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SUMMA

IL CONCETTO DI *'IUS COMMUNE'* DELL'APPROCCIO DI JÁNOS ZLINSZKY

Dorottya Andrási

L'approccio e la metodologia del nostro carissimo professore, di János Zlinszky riflettono nei risultati sulla ricerca di ius commune europeo. Non é stato caso, che il professor Zlinszky é presentato le sua tesi di dottorato nel 1983 con il titolo *Le fonti e la letteratura del diritto privato ungherese del XIX. secolo*. Il professore Zlinszky nelle sue ricerche la storia e del diritto privato europeo é collegato con la presentazione al pubblico delle caratteristiche dello sviluppo giuridico ungherese. Il nostro professore é rivelato nei saggi diversi che la 'mancanza' della recepzione di *ius commune* nel Regno Ungherese non é vero, infatti, le norme di diritto interno (*ius proprium*) e di diritto commune europeo (*ius commune*) si completavano a vicenda. Il professore Zlinszky nelle sue ricerche e negli articoli é presentato la possibilitá di collegare la tradizione giuridica europea e contemporanamente ungherese. Il suo personaggio e *l'oeuvre* intellettuale sempre rimane un esempio professionale e personale per noi.

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THE EARLY ROMAN PUBLIC LAW

The Immigration Politics of the Early Roman State and the Asylum

István Bajánházy

As tribute to the living memory of my dear tutor and fellow-college János Zlinszky, I examine one problem out of his favorite research-field that is the early roman public law. As first step it needs to examine the writings of the ancient historians as a scientific source. We can recognize that even the most incredible stories (e.g. the Minotaurus-strory) might have a true basis, so we can be generally accept and use these writings as a research-source.

In the major part of my paper I examine the immigration politics of the early Roman state. I have the point of view – as my tutor had as well – that Rome was expressively founded and the founding of the city meant the founding of the Roman

state as well. The founding time of the city of Rome is given by the historians as an exact time: the 21.th of April 753 B.C. The city was founded by a group of outlaws and robbers; they were very few in number. So the very first problem was to increasing the number of inhabitants.

As first step, Romulus the leader opened a sanctuary under the protection of the god Asylum on the Capitol-hill. So everybody, even slaves and fugitives, were welcome to there and great number of refuges jointed to the originally founders. The number of the inhabitants reached not the number of thousand men. Soon after (4 month or 1 or 4 years after the founding according to the historians) the second problem arose: the want of women. The fugitives were mainly single men, and the surrounding villages gave them no right for intermarriage. The rape of the Sabin-women is well known in the literature, but it happened in two main steps indeed: first the rape only few women (it might be the well-known number of 30) from one village (*Caenia*), that followed the free immigration of these families and other women from the other two villages (*Crustumerium, Antemnae*) and the total number of new-coming women could be estimated according to the historians between 527 and 683. The second and much greater growth come after the peace with the Sabin's king Tatius and so the number of the Romans had been doubled. The number of the army extended from 3000 to 6000 men and the number of the Senate had been doublet as well. But soon after the immigration of the Sabine peoples the possibility of the free immigration had been closed and a new method came in use: the inhabitants of the defeated surrounding villages had been transported to Rome and the villages had been destroyed. This was a very extensive method of grooving, the number of the inhabitants of Rome increased rapidly and in the same way the number of the potential enemies decreased. But this way had been closed soon: Rome could not supply too much inhabitants and the new conquered villages situated too far, so it was more adequate way to set there a number of Roman as colonist, so it began the colonization of Italy. Parallel a new method came into use: the state of Rome gave an opportunity for immigration only exceptionally both for individuals and communities as a reward for some deed for Rome. But the rewarded had the right to reject that.

So we can recognize a clear developing in the immigration politics of the early Roman state: first the free immigration, which based only on the will of the immigrants (asylum and the incorporation of the Sabine-tribes), second the obligatory incorporation of the inhabitants of the defeated villages near by the city of Rome, which based only on the mind of the Roman state, and third the immigration based on the consensus of the two parties: the Roman state offered the possibility of immigration and the second part could decide free whether he accept or reject this offer.

