

**NATURAL LAW TRADITION IN HUNGARY
FROM THE END OF THE MIDDLE AGES TO 19TH CENTURY**

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Abstract

The present contribution proposes a concise overview of the legal thinking on natural law in Hungary, beginning with Werbőczy, in the early sixteenth century, and ending with Csarada, in the early twentieth. This history traces the way in which Hungarian thinkers received and elaborated upon first Greek, Roman, and scholastic thought, and later that of Grotius, Wolff and Kant. Prominent among these thinkers are figures such as Martini and Csatskó. A crucial event in this history was the birth of universities of law, which catalyzed the development of natural law, which in turn had a strong impact on Hungarian law.

When trying to find the earliest documents in Hungarian legal philosophy, we must trace back to the end of the Middle Ages and the early new age.¹

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¹ See from the literature on the subject of the beginnings of Hungarian legal philosophical thinking: Tivadar PAULER, *Bevezetés az észjogtanba* [Introduction to natural law] (Pest 1852); Rudolf Werner, *A bölcsészeti jogtudomány történelme. Kiegészítésül Schilling természetjogi művéhez* [History of law philosophy. Addition to Schilling's book of natural law] (Budapest: Franklin Társulat 1875); ID., *Adalékok a hazai jogtudomány történetéhez* [Contributions to the history of Hungarian jurisprudence] (Budapest: Magyar Tudományos Akadémia 1878); Felix SOMLÓ, 'Die neuere ungarische Rechtsphilosophie' 1 *Archiv für Rechts- und Wirtschaftsphilosophie* (1907-08) 315-323; Ferenc FINKEY, *A tételes jog alapelvei és vezéreszméi. Bevezetés és a jogbölcsészet kifejlődésének története* [The principles and ideas of positive law. Introduction to the the history of legal philosophy] (Budapest: Grill Károly Könyvkiadóvállalata 1908); Barna HORVÁTH, 'Die ungarische Rechtsphilosophie' 34 *Archiv für Rechts- und Wirtschaftsphilosophie* (1930/31) 1, 37-85; Imre SZABÓ, *A burzsoá állam- és jogbölcsélet Magyarországon* [The bourgeois philosophy of law and state in Hungary] (Budapest: Akadémiai Kiadó 1955, 1980²); Péter SZILÁGYI, 'Fejezetek az ELTE Állam- és Jogelméleti Tanszékének történetéből' [Chapters from history of ELTE's department of theory of law] in: *Acta Facultatis Politico-Juridicae Universitatis Scientiarum Budapestiensis de Rolando Eötvös Nominatae*. Tom. XXVI (Budapest: ELTE Állam- és Jogtudományi Kar 1984) 105-153; Mihály SAMU – Péter SZILÁGYI, 'Az állam- és jogelmélet oktatásának története egyetemünkön' [Teaching history of theory of state and law in our university] in: Pál HORVÁTH (ed.), *Az Állam- és Jogtudományi Kar szerepe a magyar jogtudomány fejlődésében* (Budapest: ELTE Állam- és Jogtudományi Kar 1985) 313-392; József SZABADFALVI, 'Transition and Tradition. Can Hungarian Traditions of Legal Philosophy Contribute to Legal Transition?' 33 *Rechtstheorie* (2002) 2-4, 167-170.

A proof of natural law doctrine in the Middle Ages is *Tripartium* (1517) by István Werbőczy (1458–1541), comprising „the law of the country”, which describes in its prologue the concepts of justice, law and its divisions as well as the different types of statutes in a theoretical way.²

That book was issued in more than five dozen publications including abridged and popular ones; however, there is still very little known about the origins of the legal knowledge of the author, who created the most important work for determining Hungarian legal attitude and legal culture up to the mid-19th century.

The only fact that can be proven is that he spent one semester at the University of Krakow in the last decade of the 15th century and he acquired his language command of Latin, Greek and German in church schools. No document has emerged describing his Western-European (Italian) study trip. His philosophical and theological attitude is basically characterized by the adoption of the scholastic natural law discipline of the Middle Ages originating from Greek-Roman traditions; nevertheless, the ideas elaborated in his main opus do not constitute a single, coherent natural law doctrine.

