Hungarian and international civil procedural law, was one of the most respected jurists in Hungary in the first decades of the 20th century, especially among the scholars of private law and litigation. His works, which cover a very wide range and analyse numerous legal institutions, are of considerable value even in the first half of the 21st century.

Main works of Géza Magyary

- The Legal Succession of Relatives in Our Law Before 1848 (A rokonok törvényes öröklési rendje 1848 előtti jogunkban). Magyar Igazságügy 1890.
- On Liability for Damages Based on Misconduct (A vétségen alapuló kártérítési kötelemekekről). Kecskemét, 1892.
- The Publishing Deal (A kiadói ügylet). Budapest, 1893.
- A cheque. Budapest, 1895.
- The Quality and Powers of Representation of Insurance Agents (A biztosítási ügynökök képviseleti minősége és jogköre). Budapest, 1896.
- The Basic Doctrines of Hungarian Civil Procedure: The Doctrine of Actions in Law-suits (A magyar polgári peres eljárás alaptanai: A perbeli cselekvések tana). Budapest, 1898.
- International aspects of Hungarian Civil Procedure: International Civil Procedure (A magyar polgári perjog nemzetközi vonatkozásai: Nemzetközi polgári perjog). Budapest, 1902.
- Securities in the Draft Civil Code: Additions to the Council of Deeds (Értékpapírok a polgári törvénykönyv tervezetében: Adalékok az okiratok tanához). Budapest, 1902.
- Admission at Trial (A perbeli beismerés). Budapest, 1906
- New Directions in International Procedural Law (Újabb irányok a nemzetközi perjogban). Budapest, 1907.
- Preparation of an International Treaty on the Enforcement of Authentic Instruments Between Hungary, Austria and Germany (A közokiratok végrehajtása tárgyában Magyarország, Ausztria és Németország közt kötendő nemzetközi szerződés előkészítése). Budapest, 1909.
- Hungarian Civil Procedure Law (Magyar polgári perjog). Budapest, 1913.
- Law Enforcement Assistance between Hungary and Austria (A végrehajtási jogsegély Magyarország és Ausztria közt). Budapest, 1914.
- The Guiding Principles of Contemporary Justice (Korunk igazságszolgáltatásának vezéreszméi). Budapest, 1914.
- The Legal Nature of Legal Presumptions (A törvényes vélelmek jogi természete). Jogállam, 1914.
- The Peace Movements and the World War (A békemozgalmak és a világháború) . Budapest, 1915.
- Reforming our Legal Education (Jogi oktatásunk reformja). Jogállam, 1915.
- Law Enforcement Assistance Between Hungary and Germany (A végrehajtási jogsegély Magyarország és Németország közt). Budapest, 1916.
- Compulsory Compensation Outside Bankruptcy in Hungary (Der Zwangsausgleich ausserhalb des Konkurses in Ungarn). Zeitschrift für das gesamte Handels- und Konkursrecht 1916.
- International Adjudication in Hungarian Law (A nemzetközi bírászkodás a magyar jogban). Budapest, 1917.
- Our Legal Work in the East (Jogi feladataink Keleten). Budapest, 1917.

