

## SOME ASPECTS OF LEGAL TRAINING IN HUNGARY

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THE role and structure of the Hungarian legal profession both changed quite markedly after the changeover from the communist regime (1989), particularly because of the opportunities provided by the new market economy. The legal profession in Hungary is generally of a high standard because of the elitist approach which once prevailed in the university education system, reinforced by a technocratic attitude characterising the Bench from the final period of the one-party system. However, the recruitment process in the legal profession is somewhat problematic, and it is our firm belief that the quality of the administration of justice can be improved only if the recruitment process is thoroughly examined and revised.

In today's Hungary, there has been little public discussion of problems of legal training and entry into the legal profession, the judiciary, and prosecutors' offices. The lack of public attention may be explained by several factors: our legal system is already considered to be broadly democratic, the judicial system substantially conforms to European legal standards, and the ongoing legal harmonization process is on track with the Brussels framework. In addition, Hungary has adopted extensive reformist legislation.

However, modern institutional structures and extensive modern legislation are not enough to ensure a well-functioning legal system. Legislation and other law must be carefully interpreted and faithfully applied by capable legal professionals to ensure a successfully legal system.

The Hungarian legal profession went through a unique, complicated and painful transitional period following the fall of the communist regime. New challenges had to be met, new attitudes and techniques developed. As a result, the community of lawyers has been fundamentally restructured and substantially enlarged.

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*Editor's Note:* In March, 2005, The University of Toledo College of Law and Szeged University established a formal relationship. A number of UT College of Law faculty will visit Szeged University to teach courses in the School of Law. American readers are reminded that in the civil law tradition, the judiciary is in many ways comparable to an administrative arm of the state, a governmental bureaucracy that one may enter shortly after law school and pursue as a specialized career path. In addition, in the civil law tradition, "prosecutors" are a part of the judiciary and function more as magistrates than as "prosecutors" in the common law tradition. Thus, legal education in Hungary, as well as in other continental European countries, will be concerned with training not only lawyers, but also students who may plan to enter the judiciary or to become "prosecutors" as a career.

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Despite changes in the ideological background and terminology, some aspects of the mechanisms of recruiting and promoting judges and prosecutors, and some of the ways of managing the courts, survived the end of the communist regime. In the State-controlled sector of the legal profession, the counter-selective practices characterising the previous era survived, and even worsened as the competition among law graduates reached an intensity unheard of before. It is our firm belief that in this field the lack of market conditions has to be countered by a precise and detailed regulation of admission based on an actually operating competition system.

In Hungary, because of the peaceful nature of the change in the political system, there has been no radical replacement of staff within the judiciary. Although some radical political forces have demanded the replacement of judicial personnel, for the most part there has been no popular demand for such changes. The view that some judges should be removed—which has been around in some form or other since the 1970s—would have paralysed the judiciary anyway had it been acted on.

The upshot is that several phenomena of the socialist era, such as the capitalising on personal relationships, certain attitudes of the legal profession, and methods of legal interpretation, survived the end of the communist regime or emerged in a different form later on.

Although the personality and attitudes of a judge or prosecutor are generally difficult to influence, processes of selection and promotion of judges and prosecutors that are fairer and sounder than the present one can easily be established. What is needed is a recruiting system in which applicants with the most suitable personal and professional profiles are given priority.

Besides the brief review of those changes caused by the political changeover in the legal training, it is worth examining in detail the recruiting and selection of law students to shed light on how in this respect the Hungarian law schools meet the challenges of the age.

Because of the special structure of the Hungarian legal system, it is vitally important to examine the status of law students as well as the training of lawyers in Hungary. In contrast to France or other European countries, in Hungary the university is generally the only place where lawyers can get formal training before getting a law-related job. Legal education lasts 10 semesters (5 years) and at the end of their studies, students are required to take an oral examination in the most important subjects and must write a thesis. After they pass their final examinations, students receive the degree of doctor of law. In the Hungarian system, legal education has been unified, i.e., a lawyer having a law degree and a working experience of 3 years is allowed to take the final professional examination to obtain a general qualification for any legal profession. Having successfully fulfilled the examination requirements, graduates may become attorneys, or they can apply for other jobs, e.g., at the prosecutor's office or at the courts.

The training of law students, following a several-hundred-year long history of organic development, took a sharp turn with the beginning of the communist era in Hungary. As in other segments of Hungarian society, the State initiated a strictly planned economy and attempted to take control over legal training as

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well. Because of the strictly planned economy, fewer lawyers were needed in Hungary. There was operational legal education only in three—then later in four—Hungarian cities. During this period, the number of people given the opportunity to obtain a law degree was kept within strict limits by the ruling power. Only a small proportion of those with a high school diploma were admitted to university or college, and the annual student intake at the faculties of law was about 100 in the 1980s. The submitted applications for law training exceeded the number of the available places by two or three times, even though according to previous sociological research conducted in the 1970s, white-collar workers often encouraged their children to opt for professions of a higher esteem than law, such as medicine or engineering. In the last decade of the so-called “Kádár-era,” the prestige of lawyers was more or less restored, especially that of the attorneys, because it was considered as one of the possible ways to get “rich” in Hungary.

After the collapse of the communist regime, such factors as the increasing use of market mechanisms, with their ground gaining in the different social spheres, the increasingly vigorous advance of the service-based society, and the simultaneous expansion of individualisation and impersonal relations resulted in the growth of confidence in law in society. Moreover, in Eastern-Central Europe, the coming of a non-communist regime generated a demand for a constant statutory intervention. In the early 1990s, the government abolished the limitation on the number of attorneys, and the private sphere began to show signs of development as well. As a result, the attorneys were provided with more and more work assignments, further strengthening this trend. Consequently, a growing interest appeared in studying at the law schools. Meanwhile, the government initiated changes in the educational policy, trying to find a way to handle the worsening situation of unemployment by opening up higher education with a view to also increasing the number of people with a university degree.