Directio methodica,³ published a century later (in 1619) by János Kitionich (1561–1619), was a collection of contemporary criminal proceedings. Similarly to Werbőczy, this collection drew on Roman law sources and cited works by Cicero, Gellius, Ovidius, Livius and Varro. In that age it was not without precedent that authors of Roman or even Justinian law were cited as sources in adjudicating legal disputes.

An important institutional transformation occurred in the history of Hungarian legal philosophical thinking with the establishment of the University of Nagyszombat (Trnava) with its faculties of theology and arts in 1635, and the addition of a faculty of law (*facultas juridica*) in 1667. While earlier attempts to establish universities had not influenced legal philosophy in any way, education in the first legal institution of higher education had a strong influence on the further progress in legal thinking. Practical aspects were emphasized when the faculty and its structure of instruction were launched. The founders did not follow either the Western-European or even the Austrian example; rather, their primary aim was to meet the practical needs of the Hungarian world of law.

² István WERBŐCZY, *Tripartitum opus juris consuetudinarii regni Hungariae* (Viennae 1517).

³ János KITONICH, *Directio methodica processus iudicarii juris consuetudinarii inclyti regni Hungariae*. (Tyrnaviae 1619).

Two of the four professors of the faculty lectured in „national” law (jus patrium), while the other two professors held lectures in Canon law and Roman law.⁴ In Hungarian higher legal education the traditions of theoretical education as part of Roman law and practice-oriented had been combined before the reforms of Enlightened absolutism emerged.

The teaching of natural law doctrines mostly depended on the professors’ free will. Consequently, it was merely by chance that generations of lawyers were not provided with legal philosophical knowledge.

A good example of interpreting natural law doctrines was a work published in 1640 by György Illyésházy (1625–1689),⁵ a three-volume work discussing natural law by Márton Szentiványi (1633–1705),⁶ an essay on natural law published in 1694 by András Lehotay (?–1734).⁷

Some time later, however, Lehotay’s former colleague László István Kregár (?–?) described that era in his own lectures in natural law, saying that it is „a dictate of reason originating from God which orders everything that is good from inwards and prohibits everything that is evil.”⁸ All this reflects the decisive feature of scholastic natural law thought.

The compulsory and indisputable cornerstone for those times, considering its theoretical basis, was the doctrine elaborated in Hugo Grotius’s (1583–1645) work *De jure belli ac pacis* (1625). Legal philosophy as an independent discipline was established through a legal concept, which was on its way to becoming free of Christian theology, and which originated natural law doctrines from human nature. The doctrines of Grotius became fruitful in the contemporary German philosophy of law from the second half of the 17th century. Among the distinguished figures of the rationalistic explanation of natural law were Samuel Pufendorf (1632–1694), Christian Thomasius (1655–1728), and Christian Wolff (1679–1754), considered the most reputable follower of the philosophical and legal concepts of Leibnitz, all of whom deserve mention for having exerted the greatest influence on the evolution of Hungarian legal philosophy.

⁴ Tivadar PAULER, *Adalékok a hazai jogtudomány történetéhez* [Contributions to the history of Hungarian jurisprudence] (Budapest: Magyar Tudományos Akadémia 1878) 1-2; ID., *A budapesti Magyar Kir. Tudomány-egyetem története* [History of Hungarian royal university] (Budapest: Magyar Királyi Egyetemi Könyvnyomda 1880) 22-23.

⁵ György ILLYÉSHÁZY, *Disputatio de iustitia originali* (Trenchinii 1640).

⁶ Márton SZENTIVÁNYI, *Curiosiora et selectiora variarum scientiarum miscellanea* I-III (Tyrnaviae 1689-1709).

⁷ András LEHOTAY, *Dissertatio iuridica de statu hominum, consistente primo in libertate, et huic opposita servitute* (1694).

⁸ István László KREGÁR, *Tractatus theoreticopracticus in tripartitum juris Hungarici decretum* (Tyrnavie 1749).

As jurists and university professors, they established and practised natural law as an independent legal discipline separate from philosophy and theology.