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DIE STRAFRECHTSDOGMATIK UND DIE RÖMISCHE RECHTSWISSENSCHAFT

Im Spiegel der Forschungen von Janos Zlinszky

János Jusztinger

Es ist unzweifelhaft, dass die römische Jurisprudenz im Bereich des Strafrechts eine weitaus weniger Rolle spielte, als im Privatrecht. Die strafrechtlichen Regelungen erschienen nämlich in erster Linie gegen die kasuistische *ius privatum* als normative Vorschriften, die die rechtswissenschaftliche Interpretation minder erforderten. Deswegen begnügten sich die antiken Rehchtsgelehrte mit der Beschreibung und präzisen Abgrenzung der rechtlich relevanten Tatbestände, ohne diesen eine abstrakte Benennung gegeben zu haben. Trotzdem ist der Wille vielleicht nicht selbstzweckig, die in Einzelfällen getroffenen Entscheidungen der antiken Juristen mit den Grundbegriffen der modernen Strafrechtsdogmatik zu vergleichen, und dadurch solche theoretische Folgerungen zu ziehen, mit deren Hilfe der „Allgemeine Teil" des römischen Strafrechts weitgehend und systematisch dargelegt werden kann. Das wichtigste Ziel der Untersuchung ist darauf hinzudeuten, dass die Analyse der strafrechtlichen Fragen im römischen Recht geradeso wohlbegründet und lehrhaft ist, wie die der privatrechtlichen.

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MAN-IDEAL, GAUGE OF BEHAVIOUR, LIABILITY

Balázs Landi

Our investigation shows that the social basis for civil law liability is the opportunity for alternative choice. The error of the subject (person) is having chosen the poor alternative. It makes no difference if this choice was deliberate, negligent, unlawful, or anything else if there had been a chance to make a choice. If it had been possible to act differently, then the subject is liable. The point of departure in civil law in determining liability is the fact that damage was caused. But the basis for liability is violation of the legal norm that prohibits causation of damage. Therefore it is illegality. So, the problem of liability shifts from guilt to an entirely different plane. It no longer examines whether the damage was the outcome of a fault or illegal action but whether the legal entity violated rules that prohibit causing damage and had it been possible to avoid taking that route; in other words, could the legal entity have chosen a lawful behaviour, have chosen not to have caused the damage. If there had been a choice between a lawful and unlawful alternative, the legal entity is responsible for the unlawfully caused damage.

JÁNOS ZLINSZKY, DER ETHISCHE MENSCH

Tamás Lábady

Die Erinnerung zeichnet Professor Zlinszky anhand eines seiner letzten großen Werke, Közéleti-jogászi etika a gyakorlatban (Ethik des öffentlichen Juristen in der Praxis), mit dem Bild des Wissenschaftlers in seiner menschlichen und juristischen Größe und in der Bescheidenheit und Demut des ungarischen Genius. Das Buch ist das leidenschaftliche Credo eines intellektuell ethischen Menschen über die Verfassungsmaßigkeit, das Recht und die Gerechtigkeit, die Freiheit und menschlichen Moral, über transzendente und menschliche Werteordnung, weltanschauliche und politisch Bindung, und über die Harmonie von individueller Sehnsucht und gemeinschaftlicher Bindung.

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VALUE AND FREEDOM

Our responsibility for shaping the dynamic balance of copyright

Anett Pogácsás

"To my mind, copyright ought to be about liberating us from ignorance, enriching our culture and therefore the idea of copyright and freedom existing side by side as partners is a natural fit not an aberration" – we have to agree with these words of Brian Fitzgerald. This study points out that it is our responsibility to achieve this ambition in practice, in all the areas covered by copyright law. As János Zlinszky stressed, it is our calling to make our own efforts with the toolbar of our profession and stand where infringement is observed. Accordingly, the European Commission emphasizes that we need to promote innovation for the benefit of consumers, service providers and right holders in the same time, where both the freedom to provide and to receive services shall be ensured. To achieve this aim copyright is an important tool: we cannot forget that although not only on copyright law stands or falls the matter of culture, but it has a great role in it, so our responsibility is enormous for shaping the dynamic balance of copyright.