- International Adjudication in Hungarian law (A nemzetközi bírászkodás a magyar jogban). Budapest, 1917.
- International Adjudication (A nemzetközi bírászkodás). Budapest, 1918.
- Compulsory Settlement Outside Bankruptcy in Croatia and Slavonia (Zwangsausgleich ausserhalb des Konkurses in Kroatien und Slavonien). Zeitschrift für das gesamte Handels- und Konkursrecht 1918.
- Academic Civil Procedure (Tudományos polgári perjog). Jogtudományi közlöny 1918.
- Hungary and the League of Nations (Magyarország és a Nemzetek Szövetsége). Jogállam 1920.
- Szász-Schwarz Gusztáv. Hungarian Law Review 1920.
- Reform of the League of Nations (A Nemzetek Szövetségének reformja). Magyar Jogi Szemle 1920.
- International Arbitration in the League of Nations (Die internationale Schiedsgerichtsbarkeit im Völkerbunde), Berlin, 1922.
- Rules of procedure relating to the protection of minorities. Project presented to the International Union of Associations for the League of Nations by the Hungarian Society of Foreign Affairs in Budapest. (Règlement de procédure relative à la protection des minorités. Projet présenté à l'Union Internationale des Associations pour la Société des Nations par la Magyar Külügyi Társaság à Budapest). Budapest, 1923.
- Hungarian Civil Procedure Law. Second Revised Edition (Magyar polgári perjog. 2. átdolg. kiadás). Budapest, 1924.
- Revised draft of a procedural regulation relating to the protection of minorities presented by the Hungarian Society for Foreign Affairs and for the League of Nations (Projet révisé d'un règlement de procédure relative à la protection des minorités présenté par la Société hongroise des Affaires étrangères et pour la SdN). Budapest, 1925.
- On the Question of Compulsory International Arbitration (Zur Frage der internationalen obligatorischen Schiedsgerichtsbarkeit). Deutsche Juristenzeitung 1925.
- The Hungarian Academy of Sciences and Hungarian Jurisprudence (A Magyar Tudományos Akadémia és a magyar jogtudomány). Budapest, 1927.
- Yearbook of Italian law comparison and law preparation (Az olasz jogösszehasonlítás és törvényelőkészítés évkönyve). Jogállam, 1927.
- In Honour of Sándor Plósz (Plósz Sándor emlékezete). Budapest, 1927.
- Jurisdiction of the Permanent Court of International Justice (La juridiction de la Cour permanente de justice internationale). Paris, 1928.
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KÁROLY SZLADITS (1871-1956)

The Hungarian legal community knows Károly Szladits as one of the founders of modern Hungarian private law in the 20th century and as for his personality named for establishing scientific schools. Károly Szladits was an outstanding legal scholar of the first half of the 20th century, both in Hungary and internationally, whose work has given and continues to give guidance to the present and future generations of lawyers. Károly Szladits was born on 27 December 1871 in Dunaszerdahely (in today's Slovakia). He studied law in Budapest. On the basis of a decree issued by the Minister of Religion and Public Education in 1893, he was the first person to be awarded the title of Doctor of Laws *sub auspiciis Regis* on 12 October 1895, in the ceremonial hall of the Hungarian Academy of Sciences.¹ His doctoral thesis, entitled *On the Taxonomy of Private Subject Laws (Alanyi magánjogok rendszertanához)*, analyses the complex issue of the distinction between the law of property and obligations.² In 1896 he became a member of the committee set up to prepare the Civil Code. He took an active part in the work of the committee for several decades until 1928, when the Hungarian Private Law Bill was drafted.

During his university teaching career he obtained his first private teaching qualification in Hungarian private law at the Royal Hungarian University of Sciences in Budapest. In 1917, as the successor of Mór Katona as a full professor, the *venia legendi* (authorization to teach) was extended to his lecture on Austrian private law (*österreichisches Privatrecht*).

It is worth mentioning that Károly Szladits was appointed as a full professor with the title and character of Ministerial Advisor to the Minister of Justice (Eckhart, 1936:624). From 1917 to 1942 he was a full professor at the University of Budapest (from 1921 the Royal Hungarian Pázmány Péter University) for 36 years. He regularly published annual reports on the latest developments in legal practice in the columns of the prestigious professional journal *Jogállam*. He held the post of Dean of the Faculty of Law and Political Sciences and, after its expiry, the post of Provost for one year.