Among these eminent philosophers, Wolff's oeuvre must be emphasized since he, as the leading theoretician of Enlightened Absolutism of the Prussian Frederick the Great, considered all kinds of radical attempts to be faulty. In the contemporary system of Enlightened Absolutism these concepts were regarded as part of the official legal ideology. Wolff's natural law doctrine had a profound effect on Hungarian legal philosophy for over one and a half centuries. These popular and respected thoughts have become known as the Leibnitz-Wolff school of natural law.⁹ The most prominent figure of this school, from a Hungarian point of view, was Karl Anton Martini (1726–1800),¹⁰ who in 1753, being in Maria Theresa's confidence, was appointed professor of the then established department of natural law in Vienna, the centre of the Habsburg Empire. In his works he provided an excellent compilation through summarizing the theses of his predecessors (Pufendorf, Wolff). In the second half of the 18th century he was considered without a doubt as one of the most talented jurists of Austria. Hungary, being part of the empire, was not independent from Austria in terms of its economy, politics, or culture and science. Consequently, the first attempts to create Hungarian theoretical legal thought were connected to the Wolff-Martini doctrines.

Further published contemporary works in legal philosophy are regarded as simple explanations of the doctrines of Martini endowed with „Aristotelian respect“. Major works were written by Ferenc Roys (1713–1768),¹¹ György Zsigmond Lakits (1739–1814),¹² and Ádám Brezanóczy (1751–1832).¹³ It is worth mentioning that works opposing the official legal ideology, regarded as being of radical attitude, were also published in the late 18th century. As examples opposed to Wolff-Martini's concept, the books written by János Filó (1722–1786)¹⁴ and János Adámi Nepomuk,¹⁵ which include scholastic ethical discussions, are worth a mention.

⁹ Ferenc FINKEY, *op. cit.* (note 1) 126.

¹⁰ Karl Anton MARTINI, *Positiones de lege naturali* (Viennae 1767, Budae 1795); *Erklärung der Lehrsätze über das Naturrecht* (Wien 1787).

¹¹ Ferenc ROYS, *Ethica et jus naturae in usum auditorum philosophiae conscripta cum appendice seu dissertatione* I-II (Viennae 1755, 1761).

¹² György Zsigmond LAKITS, *Institutio elementorum juris naturalis in usum gymnasiorum et scholarum* (Budae 1778).

¹³ Ádám BREZANÓCZY, *Explanatio juris naturae, publici universalis et gentium* I-II (Posonii 1795).

¹⁴ János FILÓ, *Jus naturae pro novello in vinea domini operario deductum ex demonstrato fine hominis* (Budae 1781).

¹⁵ János ADÁMI, *Systema anti-philosophicum de origine civitatis* (Posonii 1801).

Besides the early products of the national theoretical literature of law, the importance of the very first work in jurisprudence in the Hungarian language is to be emphasized. An extensive volume entitled *Báró Martini természet törvényéről való állításainak magyarázatja* (An explanation to the arguments in the law of nature by Baron Martini) was nothing else but a translation published in 1792 of the second volume of Martini's *Positiones de lege naturali* in German, produced by Sámuel Dienes,¹⁶ who had been a student of Heidelberg University and was then working in the chancellery of the royal court in Transylvania.

The name of János Újfalusy Nepomuk (1790–1849), who has become a well-known philosopher as an interpreter of Martini's doctrines, must also be mentioned here. His book published under the title *A természeti hármass törvény* (The triple law of nature)¹⁷ is considered the last one among the works that interpreted Martini's view without any criticism in the Hungarian legal professional literature. The real importance of this work lies in the fact that, besides the overwhelming Latin professional literature, it opened the opportunity to discuss natural law in the Hungarian language and attempted to introduce the discipline into the Hungarian legal education.¹⁸

For the monarchs of Enlightened absolutism the doctrines of state, power and law created by Martini were quite acceptable in all respects, and this is why it was not by chance that natural law doctrines were included as compulsory disciplines in the curricula of legal faculties.

These legal philosophical dogmas allowed the training of loyal state officers, in addition to supporting further extension of the monarchs' powers.

Upon these considerations Maria Therese established – on the heel of the examples of Freiburg (1716) and Prague (1748) – a faculty at the University of Vienna in 1753, and also had education in natural law for first-year law students launched in Nagyszombat (Trnava). In the first Hungarian faculty of law the professor of Roman law was obliged to teach this subject, and given a salary nearly double that of his colleagues. The first lecturer meeting the requirements was Mihály Szedmáky in 1761.¹⁹

¹⁶ *Báró Martini természet törvényéről való állításainak magyarázatja, melyet német nyelvből magyarra fordított és a maga költségén kiadott Dienes Sámuel* [An explanation to the arguments in the law of nature by Baron Martini] (Bétsben, 1792).