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JÁNOS ZLINSZKY AND THE ROMAN PUBLIC LAW

Attila Pókecz Kovács

In the oeuvre of János Zlinszky the research of Roman public law played a significant role. The aim of this short study is the review of one outstanding work from his public

law publications, the „*Ius publicum*" volume, which was published in 1994 as the part of the Osiris-Századvég Könyvtár series. Zlinszky interpreted Roman public law in wider conception. According to his conception: in Roman law every legal relations, in which the Roman State, the magistrate or the state power take part, come under the public law. The consequence of this interpretation can be seen in the structure of his work as well, thus it is divided into nine bigger parts: I. The ancient Roman State, II. The Roman *respublica*, III. Legal system, IV. The procedures of *ius publicum*, V. Personal law, VI. Property law , VI. Law of obligation, VIII. „The law of war and peace", IX. The empire's public law. The Roman public law lifework of János Zlinszky is maintained by the academic research of his students in Budapest, Debrecen and Miskolc.

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CROSS-BORDER MARRIAGES AND THE PROTECTION OF HUMAN RIGHTS

Katalin Raffai

In this paper interaction between the rights guaranteed in the European Convention of Human Rights (ECHR) and private international law has been presented by examining the selected case law of the European Court of Human Rights. The autor has focused on the impact of the Articles 8, 12 and 14 ECHR on the main questions of the international name and marriage case law.

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JUDGE JÁNOS ZLINSZKY DISSENTING

Balázs Schanda

Dissenting and concurring opinions delivered by Constitutional Court judges constitute a significant part of their judicial work. Dissents reflect the personal conviction of the judge whereas judgements and reasoning may be determined by compromises. János Zlinszky has served as one of the first members of te Hungarian Constitutional Court. János Zlinszky has filed close to fifty dissents during his eight years mandate. This large number of dissents are characterized by a deep commitment to the rule of law, to justice and equity as well as an endorsement of social responsibility and the protection of the institution of marriage and family. Dissenting opinions remain testimonies of great legal thinker who had the ability to bring down theory to practice.

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EINE UNVOLLENDETE AUFGABE: UNIVERSITÄTSBESUCHE IM AUSLAND UND DAS UNGARISCHE RECHTSKULTUR IN DER FRÜHEN NEUZEIT

Béla P. Szabó

Der Vortrag, dessen Schriftfassung hier vorliegt, versucht ein von Professor János Zlinszky vor fast 30 Jahren initiierten Forschungsvorhaben bezüglich solcher ungarnstämmigen und siebenbürgischen Studenten, die in 16.-18. Jahrhundert in west- und südeuropäischen Universitäten Jura studiert haben, vorzustellen. Es werden neben den wichtigsten Ergebnissen des Projektes (ein Datenbank mit etwa 1000 Namen mit Angaben über Abstammung, Studien, berufliche Laufbahn und literarisches Wirken der Studenten, sowie eine Sammlung von etwa 180 gedruckten Dissertationen und Disputationen der Peregrinanten) auch die schwerwiegenden methodischen Schwierigkeiten des Vorhabens (wegen der Unvollständigkeit der Quellen und der Unabschließbarkeit der Sammelarbeit) erörtert. Es wird immerhin gezeigt, dass das ungarische Rechtsleben in der frühen Neuzeit die Kontakte zur europäischen Rechtswissenschaft auch durch die Ausbildung eines Teiles der Rechtskundigen aufrechterhalten konnte.

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FREEDOM OF THOUGHT IN JURISPRUDENCE AND JUDICIAL PRACTICE

Krisztina Széplaki-Szabó

Professor János Zlinszky was both an excellent scholar and an exceptional person. He taught his students not only how to be a lawyer but also how to lead one's life when being a lawyer – and his life itself was the best example to them all. His saying „even against the ruling of the Supreme Court – I could think otherwise" made a big impression on all of his students, who use this and all the other guidelines established by him in their practice and research.

