

ABSTRACTS

Zoltán József Fazakas

■ ***Thoughts on the Military Cemeteries***

Keywords: *military, cemetery, international law, law history, diplomacy, Hungarian-Romanian relations*

The question of military cemeteries has been a subject of legal thinking ever since the beginning of human history. Cemeteries, including military graveyards, were always sacred places, as it is clearly reflected by the most sophisticated legal system: the Roman law. This essay presents a short legal history of military cemeteries from the Roman ages until the present. It focuses on the relevant regulations of the Geneva Conventions and on various Hungarian-Romanian treaties, with additional interesting examples from the rest of the world. The issue also touches upon the protected rights of national minorities. Almost every military cemetery in Transylvania is also subject of the cultural and historical heritage. These deep and direct connections mean that these cemeteries have to be protected not only by the military conventions, but also by other international treaties.

Zsófia Gál

■ ***“Fortified in Faith and Patriotism”:
The Cluj/Kolozsvár Buildings Commissioned by József Hirschler (1906-1916)***

Keywords: *architecture, residential home, school, Art Nouveau, Cluj/Kolozsvár*

József Hirschler has become the vicar of St. Michael's Church at a favourable time. The age of the Austro-Hungarian Empire was an especially productive period from an economic, cultural and architectural point of view, with public as well as private and church investments in building projects. The Roman Catholic Church has undertaken various investments already in the first half of the 1880s, the results of which define the general aspect of downtown Cluj/Kolozsvár even today. The building projects initiated by József Hirschler emphasized not only profitability, but

also social service. This study presents an overview of this segment of the city's architecture in the dualist period, based on the projects that were implemented as well as those that remained on paper.

Zsolt Kokoly

■ ***Female Students in the History of Transylvanian Legal Education***

Keywords: *Transylvania, legal education, university, female students, feminist movement*

The paper presents the historical situation of the first female students in the evolution of legal education in Transylvania (Romania). While legislation of the former Austro-Hungarian Monarchy granted admission to female students to the medical faculties and to the faculties of sciences beginning with 1895, they were excluded from legal education. The situation changed after WWI and the integration of Transylvania to Greater Romania: women were granted admission to both the Academy of Law in Oradea/Nagyvárad, as well as to the Faculty of Law of the University in Cluj/Kolozsvár. This paper covers a period of approximately 40 years (1919-1959) and uses university yearbooks and archival sources to identify the first female students, while also attempting to retrace their later career.

Attila Menyhárd

■ ***On Law and Justice***

Keywords: *private law theory, justice, relational contracts, hardship, ad hoc legislation*

Although the extreme oppressive regimes of the 20th century resulted in a gap between justice and law, the concept of justice is an inherent part of private law. Implementation and enforcement of corrective justice as well as distributive justice are the underlying policy of private law. Promoting social justice in contract law requires state intervention either via the court judgments or via statutory measures. Contracts create social relationships be-

tween individuals. This influences the changing role of the welfare state in private law relationships. An understanding of justice may be assessing it as a kind of mathematical truth. The structure of private law is similar to the system of mathematics, since both are built on axioms and conclusions that are drawn from a closed logical chain. The law, however, requires correcting the results of logic with social evaluation, if this is necessary in order to implement the values of the good society. This makes law an art rather than science.

Ádám Szabó

■ ***The Age of Tervingian “Law Speakers” in Transylvania***

Keywords: *Dacia province, Gothia, Tervingian Goths, iudex gentis, law speaker, Athanarik, oath ring, imperial brooch, premonarchical period*

The military troops as well as the Roman administration were pulled back from Dacia in 271 AD. Nonetheless, the territory of the quondam province was still considered as a strategically important zone of influence by the Roman Empire. Having suffered a defeat at Naissus in 269 AD by the Emperor Claudius II, the Tervingi (Visigoths) departed from the Greuthungi (Ostrogoths) and moved to the territory of Transylvania in 271 AD. This was probably based on an agreement with the Romans, occupying basically the already abandoned land of Dacia province. They named their new land Gutþiuda (Gothia). Their presence can be identified by the archaeological culture Sântana de Mureş – Csernyakhov. The Tervingi were led by an elected law speaker or judge, referred to in Latin texts as the “iudex”, and not by a king. There are at least two objects from the 4th century treasure hoards that are relevant from the point of view of Tervingian “public law”: an oath ring