¹⁷ János ÚJFALUSY NEPOMUK, *A természeti hármass törvény* [The triple law of nature] (Pest 1825).

¹⁸ Publications of legal philosophical writings in Hungarian was not rare before this time, particularly in the institutions of the Reformed church. Even prior to Újfalusy there had been philosophical works of law published, such as the textbook in legal philosophy written by János Sz. Szilágyi, who will be discussed below. This can be considered as the first work which aimed to establish jurisprudence in the national language as opposed to the Latin language.

¹⁹ Tivadar PAULER, *Adalékok a hazai jogtudomány történetéhez* [Contributions to the history of Hungarian jurisprudence] (Budapest: Magyar Tudományos Akadémia 1878) 281.

An independent department of natural law in Nagyszombat had not been established until 1770. According to the regulations of the council of the governor-general, „the institutions of Vienna University shall serve as the directive rule in every respect”, which means that the institution in Vienna was to be used as a model concerning both the course material and the topics for discussion. The regulation clearly defined which of the works written by Martini had to be taught and it also emphasized the importance of Grotius’s major work.

The first professor of the department of natural law was Johann Heinrich Van der Hayden from the Netherlands, who had graduated from the University of Vienna.

He was followed by József Fülöp Stuhr (?–?) for a short period of time. From 1775 natural law was taught by Antal Demién (1744–1833)²⁰ for a quarter of a century. According to contemporary records, natural law education was not highly respected, and few students attended the course. It was not by chance that the first Ratio Educationis of 1777 ordered departments of natural law to be established in further five royal academies of law with the aim to change this situation. The monarch made a decision in the same year to transfer the seat of the university to the royal palace in Buda, which finally moved to Pest (Budapest). In the first half of the 19th century Mihály Hirsch (1750–1809)²¹ and then for nearly two decades Pál Markovics (1758–1832)²² were well-known professors of legal philosophy in university education. Their lectures in legal philosophy mainly advocated Martini’s doctrines. Nevertheless, the first representatives of the national discipline of philosophy of law gained distinction in adapting the general doctrine of natural law concepts to Hungarian circumstances. The explanation embracing the social contract between modern state and law, even through an interpretation by Martini, had the force of revelation in contemporary Hungary.

Education based on natural law concepts had become more and more anachronistic by the end of the 18th and the early 19th centuries due to the fact that these concepts were opposed to the original ideas of Enlightenment and those of the French Revolution. In the second decade of the 19th century a new concept of philosophy appeared in the Hungarian literature of philosophy.

In contrast to the conservative legal theory, Kantian philosophy and legal doctrines came into prominence.

²⁰ Antal DEMIÉN, *Dissertatio inauguralis ex jure Hungarico de eo* (Tyrnaviae 1776).

²¹ Mihály HIRSCH, *Positiones ex iure digestourm et iure criminali* (Tyrnaviae 1775).

²² Pál MARKOVICS, *Praelectiones academicae de iure naturae* I-II (Pestini 1811-12).

The first work to be mentioned in a chronological order is a summary in Latin by János Sámuel Fuchs (1770–1817)²³ and another work, referred to above, written by János Sz. Szilágyi (?–1854) in 1813, *Oskolai tanító könyv a tétető (practica) philosophia második része: Természeti törvény tudomány (Jus naturae)* (The second part of a school textbook in practical philosophy: natural law doctrine), which was the first publication to discuss the whole system of the Kantian doctrine in the Hungarian language.²⁴

Other philosophers such as Zsigmond Carlowszky (1772–1821)²⁵ and Mihály Greguss (1793–1838)²⁶ also taught natural law based on the Kantian concept in the Lutheran College of Eperjes (Presov).

The works published in the first third of the 19th century, as is true of the whole period of the national philosophical thinking, basically served the purposes of education in law and partly in philosophy, and were only secondarily aimed at the renewal of scientific considerations in the philosophy of law. From this point of view, the writing by Mihály Szibenliszt (1783–1834)²⁷ in Latin as a translation of and partly a commentary on a work by Franz Zeiller and Franz Egger,²⁸ professors in Vienna, cannot be regarded as an original opus. This work replaced the book by Martini and was used as a textbook at the University of Budapest and in the royal academies of law. The main achievement was that it was the first time criticism had been provided on Martini's natural law doctrine in an official textbook. The purposes of education were also served by a book published in Latin and written by István Bánó (?–1862) based on Zeiller, Egger and Szibenliszt.²⁹

²³ János Sámuel FUCHS, *Elementa juris naturae* (Leutschoviae 1803).