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A *TRIPARTITUM* ZAVARTALAN BIRTOKLÁSSAL KAPCSOLATOS DOLOGI JOGI INTÉZMÉNYEINEK VIZSGÁLATA A RÓMAI JOG ÉS A KÁNONJOG ÖSSZEHASONLÍTÓ ELEMZÉSÉBEN: AZ *USUCAPIO* INTÉZMÉNYÉTŐL A *PRAESCRIPTIO* JOGINTÉZMÉNYÉIG

Völgyesi Levente

Jelen tanulmány Zlinszky János professzor úr emlékének adózik, aki a római jog mellett az összehasonlító- és a magyar jogtörténet kiváló művelője volt. A szerző kánonjogi és világi jogi végzettséggel rendelkezve – szem előtt tartva, hogy a PPKE JÁK keretein belül oktatott magyar jogtörténet tantárgy egyetemi tankönyvének magánjogi részében Zlinszky professzor úr társszerző volt – az elbirtoklás magánjogi és az elévülés perjogi intézményének fejlődésén keresztül mutatja be a zavartalan birtoklás különböző jogintézményekben történő megjelenését. A jogtörténeti bemutatás a római jog klasszikus, majd késői korszakának kiforrott rendszeréből indul ki, utána bemutatja az egyházjog hagyományos, illetve kortárs szabályozását, ezt követően érkezik meg a magyar jogi tradícióhoz, Werbőczy Hármaskönyvéhez. A Hármaskönyv elbirtoklási szabályai– amelyekre a ius commune csupán közvetve hatott – egészen a XX. század derekáig meghatározóak voltak a magyar jogéletben. Ezen szemlélet tartós jelenlétének indokoltságát törekszik szerző alátámasztani jelen művében.

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JÁNOS ZLINSZKY ÜBER DEN SCHUTZ DER MENSCHENWÜRDE

Kinga Rita Zakariás

In diesem Aufsatz möchte ich aus dem reichen Lebenswerk von Prof. Dr. János Zlinszky dasjenige Segment hervorheben, in dem er als Verfassungsrichter die soziale Ansicht des christlichen Menschen zur Geltung brachte. Das Verfassungsgericht hat das Recht auf soziale Sicherheit und im Alter, bei Krankheit und Invalidität, im Witwen- und Waisenstand sowie bei Arbeitslosigkeit ohne eigenes Verschulden die Anspruch auf die zur Existenzsicherung erforderliche Fürsorge am Anfang nicht als wirkliches Grundrecht, sondern nur als objektives Rechtnorm anerkannt. Zlinszky hat schon damals in einer Reihe von Abweichenden und Parallelen Meinungen seine eigene Ansicht zum Ausdruck gebracht: das Recht auf soziale Sicherheit ist ein Grundrecht, die ihre Wurzeln in der Würde des Menschen hat und verbürgt deshalb ein subjektives Recht auf die Gewährleistung des Existenzminimums. Die Judikatur des Verfassungsgerichts hat diese Interpretation nach der Beendigung des Richteramtes von Zlinszky angenommen.

DIE WIRKUNG VON MÁTYÁS VUCHETICH AUF DIE UNGARISCHE STRAFRECHTSDENKWEISE

Viktor BÉRCES

Die Tätigkeit des Strafrechtsjuristes und Universitätprofessores Mátyás László Vuchetich lässt sich an die 18-19. Jahrhundertswende binden. Zu dieser Zeitperiode wurde die Einbürgerung von modernen, auf europäischen Ideen ruhenden Rechtslösungen im Kreise der sogenannten „fortschrittlichen Intelligenz" immer wichtiger.

Auch Vuchetich arbeitete in diesem Geiste. Seine Werke sind auch heutzutage aktuell, ja er den bis dahin charakteristischen Rechtsmethoden ein Ende machte, daneben führte er neue Begriffe und Prinzipien in die ungarische Rechtsdenkweise ein. Diese Neuerungen werden auch von den heutigen Lehrbüchern einheitlich angenommen.