All this has led to greater confidence in law and lawyers, the growing prestige of the legal profession, and after all even a greater number of lawyers and law students.

The interest in law and legal education has been constantly growing since the democratic changes in the political system, and nowadays it is about to reach its peak. The foundation of new faculties of law and the rise in the number of correspondence courses are becoming the most popular form of education and the most important source of income for the universities. (At present, law schools are operating in seven Hungarian cities: Budapest, Debrecen, Győr, Kecskemét, Miskolc, Pécs, Szeged.) According to data provided by the Central Bureau of Statistics, in 1997 only one in every four applicants was admitted despite the fact that the number of enrolling students tripled. In 1998 this ratio slightly increased but still stayed well under one third (1 in every 3.34). Several years ago, only a few thousands law students studied at Hungarian universities, while currently there are more than 20,000 of them.

To put it simply, the significant increase in the number of participants in higher education, and especially in legal education, which occurred in the last one and a half decades in Hungary and in the last two or three decades in Western-Europe, can be called the *democratization* of education. As a

consequence of this process, there are serious tensions both on the level of faculties and with respect to educational policy generally. Most likely, if the relationship between the European centre and periphery changes, the status of the faculties in this region of Europe will become similar to the centre-states. Moreover, on the Pan-European level, several solution-finding mechanisms have started which will supposedly direct the formerly “elitist” higher education to a more open way, enabling it to adapt to the changed situation. This process is connected tightly to the so-called “*Bologna-movement*,” which affects nearly the entire European higher education, and it can be regarded as a solution-finding procedure. The transition to a two-level or multi-level higher education within the frames of this movement may also affect legal education, and it may revolutionise the traditional process of admissions. However, it is questionable if the “lower” and “higher” qualifications and status induced by the two levels, bachelor and master, will be able to initiate a penetrating or relevant change.

Naturally, the transition from a communist to a non-communist system caused changes both in the taught subjects and their content. Within the social sciences, besides the teaching of history, mainly legal education was affected by the political changeover. With one stroke, the significant part of the statutory law was replaced and this included not only the statutes themselves, but also the principles behind them. However, the former ideological background has disappeared from the education. For example, scientific socialism was not included either among the compulsory or the facultative courses, and economics took over political economy. The weekly hours of theoretical courses or courses providing general knowledge, such as ethics, philosophy, economics and sociology, grew considerably. Other new courses were introduced, such as company law, that conform to the changed political, sociological or economic situation. Parallel with these changes, leaving the methods of education unaffected, the content and name of the already-taught courses have been amended. The system of final professional examination maintained its previous nature by providing mobility and at the same time becoming explicit. Since 1991, all the candidates give account of their knowledge from the same subjects under the same conditions. A successful examination authorises the candidates to practice *de jure* at all fields of the legal profession. The practical education changed only in its duration, as in 1991, the lengths of the two-year-long compulsory professional practice was raised to three years. This acknowledged the fact that after the theoretical university education, two years is insufficient to thoroughly acquire the practice or to become familiar with the knowledge required at a competency examination.

The relatively permanent content of the norms under the communist regime seems, in retrospect, to have made it easier to train legal professionals on an adequate level, but after the changeover it has been difficult many times to follow the changes. It has turned out to be problematic to become familiar with their content, especially with the almost chaotic change and flow of legal rules in the years following the political transition. To put it in another way, it is necessary for the national legal education to adapt to the changed social conditions. Géza Marton characterised the situation by declaring that the college teachers in Hungary will always find the appropriate manner to complete their tasks of

training the civil servants, a task which is of a prior national interest. Basically, besides harmonising the contents of the courses with the conditions of the market economy, the greatest difficulty in legal education was caused by the discrepancy between the traditional and the changed social situation. Although the distance gradually decreases, tensions are still sensible to some extent.

In the socialist era, enrollment was distorted by many factors. The first of them can be identified only if one takes into consideration the working of a monolithic political establishment. The success of an application to a university was determined inter alia by social background, because those of a working class origin had an advantage over those whose parents were considered to pursue a white-collar profession. The State wanted to demonstrate the conflict of social classes through this affirmative action in the enrollment. The affirmative action was gradually getting weaker, and in the late 1980s it came to an end. It was also common knowledge that political relations and personal acquaintances played a role in the extremely difficult entrance exams. On the one hand, the ruling political power could pressure the academic board to support a certain applicant. On the other hand, family ties or acquaintances could have a "positive" influence on the evaluation of an applicant's performance. Of course, in retrospect it is difficult to determine the real extent of this unjust discrimination, but certainly the distorting effect concerning the enrollment of students can be assumed significant. From the 1990s, such possibilities have been significantly reduced because of the strict control over the procedure of admission exams. The capitalisation on acquaintances is traditionally of utmost importance in the Hungarian society, consequently, a total disappearance of this phenomenon is not expected in the near future.

At present, another distortion, of rather social nature, can be highlighted. During the period subsequent to the changeover, State economic support for students declined. For a short period, even university fees were introduced due to constraining budgetary measures. Although today there is no tuition charged to undergraduate students, it is not suggested that students of lower social status are not at a disadvantage. Students of higher social status are extremely over-represented at the faculties of law, and there has been hardly any effort to deal with this inequality. Currently, a system similar to those already working in some other countries is being established, the fundamental concept of which is to help students in need by offering loans at a preferential rate.

The transitional period is far from being over. It is virtually impossible to ascertain the exact outcome of these profound changes. The present study does no more than outline the major trends and problems and will hopefully contribute to the better understanding of a delicate segment of a typical Central European society in transition.