²⁴ János Sz. SZILÁGYI, *Oskolai tanító könyv a tétető (practica) philosophia második része. Természeti törvény tudomány (Jus naturae) vagy: azon törvényeknek és jussoknak tudományos előadása, melyek a józan okosságból veszik eredeteket, egyenesen* [The second part of a school textbook in practical philosophy: natural law doctrine] (Szigeth 1813).

²⁵ Zsigmond CARLOWSZKY, *Jus naturae* [Manuscript] (Eperjes 1811) in: Eperjes, Kollégiumi Könyvtár [Library of Presov College] Fq 532 – Prot. Kol.

²⁶ Mihály GREGUSS, *Az észjogtudomány esedezőlevele* [Letter about natural law] (Manuscript from 1837) in Országos Széchényi Könyvtár: Kézirattár [National Széchényi Library: Archives of Manuscript] Quart. Hung. 3652. 8-17.v.

²⁷ Mihály SZIBENLISZT, *Institutiones iuris naturalis* I-II (Jaurini 1820-23) See about Szibenliszt' oeuvre: Anna Petrasovszky, 'Szibenliszt Mihály általános államtana' [Mihály Szibenliszt's general theory of state] in: *Publicationes Universitatis Miskolcensis. Sectio Juridica et Politica*. Tom. XXV/1 (Miskolc: Miskolc University Press 2007) 121-139.

²⁸ Franz ZEILLER – Franz EGGER, *Das natürliche öffentliche Recht* I-II (Wien – Triest: Geistinger 1809).

²⁹ István BÁNÓ, *Elementa jurisprudentiae naturalis secundum vestigia celeberrimorum Franc. Nob. de Zeiller ac de Egger, aliorumque de jurisprudentia meritissimorum virorum conscripta* (Claudiopoli 1836).

Antal Albélyi's (1794–1875) introduction to the philosophy of law³⁰ and a book by Gyula Gerlőczy (1837–1893) based on a work by Antal Bauer were used for twenty years from the early 1860s together with the textbooks by Tivadar Pauler as compulsory legal literature.³¹

Among the contemporary authors of Kantianism, Imre Csatskó (1804–1874) professor of the academies of law in Kassa (Kosice) and Győr, later judge of the royal court, must be mentioned. In his introduction to natural law – although with strong reference to foreign, mainly German professional literature (Zeiller, Likawetz, Gross and Krug) – he created a coherent theoretical system.

His main work in legal philosophy was published in 1839 under the title *Bevezetés a természeti jogba és a tiszta általános természeti jog* (Introduction to natural law and the pure general natural law).³² In his work he discusses in detail, among other topics, the sources, classification, ideas and use of natural law, as well as the connection between natural law and related principles, and furthermore provides a review of the bibliography of the professional literature of that time. He is concerned with the „original” human rights and obligations.

Due to the book by Csatskó, the Kantian concept gained ground in Hungarian legal thinking. The elaboration of an official legal concept and also the textbooks used in legal higher education at that time are connected to Antal Virozsil (1792–1868), professor of legal philosophy at the faculty of law in Budapest. Virozsil can be regarded as a renowned philosopher of law in the second third of the 19th century, whose main merit was that he taught philosophy of law in the Kantian attitude at the only university of Hungary. His works were used in legal higher education, in addition to the officially accepted textbooks by Martini, as handbooks written mostly in Latin or German. A three-volume book by Virozsil published in 1833 is considered as the first original work in the Hungarian philosophy of law.³³ However, his main work is *Epistome juris naturae, seu universae doctrinae juris philosophicae*³⁴ the Hungarian translation of which was published in 1861.³⁵

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³⁰ Antal ALBÉLYI, *Philosophiae juris paecognita* (Comaromii 1831).

³¹ Gyula GERLŐCZY, *Alkalmazott észjogtan kérdések- és feleletekben: Dr. Bauer Antal jogrendszere alapján és több forrás után* [Practical natural law: on the basis of Dr. Antal Bauer] (Pest: Emich 1862) Revised edition: *Természetjogtan a vizsgálatra vagy szigorlatra készülők és a művelt rend számára* I-II [Studying for natural law examination] (Budapest: M. Kir. Egyetemi Nyomda 1877-79, 1883²).