Vuchetich ist im Jahre 1767 in einer adlerischen Familie in der croatischen Stadt Brinje geboren. Seine Gymnasialstudien absolvierte er mit einem königlichen Stipendium in Vác, die Rechte studierte an den Universitäten Pressburg und Wien, dann wurde er ab 1808 zu Professoren der Pester Universität vom Kaiser ernannt. Hier unterrichtete er römisches Recht, Strafrecht und Feudalrecht. An der gleichen Universität betätigte er sich im Jahre 1811 und 1812 als Dekan, und ab 1821 als Rektor.

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DAS WISSENSCHAFTLICHE GESAMTWERK UND WIRKUNG VON GÉZA MARTON

Zoltán CSEHI

Das Lebenswerk von Géza Marton stellt einen organischen Teil der Wissenschaft des Privatrechts und des römischen Rechts in Ungarn dar. Seine Studenten und späteren Verehrer gedenken seiner bis heute regelmäßig und lassen damit weder die Persönlichkeit, noch die wichtigsten Ergebnisse seines Oeuvres in Vergessenheit geraten. Géza Marton gilt dadurch auch heute als eine lebendige Gestalt der Wissenschaft des Privatrechts, was seiner menschlichen Ehre und seiner auf dem Gebiet des Haftungsrechts entfalteten und bis jetzt wegweisenden Tätigkeit zu verdanken ist.

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GÉZA MAGYARY'S LIFE AND WORK AS A LAWYER DEALING WITH CIVIL PROCEDURE

E. Írisz Horváth

This study is a written version of the presentation given at the conference titled as „Memory of the great predecessors" at the Faculty of Law and Political Sciences of the Pázmány Péter Catholic University on 15th October, 2015.

It begins with a general demonstration of the life of Géza Magyary, specifying his works including thosewhich were not born in the topic of civil procedure law. Namely, the activity of Géza Magyary can be characterized by a kind of circularity, because his first written works were born in topic of international law and he dedicated the last two decades of his life also to this branch of law, as encompassing his activity on civil procedure law.

The first great work on civil procedure law was a monography on the basic doctrines of the Hungarian civil procedure law in 1898, which book according to its title, had fundamental importance. This book was followed by an argumentative document on confession in the civil proceedings in 1906. As the peak of his activity in the field of civil procedure, his course book was published in 1913, which has a crucial importance until today. This study analyses these works on civil procedure law in a nutshell, then Géza Magyary as teacher and as human is illustrated.

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VILMOS MARISKA

László Klicsu

Vilmos Mariska war ein Jurist auf dem Gebiet des Finanzrechts. Seine Forschungen und Arbeiten haben über Jahrzehnte lang die Entwicklung des Finanzrechts Ungarns geprägt. Sein wichtigstes Werk war das Lehrbuch über Finanzgesetze (ungarisch „A magyar pénzügyi törvényisme", 1875), das als die erste Zusammenfassung des Finanzrechtes in Ungarn galt.

Er wurde in Rozsnyó (slowakisch Rožňava) geboren, wo sein Vater Domkapellmeister war. Er besuchte das Prämonstratenser Gymnasium in seiner Heimatstadt; seit 1861 studierte er Rechts- und Staatswissenschaften an der Universität von Pest.

Im Februar 1868 wurde er zum Assistent an der Ungarischen Rechtsakademie von Kassa (slowakisch Košice) ernannt. Im September 1868 wurde er beauftragt, an der Königlichen Rechtsakademie von Raab (ungarisch: Győr) Vorlesungen zu halten, danach kehrte er im August 1869 an die Akademie von Kassa als Dozent der Wirtschaft und Finanzen, sowie der ungarischen Finanzgesetze zurück. Im Jahre 1891 wurde er ordentlicher Professor an der Juristischen Fakultät der Universität von Budapest, und

war bis zu seinem Tod Leiter des von ihm gegründeten Lehrstuhls für Finanzen und Finanzrecht.

Mariska ist einer der bedeutendsten Vertreter des wissenschaftlichen Rechtpositivismus. Großes Gewicht legte er im Rahmen seiner Tätigkeit auf den Kontakt zu den Studierenden. Sein Wunsch als Universitätslehrer war es immer, dass sein Fach auf Interesse bei den Studierenden stößt, dabei war es ihm auch wichtig, dass die Studierenden die hohe Praxisrelevanz des Finanzrechts erkennen.