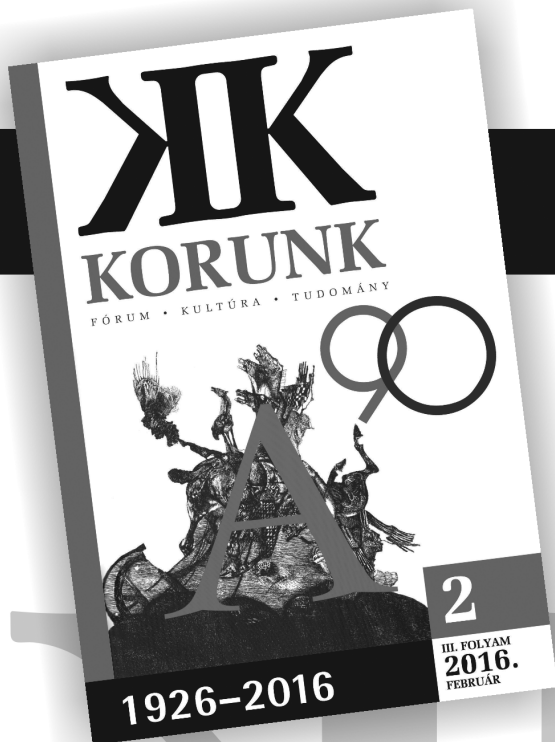
and an onyx brooch. Functionally, the oath ring reaffirmed the jurisdictional role of the leaders. The large onyx or “imperial” brooch could be originally among the insignia of Tervingian law speakers at least from the middle of the 4th century, symbolizing that they saw themselves as being of equal rank with the Roman emperor. The meeting of Emperor Valens and iudex Athanarich at the Danube in 369 could definitely represent a suitable event for the judge of the Tervingi to show off that he is on par with the emperor. In 376 AD the Huns defeated the Tervingi, who fled from Transylvanian territory to the Roman Empire.

Emőd Veress

■ ***The Failure of the Common European Sales Law (2011-2015)***

Keywords: *CESL, European civil law, legal harmonization of private law, optional law*

The European Commission has set great goals in October 2011, initiating the legislative procedure for the Common European Sales Law (CESL). In February 2014 the European Parliament adopted the draft regulation on CESL (with 416 yes, 159 no votes and 65 abstentions), which in principle indicates great consensus. The reality, however, was different: the text adopted by the Parliament and the version initiated by the Commission were two radically different norms, due to the significant changes made by the Parliament. This adoption should have been followed in the legislative procedure by the approval in the Council. The European Commission presented its working plan for 2015 in December 2014. Here, the CESL was on the list of withdrawal proposals, marking the end of the CESL. This article deals with the complex – legal, cultural and political – reasons of this failure.



KORUNK

TÁRSADALOMTUDOMÁNY
KULTÚRA
IRODALOM

a Kárpát-medence egyik legrégebbi alapítású magyar nyelvű folyóirata
értelmiségi fórum – kisebbségi szemle – nemzetiségi intézmény
az erdélyi és európai hagyományok ötvözete
híd az erdélyi és egyetemes magyar tudománypublikálás,
irodalom és művészet között

**KORUNK – KORUNK AKADEÉMIA
KOMP-PRESS – KORUNK STÚDIÓGALÉRIA**

**TÁMOGASSA A KORUNK FOLYÓIRATOT
ÉS INTÉZMÉNYRENDSZERÉT**

Anyagi támogatása lehetséges módoszatairól a korunk@gmail.com email címen,
a (0040) 264-375-035 és (0040) 742-061-613 telefonszámokon konkrét felvilágosítást nyújtunk.

www.korunk.org
<http://epa.oszk.hu/00400/00458>

*Segítségével a KORUNK
és intézményrendszere életben maradásához járul hozzá.
Köszönjük!*