³² Imre CSATSKÓ, *Bevezetés a természeti jogba és a tiszta általános természeti jog* [Introduction to natural law and the pure general natural law] (Győrött 1839).

³³ Antal VIROZSIL, *Jus naturae privatum, methodo critica deductum* I-III (Pestini 1833).

³⁴ Antal VIROZSIL, *Epistome juris naturae, seu universae doctrinae juris philosophicae* (Pestini 1839).

³⁵ Antal VIROZSIL, *Egyetememes természet- vagy észjog elemei* I-II (trans. József Márki and Pál Hoffmann) [Elements of general natural law] (Pest: Heckenast 1861).

Virozsil's oeuvre is characterized by a special contradiction. Though his theory followed Kantian doctrines, including the idea of freedom, his conclusions adopted a number of statements according to absolutist power and the existing status quo. He attempted, after the example of the French revolution, to describe all the threats that can occur in the establishment and maintenance of civil order as a result of misinterpreted natural law ideas. This attitude appeared in complete accordance with the Habsburgs' striving for power in the 1830s.

In spite of the fact that Virozsil's philosophy of law had a restraining influence, the Habsburg monarchy, after the Hungarian revolution and war of independence of 1848-49 was suppressed, decided on further restrictions on legal education. In the new curriculum launched in 1855, political powers wanted this discipline, aiming to communicate potentially dangerous views to be relegated to the background.

Instead of legal philosophy, the history of law was emphasized, particularly the teaching of the history of Austrian and German empires and laws. However, in 1860 university autonomy and the freedom of education that had been abolished in 1848 was restored. Legal philosophical education was then renewed and German ceased to be the language of instruction.

A prominent philosopher of neo-absolutism during the two decades after the Austro-Hungarian Compromise in 1867 was Tivadar Pauler (1816–1886), who is considered as the last significant philosopher of the Kantian doctrine. Pauler became renowned as a professor of academies of law in Zagreb and Győr, and later as a professor of legal philosophy and criminal law at the University of Budapest. Through his works written in Hungarian and published beginning in the early 1840s, he became the doyen of Hungarian theoretical legal thought by the mid-19th century. Among his main works the first to be mentioned is *Az észjogtudomány fejlődése s jelen állapota* (The development of the discipline of natural law and its present status), which was published in seven pieces in *Tudománytár*, the most important scientific journal, between 1842 and 1843.³⁶ In this work Pauler, similarly to Csatskó, determines the discipline of philosophy of law as a major part of „practical philosophy”, which has a profound effect on the legal life of European societies, with particular reference to public and private law as well as to the regulation of criminal law.

³⁶ Tivadar PAULER, 'Az észjogtudomány fejlődése s jelen állapota' (1-7 parts) [Development and actual condition of natural law theory] 6 *Tudománytár* (1842) 12, 351-371; 7 *Tudománytár* (1843) 3, 188-194; 7 *Tudománytár* (1843) 4, 233-254; 7 *Tudománytár* (1843) 7, 26-49; 7 *Tudománytár* (1843) 8, 77-94; 7 *Tudománytár* (1843) 9, 147-163; 7 *Tudománytár* (1843) 10, 208-215.

In this early work Pauler introduced the history of theoretical legal thinking starting from Greek philosophy to contemporary trends in Hungarian and European legal philosophy. This historical overview was later repeated in his book entitled *Bevezetés az észjogtanba* (Introduction to natural law)³⁷ in 1852 as well as in its further extended publications. In the preface to his study he unambiguously explains his theoretical view, which is based on Kantian philosophy. According to his statement about legal order originating from reason independent of any positive legislation, there exist eternal and intangible truths which are assigned as standards in social conditions through the order of reason.³⁸

Pauler evolves his views on Kantian philosophy in his work entitled *Észjogi alaptan* (Natural law doctrine)³⁹ in 1854, following his introduction to natural law, then in 1864 his monograph *Észjogi előtan* (Natural law studies)⁴⁰ was published, which was a combined version of the two previous works.⁴¹

In the preface to his work he pronounces that „there exist standard and unchangeable legal ideas, comprehensible by reason, which create the cornerstones for all societies.”⁴² Although Pauler followed the Kantian system when determining the concept of law, its main idea and the related issues, he was not a follower without any criticism. Besides describing his counter arguments, he included into his own concept the theses considered acceptable by him. In this way, positive evaluations of the ideas of Ahrens, Stahl, Haller and even Hegel occur in his writings.