It is worth noting that, at the recommendation of Oszkár Jászi³, Mihály Károlyi offered the Ministry of Justice to Károly Szladits, who took a role in the autumn of 1918, during the "Aster Revolution (sometimes referred to as the so called Chrysanthemum Revolution)". Having learned of the assassination of Count István Tisza before the inauguration ceremony, Szladits immediately resigned from the office and the portfolio (Asztalos, 1973:82). On 22 January 1919, he declared that he wished to *see 'representatives of the New World here'*, and he was secretary of the Association of College Teachers, and regularly discussed issues of judicial codification with Zoltán Rónai, the People's Commissar for Justice, a member of the Revolutionary Governing Council. In view of this relationship, he was suspended from teaching for the 1919/20 academic year.⁴

This is most probably the reason why Bálint Kolosváry, who was appointed as a full professor years later, in 1928, was elected dean in the academic year 1930/31, ahead of Károly Szladits, who only took up this post in 1931/32. This happened even though Szladits was not involved in political life, his public activities were related to science. Irrelevant in our view is the fact that Szladits was also a member of the Twentieth Century Journal (*Husza-*

dik Század), which was launched in 1900, and of the Social Science Society (Társadalomtudományi Társaság), which was founded in 1901.

In the period between the two world wars, private law was taught by two full professors at the Royal Hungarian University of Pázmány Péter Tudományegyetem Budapest, which took the name of Eötvös Loránd in 1950: Bálint Kolosváry and Károly Szladits. Endre Nizsalovszky took over the teaching of private law from Szladits the following year, in 1943.

At the beginning of the 20th century, the teaching of civil law began with Roman law in year I (eight hours per week), followed by economics in year II and private law in year III. In year III there were two private law colleges, 5-5 hours each semester, one of which was *Hungarian Private Law with reference to the Austrian Civil Code* (general doctrines, personal and property law), while the other was *Hungarian Private Law II* (contract law, family and inheritance law). Interestingly, Hungarian Private Law I was given by Szladits⁵, and generally covered much less Austrian private law than Kolosváry, who gave Hungarian Private Law II. In Year IV, students studied Commercial Law and the Law of Bills of Exchange, and Hungarian Civil Law, both 5-5 hours per week.⁶

Károly Szladits and his school considered liberal capitalist private law as real private law. The influence of Gusztáv Szászy-Schwarz can also be seen in his academic work.⁷ Szladits' relationship with Gusztáv Szászy-Schwarz, whom Szladits⁸ called '*the only true great Pandekta jurist*', is characterised by the fact that Szladits was a pupil of the Roman jurist together with Géza Marton. Szászy-Schwarz's way of thinking, that Roman law should be presented '*in its present validity*' (Hamza, 2001:2), became characteristic of Szladits in relation to Hungarian private law.

Károly Szladits's role model and teacher at the university was⁹ Béni Grosschid (Benő Zsögöd), who took up the fight to defend Hungarian law, which had undoubtedly become obsolete in the 1848 civil revolution, and saw in it the chance of further progress, which had to be established as a new Hungarian private law in contrast to German law (Asztalos, 1973:75). Szladits respected him as the master (Weiss, 2006:112), the true *praeceptor Hungariae*. However, Szladits did not become Grosschid's epigone (Asztalos, 1973:74-76), and '*Szladits's style was almost Grosschid's concave-convex*' (Asztalos, 1973:82). Grosschid, who Gusztáv Szászy-Schwarz described as a "*temperamental retrograde*" (Eckhart, 1936:83), was undoubtedly a distant personality, writing only academic works, not textbooks. He did not develop close relationships with his students, the only exception being Szladits. While Grosschid thus had only indirect disciples, Szladits created a real school. He had the unsurpassed merit of translating the ingenious, but at the same time difficult to read and not very fluent, ideas of Grosschid into a form that was comprehensible and easy to learn. It is worth recalling the principles that Szladits advocated in his codification of private law. His view of the Civil Code is that '*Our code, can have no more beautiful and noble task than to provide a framework for our judicial practice which regulates, but does not prevent the heartbeat*'.¹⁰