Mariska spielte nebenbei gerne Klavier, er hat zwischen 1862 und 1866 mehrere Konzerte gegeben.

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VISKY ILLÉS JÓZSEF

The Public Activity of a Legal Historian

István Szabó

Visky Illés József was working as a professor for legal history at Pázmány Péter University of Sciences from 1902 to 1942. Beside this activity, he had been functioning as an MP for 17 years, thus his scientific work manifested in his legislative work, as well. This paper is aiming to analyse his role in the preparatory works for the 1926 Act on the Upper House.

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ISTVÁN APÁTHY – A ROLE MODEL FOR PRESENT AND FUTURE GENERATIONS OF HUNGARIAN JURISTS

Marcel Szabó

István Apáthy played a very prominent role among the great Hungarian jurists of our history. The triad of his works as a member of the Hungarian Academy of Sciences, as a Member of the Parliament and his activity in the Hungarian Bar Association has enabled him to be an outstanding practical representative of the moral values he stood for throughout his lifetime.

István Apáthy was a head of department, later dean and then rector of the university (first University of Pest, later renamed Science University of Budapest) founded by cardinal Péter Pázmány. The roots of Pázmány Péter Catholic University, through its Department of Theology, reach back to this prestigious university founded by the cardinal.

Born on August 29, 1829, his early years were greatly influenced by devotion to the catholic religion and feelings of patriotism. After finishing his high school years,

he spent two years as a novice at the order of the Piarists, however, out of love for his country he voluntarily joined the Hungarian army in the revolution of 1848-49.

István Apáthy obtained his law degree in 1857 in Budapest and practiced as a highly respected attorney until 1870, known for his thorough knowledge, gentlemanly ways and an uncompromising quest for justice. He gave up his practice when he was asked to join the University of Pest as a professor, where he later became the dean of the Faculty of Law.

In his academic career he supported educational freedom, one of the great achievements of the Hungarian revolution and published several coursebooks in the field of civil law and international law, one of his books having been awarded with the prestigious award of the Hungarian Academy of Sciences. He was a true polyhistor in the field of law, while he was a great theoretical jurist, who also became a member of the Hungarian Academy of Sciences, he greatly influenced contemporary legal development through many of his practical works becaming codified pieces of law.

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JUSZTIN BARANYAY O.CIST. AS THE LAST CHAIRMAN OF THE CANON LAW DEPARTMENT OF THE FACULTY OF LAW AND POLITICAL SCIENCES OF THE STATE UNIVERSITY OF PEST

Szabolcs Anzelm Szuromi, O.Praem.

Prof. Jusztin Baranyay had become head of the Canon Law Department of the Theological Faculty of Budapest in 1925, when the language of instruction was Latin of the canonical studies. He continued his leading professorship at the Faculty of Law and Political Sciences since 1942 until 1950, when the department had been suppressed by the communist regime and Prof. Baranyay was arrested because political reason. As one of the accused members of the Mindszenty-cause he was sentenced for jail. He was liberated from the jail on February 26th 1956 but his case has been never rehabilitated. Prof. Baranyay's health radically had declined during his years in the prison, which caused his death on June 21st 1956 in Pannonhalma. His scholarly work has made indispensable effect on the canon law culture in Hungary.

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GYULA [JULIUS] MOÓR

Csaba Varga

The personal history of interwar Hungary's renown philosophy of law professor is full of catharsis. Born in Transylvania in 1888, at one of the centres of Siebenburg,