From the beginnings of the 19th century the attempts of Hungarian legal philosophical thinking can be detected in Pauler's oeuvre, which involves a move towards legal positivism gaining more and more importance in Western Europe. Another special feature of his legal concept is that he tries to combine Kantian doctrines with the views of the historical school of law, which emphasizes historical and national traditions.

³⁷ Tivadar PAULER, *Bevezetés az észjogtanba* [Introduction to natural law] (Pest: Emich 1852).

³⁸ Tivadar PAULER, 'Az észjogtudomány fejlődése s jelen állapota' 6 *Tudománytár* (1842) 12, 352.

³⁹ Tivadar PAULER, *Észjogi alaptan* [Natural law doctrine] (Pest 1854),

⁴⁰ Tivadar PAULER, *Észjogi előtan. A szerző észjogi bevezetése és alaptana* [Natural law studies: author's introduction and doctrine of natural law] Athenaeum, Pest, 1864², 1873,³

⁴¹ Other important legal philosophical studies: 'A végszükség joga' [Law of emergency] 3 *Új Magyar Múzeum* (1853) 10, 469-478; 'Az elévülés észjogi alapja' [Natural law bases of lapse] 3 *M. Akad. Értesítő* (1959) 65-98; 'Az álladalom jogalapjáról' [The legal ground of state] 8 *M. Akad. Évkönyv* (1860) 30-62; *Adalékok a hazai jogtudomány történetéhez* [Contributions to the history of Hungarian jurisprudence] (Budapest: Magyar Tudományos Akadémia 1878).

⁴² Tivadar PAULER, *op. cit.*, (note 37) [1873] IV.

A good example for this is his work *Büntető jogtan* (Criminal law doctrine)⁴³ published in two volumes in the mid-1860s, which is considered by most experts to be Pauler's main work, raising the Hungarian criminal law discipline to the academic standards of Western Europe.

Having introduced theories and authors closely connected to Kantian philosophy, we now turn to the Hungarian translations of German and French Hegelian legal philosophical works influencing legal philosophy in Hungary, which were used as handbooks in education between the 1850s and 1880s.⁴⁴ These are the works by Heinrich Karl Gross, Heinrich Ahrens and J. A. Schilling, legal philosophers of Erlangen and Leipzig, which had been translated into Hungarian.

The book by Gross was translated by Ágost Greguss (1825–1882),⁴⁵ Ahrens was translated by Ferenc Magyar (1809–1882)⁴⁶ and later by Imre Bihari (1829–1882),⁴⁷ and Schilling's monograph was translated by Rudolf Werner (1838–1907)⁴⁸ Works created by András Vandrák (1807–1884)⁴⁹ and Ferenc Thót (1817–?)⁵⁰ exclusively for teaching purposes must be emphasized, as summaries of works by Ahrens.

The original books earlier had had a great influence on German, French and Italian legal philosophical thinking, and exerted a similar influence in Hungary as well.

⁴³ Tivadar PAULER, *Büntető jogtan* [Criminal law doctrine] I-II (Pest: Pfeiffer 1864-65, 1869-1870², 1872-1873.³).

⁴⁴ See about this Ferenc FINKEY *op. cit.*, (note 1) 174.

⁴⁵ Heinrich Karl GROSS, *Bölcsészeti jogtudomány vagy természetjog* (trans. Ágost Greguss) [Philosophy of law or natural law] (Pest: Heckenast 1854). Original publication: *Lehrbuch der philosophischen Rechtswissenschaft, oder des Naturrechts* (Tübingen 1802).

⁴⁶ Heinrich AHRENS, *Természeti jog vagy jogphilosophia, e tudomány állása szerint Németthonban* (trans. Ferenc Magyar) [Natural law or legal philosophy: position of this discipline in Germany] (Eger: Egri Érseki Főtanodai Könyvnyomda 1850).

⁴⁷ Heinrich AHRENS, *Természeti jog vagy jogbölcsezet* (trans. Imre Bihari) [Natural law or legal philosophy] (Pest: Athenaeum 1872).