Szladits compiled the court practice, republished Grosschid's *Chapters* and added *glossaries* to them, and took upon himself the editing and partial writing of the six-volume work "*Great Szladits*" (*Nagy-Szladits*). In his work entitled "*Outline*" (*Vázlat*), he laid down a systematic,

comprehensible and readable foundation for the institutions of private law. His collection of Judicial Practice in Private Law (Magánjogi bírói gyakorlat) (Szladits, 1928) should be highlighted, he edited the Private Law Arbitration Library (*Magánjogi Döntvénytár*) starting with Volume IX. Szladits's works are also taken into account in many cases by lawyers today, and it is not uncommon to find references to his works in civil litigation, pleadings and court decisions. Together with László Villányi (Fürst), he compiled *The Hungarian Judicial Practice. Private law. I-II. (A magyar bírói gyakorlat. Magánjog I-II)*¹¹ furthermore, edited, with Villányi and Miklós Ujlaki, the volume on the *Law of Obligations (Kötelmi jog)* published by Grill in *Hungarian Laws and Regulations (A magyar törvények és rendeletek)*.¹²

Károly Szladits was elected a corresponding member of the Hungarian Academy of Sciences in 1932, and 11 years later, in 1943, a full member. As a sign of his exceptional esteem, he was elected an honorary member of the Hungarian Academy of Sciences (MTA) in 1948. He was actively involved in the work of the Hungarian Lawyers Association and the Law Section of the Hungarian-Soviet Society. Due to his linguistic skills his academic achievements were appreciated in French and English academic circles. He was an internationally known and respected jurist. In the encyclopaedia of portraits of jurists edited by Michael Stolleis (Juristen, 2001), a total of ten Hungarian lawyers (jurists) are listed: István Werbőczy, Ignác Frank, Károly Csemege, Béni Grossschmid, Gusztáv Szászy-Schwarz, Géza Marton, Bódog Somló, Ferenc Deák, Bertalan Szemere and Károly Szladits.

In addition to the German influence, the Szladits school also attaches great importance to other laws, for example Anglo-Saxon laws. The Szladits school included, among others, his son, Károly Szladits, Jr., Kornél Zalán, Imre Zajtay, György Csanádi, Gyula Eörsi, Miklós Világhy and Andor Weltner. The opposite pole of the Szladits school was the predominantly conservative school represented by Bálint Kolosváry, which adhered to the Grossschmid tradition. After the First World War, Károly Szladits' works were known and cited by lawyers in the Carpathian Basin who were well versed in the Hungarian language. This influence can still be detected in the third decade of our century, although it would undoubtedly require further research.

The members of the Szladits school expressed their gratitude to their master in a collection of essays¹³ entitled *Festive Essays (Ünnepi dolgozatok)*, published in 1937, which, with a partially changed authorial team, they will do again on the occasion of the 70th anniversary of his birth.¹⁴ As a member of the Hungarian Academy of Sciences, Section II, on the recommendation of the Section, he was awarded the László Szalay Prize in 1948, which was a serious recognition of authors of works on law, philosophy and national economy (Soltész-Soltész, 2017).

It is noteworthy that in 1953 Károly Szladits was the first to be awarded the Kossuth Prize for as a lawyer. His individuality also influenced his private life. Károly Szladits provided peace of mind and a hiding place for Mária Székely Küllőiné, a diaconal translator and interpreter, at his house at 7 Érmellék Street, for the translation of the so-called Auschwitz Protocol into Hungarian.¹⁵ With regard to Szladits' influence on non-lawyers, it is also worth mentioning the psychologist György Hunyady, a full member of the Hungarian Academy of Sciences, who lived in the same house as Károly Szladits in the 1950s. György Hunyady was

asked by Szladits' wife to organise the professor's library, and it was in the course of this work that György Hunyady found the works of Gyula Kornis (History and Psychology), which influenced his decision to pursue a career in psychology.