where, amidst Saxonian-ruled civil and religious community, his father, a Lutheran pastor, fought for a life for the autonomy of a Hungarian church community. Disciple of Bódog [Felix] Somló, author of *Juristische Grundlehre* (1917), professor at Kolozsvár then, he taught at Eperjes [now Prešov, Slovakia], Kolozsvár [now Cluj-Napoca, Romania], Szeged, and finally Budapest. Neo-Kantian, sensitive to natural law foundation, he attributes a formative role also to legal policy. A student of Rudolf Stammler (dedicating a book of his "right law" conception in 1911) and a friend of Hans Kelsen (with an early translation of his *Grundriss einer allgemeinen Theorie des Staates* in 1927; the first of the two intellectual autobiographies Kelsen had at all written, with the second being committed after his post-war emigration to the US, was to serve as an introduction to this translation), he cultivates, too, the differentiation between the Is and the Ought, but can accept neither value relativism nor the reduction of values to mere formal criteria, such as the understanding of justice as equal treatment. Taken into account of his theoretical criticism of brown and red dictatorships alike, after WWII he is commissioned for two consecutive years to be the rector of Budapest metropolitan university and the president of the Hungarian Academy of Sciences, moreover, the first ambassador candidate to Moscow, which, thinking that the fight is to be fought at home, he evades. His tragic ending is caused by the rebellion of the forthcoming putschists, i.e., communists upheld by the soviet occupying forces, when in 1947, in two subsequent parliamentary speeches, he warns the nation of the imminent danger of a communist putsch. The paper is at the same time a dedication to his Christianity, with his personal motto "Then you will know the truth, and the truth will set you free" (John 8:32), exemplified by his balanced approach both to (pre-war) Thomism and the (post-war) Marxist (theoretically founded) political slogans such as class struggle, collectivity versus person, as well as the humanising effect of labour. His final conclusion may have been a trust in eventually non-doctrinaire theoretical approach, implementing abstract schemes into societal life only provided they have been reconsidered through all available moral stands as well.

RECHTSRAHMEN FÜR INTELLIGENTE STROMZÄHLER

László Fodor

Intelligente Zähler (smart meters) sind technische Einrichtungen (Zähler für Energie, z. B. Strom oder Gas), die dem jeweiligen Anschlussnutzer den tatsächlichen Energieverbrauch und die tatsächliche Nutzungszeit zeitnah messen und in ein Kommunikationsnetz eingebunden ist. Bereits das 3. Binnenmarktpaket der EG (Rl für Strom 2009/72/EG) forderte die Einführung von intelligenten Messsystemen und Zählern, die die aktive Beteiligung der Verbraucher am Stromversorgungsmarkt unterstützen, in allen europäischen Mitgliedstaaten. Diese Aufforderung wurde durch die Energieeffizienzrichtlinie (Rl 2012/27/EU) mit weiteren Massnahmen ergänzt. Ungarn gehört zur Mitgliedstaaten, die noch nicht für den Ausbau des Smart Metering

entschieden. Dem Elektrizitätsgesetz 2011 nach können die Verteilernetzbetreiber in Pilotprojekte Intelligente Zähler installieren, bzw. die Endverbraucher sollen das dulden. Die Einzelheiten der diesbezüglichen Regulierung (etwa besondere Vorschriften über Datenschutz) sind aber bis heute nicht ausgearbeitet. Die Ergebnisse der 2013 in Bewegung gesetzten Projektes können der Entscheidung über einen landesweiten Ausbau des Smart Metering beitragen. Ein Rollout von 80% des Smart Metering in Ungarn wird aber durch zahlreiche energiepolitische Massnahmen erschwert. Dazu gehört zB. die sog. „Nebenkostenkampf" (mit dem Versorgungsunternehmen gezwungen wurden die Preise für Gas, Strom und Wasser zu senken), danach die Investitionsbereitschaft der Elektrizitätswirtschaft in Ungarn spürbar gesunken ist. Da die Energiepreise verhältnismässig niedrig sind, interessieren die Ungarn für die Energieeinsparung wenig. Wegen der verschiedenen kontroversen energiepolitischen Strategien, Massnahmen bzw. Rechtspraxis fehlt es an der gewünschten Investitionssicherheit für die Entwicklung der Infrastruktur. Selbst der Staat nimmt darüber hinaus die klimapolitischen Zielsetzungen (etwa bezüglich der Energieeffizienz) der EU nicht ernst. Der Beitrag gibt sowohl eine Überblick über diese regulatorische Schwierigkeiten des Rollouts von Smart Metering in Ungarn als auch Empfehlungen zur zukünftigen Regulierung.