SZÁMUNK SZERZŐI

A lapszámot szerkesztette: **Rigán Lóránd** –
Veress Emőd (vendégszerkesztő)

Bonyhai Gabriella Eleonóra (1976) – doktorandus, Debreceni Tudományegyetem, Marton Géza Állam- és Jogtudományi Doktori Iskola
Czibalmos Anett (1997) – képzőművész, Kolozsvár

Demény Péter (1972) – író, szerkesztő, Látó, Marosvásárhely

Fazakas Zoltán József (1983) – kutató, Mádl Ferenc Jogi Összehasonlító Intézet, egyetemi tanársegéd, KRE ÁJK, óraadó egyetemi oktató, PPKE JÁK, Budapest

Fehér Imola (1983) – költő, tanár, Szatmárnémeti

Fekete Balázs (1980) – dr. habil., ELTE, PPKE, LL.M., KU Leuven, egyetemi docens, ELTE ÁJK, tudományos főmunkatárs, MTA TK JTI, Budapest

Fellinger Károly (1963) – költő, Jóka

Fodor János (1989) – történész, PhD, egyetemi tanársegéd, BBTE, Kolozsvár

Gál Zsófia (1991) – művészettörténész, doktorandus, BBTE, Korzo Egyesület, Kolozsvár

Kádár Hunor (1987) – ügyvéd, egyetemi adjunktus, Sapientia EMTE Jogtudományi Intézet, Kolozsvár

Kokoly Zsolt (1980) – egyetemi adjunktus, PhD, Sapientia EMTE Jogtudományi Intézet, Kolozsvár

Menyhárd Attila (1968) – tanszékvezető egyetemi tanár, ELTE ÁJK, Polgári Jogi Tanszék, Budapest

Nagy Miklós Kund (1943) – újságíró, szerkesztő, művészeti író, műfordító, Népújság, Marosvásárhely

Nótári Tamás (1976) – az MTA doktora, egyetemi tanár, Sapientia EMTE, Kolozsvár

Rabocskai Zsófia (1998) – egyetemi hallgató, BBTE, Kolozsvár

Szabó Ádám (1973) – főmuzeológus, DSc, Magyar Nemzeti Múzeum, Régészeti Tár, kutatóprofesszor, NKE ÁJT, Budapest

Székely János (1984) – ügyvéd, egyetemi adjunktus, PhD, Sapientia EMTE Jogtudományi Intézet, Kolozsvár

Valdmann István (1976) – doktorandus, Debreceni Tudományegyetem, Marton Géza Állam- és Jogtudományi Doktori Iskola

Váradny Tibor (1939) – professor emeritus, Budapest

Varga Attila (1963) – alkotmánybíró, egyetemi docens, Sapientia EMTE Jogtudományi Intézet, Kolozsvár

Veress Emőd (1978) – tudományos kutató, Mádl Ferenc Összehasonlító Jogi Intézet, egyetemi tanár, Sapientia EMTE Jogtudományi Intézet, Kolozsvár – Budapest

TÁMOGATÓK



nka
Nemzeti Kulturális Alap



CONSILIUL JUDEȚEAN
CLUJ



MINISTERUL CULTURII ȘI
IDENTITĂȚII NAȚIONALE



Hungarian American
Coalition

„A magánjogi és kereskedelmi jogi jogvitákban a bírósági döntések jogértelmezés, standardok alkalmazása, doktrínák és absztrakt szabályok értelemezése mentén születnek. Ezek mentén nyílik meg az adott tényállás, a jog logikai struktúrájának megtartása mellett is, a helyes társadalom ideája szerinti értékelésre és a társadalmi igazság érvényre juttatására. Ez a sajátos, a logikai struktúrán belüli értékelés, továbbá a jogpolitikai szempontok érvényesítése a logikai rendszeren belül olyan sajátos gondolkodást eredményez, amely közelebb áll a *művészethez*, mint a szoros értelemben vett tudományhoz.”

(Menyhárd Attila)

ISSN 1222 8338



9 771222 283304 2 0003 5 LEJ 500 FT

ISTORII ALE DREPTULUI
LEGAL HISTORIES