The motto of the life of Károly Szladits, who died on 22 May 1956, in the 85th year of his life, can be summed up in the words of László Asztalos: "A professor should not be *proud of what he has achieved, but of the fact that he has students who surpass him*" (Asztalos, 1973:93). In our view, Károly Szladits' dedicated love for jurisprudence and legal education, his school-establishing work, is faithfully reflected in this statement in the third decade of the 21st century.

NOTES

- ¹ In the same year, Lóránt Hegedűs was also awarded the title of Doctor of State Sciences „sub auspiciis Regis”. F. Eckhart: History of the Faculty of Law and Political Science 1667-1935 (*A jog- és államtudományi kar története 1667-1935*). In: *A királyi magyar Pázmány Péter Tudományegyetem története* (The History of the Royal Hungarian Pázmány Péter University), Budapest, 1936, 641, o. For the award of a doctorate, see the recent Hungarian literature: Hamza G. - Hoffman I. : *Antecedents and current situation of honorary doctorate in Hungarian and Austrian legal education* (*A kitüntetéses doktorraavatás előzményei és mai helyzete a magyar és az osztrák jogászképzésben*). Magyar Tudomány (Hungarian Science) 2014, p.152-157,
- ² Revised from K. Szladits: *Property and Obligations Law (Dologi és kötelmi jog)*. Appeared in the Legal Studies Bulletin (Jogtudományi Közönyben jelent meg) 1895/42.
- ³ For a summary of Oszkár Jászi, see G. Hamza: Europeanism and Oszkár Jászi's worldview (Európaiság és Jászi Oszkár világszemlélete). *Law Journal (Jogtudományi Közöny)* 67, (2012) pp. 83-86.
- ⁴ Of the seven lawyers who were subject to disciplinary proceedings, the Certifying Committee recommended disciplinary proceedings against Professors Kmety, Szladits and Pikler, while it expressed regret for the behaviour of Professors Grosschid, Plósz, Magyary and Illés, but disciplinary proceedings were initiated against all of them. See L. Asztalos, *A civilisztika ...* sgd. p.19.
- ⁵ Last time in the school year 1942/43. Before that, in the academic year 1941/42, Bálint Kolosváry was the lecturer of this subject. See L. Asztalos, *op. cit.* p. 14.
- ⁶ See in this connection in detail ASZTALOS L. : *Op. cit.* sgd. p. 8.
- ⁷ Here we refer to the fact that SZLADITS was also documented of being friends with the eminent legal philosopher Bódog Somló (kindly published by Péter Takács in his „Addition to the commemoration of Charles Szladits” („Adalék a Szladits Károllyal kapcsolatos megemlékezéshez”).
- ⁸ K. Szladits: *The memory of Gusztáv Szász-Schwarz (Szász-Schwarz Gusztáv emlékezete)*. Kecskemét, 1934. p. 9.
- ⁹ For Grosschmid's work see E. Weiss : *Béni Grosschmid*. In *Hungarian Jurists III (Magyar jogtudósok III)*. ed. by G. Hamza. Budapest, 2006. sgd. p. 99.
- ¹⁰ Nizsalovszky E. : *Op. cit.* p. 273.
- ¹¹ Budapest, 1935.
- ¹² Budapest, 1934.
- ¹³ *Festive essays on the occasion of the 30th anniversary of Dr. Károly Szladits' university teaching (Ünnepi dolgozatok dr. Szladits Károly egyetemi tanári működésének harmincadik évfordulója alkalmából)*. Budapest, 1937. 112 p.
- ¹⁴ *Festive papers for the 70th birthday of Dr. Károly Szladits, professor (Ünnepi dolgozatok dr. Szladits Károly egyetemi tanár 70. születésnapjára)*. Budapest, 1941.
- ¹⁵ See also: *Hős az, aki legyőzi a félelmet. Történet egy tolmácsról, aki találkozott a történelemmel [A hero is one who overcomes fear. A story of an interpreter who met history]* (by Dr. Lászlóné Küllői Rhorer). Európai kulturális füzetek, 1987.

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