⁴⁸ J. A. SCHILLING, *A természetjog vagy bölcseleti jogtudomány kézikönyve. Összehasonlító tekintettel a tételesjog intézkedéseire* (trans. Rudolf Werner) [Handbook of natural law or legal philosophy] (Pest: Franklin Társulat 1869). Further editions: *A bölcseleti jogtudomány kézikönyve. Összehasonlító tekintettel a tételesjogi intézményekre* (trans. Rudolf Werner) [Handbook of legal philosophy] (Budapest: Franklin Társulat 1874², 1880³).

⁴⁹ András VANDRÁK, *Bölcseleti jogtan* (Észjog) [Philosophy of law: natural law] (Eperjes: Rosenberg 1864).

⁵⁰ *Jogbölcsezet*. Ahrens H. után hallgatói részére vezérfonalul dolgozta Thót Ferencz [Philosophy of law: on the bases of H. Ahrens] (Debrecen 1879).

Hegelian views were gaining followers, namely the legal philosophical outlines by János Wurga (1804–1875),⁵¹ and the Kantian philosophical essays written by Gábor Szeremlei (1807–1867),⁵² Nándor Kacziány (1822–1908),⁵³ and László Wekerle (1840–?).⁵⁴

The last original natural law theory, which had been overshadowed by the early 19th century, had a major role in legal education as well as in scientific works in Hungary, even at the end of the century.

Aladár Schnierer (1836–1898)⁵⁵ is considered a delayed representative of Kantian doctrine. Another fact to be mentioned is that in 1881, when Ágost Pulszky had lectures in legal philosophy in the approach of legal positivism at the faculty of law in Budapest, a renowned publisher decided to issue a textbook written by an author under the pseudonym „Thomasius” in the spirit of Pauler, for use by students preparing for examinations.⁵⁶ The last representative of Kantian legal philosophy was János Csarada (1850–1923), who lectured in legal philosophy at the faculty of law of Budapest from the end of the 19th century to 1920, in turn with Gyula Pikler, the main figure of the Hungarian sociological legal positivism. This fact is proved by a textbook of university lectures.⁵⁷ The Kantian views introduced by Csarada may have been a highly contrastive phenomenon parallel to the concepts of Pikler.

Even in his book published in a number of issues entitled *Az észjog compendiuma* (The compendium of natural law) for those preparing for examinations as advocates or judges as well as for practicing lawyers, Csarada explained theoretical knowledge from an earlier standpoint of Kantian philosophy.⁵⁸

⁵¹ János WARGA, 'Az észjog alapvonatai' [The bases of natural law] *Tudománytár* (1834) 4, 27-46; *Tudománytár* (1835) 5, 83-90; *Tudománytár* (1835) 7, 100-118; *Tudománytár* (1835) 8, 136-141.

⁵² Gábor SZEREMLEI, *Az új philosophia szellemvilági fejletében* [Developments of new philosophy] (Pest 1841); *Jogbölcsészet* [Philosophy of law] (Sáros-Patak: Nádaskay 1849).

⁵³ Nándor KACZIÁNY, *Társadalmi észjog* [Social natural law] (Budapest 1873).

⁵⁴ László WEKERLE, *Az észjog vezérelvei* [Principles of natural law] (Budapest: Aigner 1877).

⁵⁵ Aladár SCHNIERER, *Jogbölcsészeti jegyzet* [Lectures on legal philosophy] (5th edn) Budapest: Politzer 1898.

⁵⁶ THOMASIVS, *Észjog. Kérdések és feleletekben* [Natural law: questions and answers], Budapest: Eggenberger 1881.

⁵⁷ János CSARADA, *A bölcséleti jog jegyzetei I-II* [Lectures on legal philosophy], Budapest: Politzer 1900.

⁵⁸ N. B., *Az észjog compendiuma. A jogbölcsélet történetének rövid vázlatja* [The compendium of natural law] (Budapest: Politzer 1896, 1900², 1904³).

To summarize, it may be stated that the above mentioned authors and works in the Kantian spirit have not created a reputable scientific achievement. Nevertheless, as opposed to the natural law doctrine of Wolff-Martini, these philosophers had a modernizing influence in the first third of the 19th century on Hungarian legal thinking, including statutory law disciplines not closely related to legal philosophy.