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**MEASURES OF DEPRIVATION OF FREEDOM
IN THE HORTHY-ERA, WITH SPECIAL REGARD
TO ANTI-JEWISH LAWS**

Summary of PhD Thesis

Miskolc
2012

UNIVERSITY OF MISKOLC
FACULTY OF LAW
„FERENC DEÁK” DOCTORAL SCHOOL OF LAW

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I. The goals of the dissertation and the brief summary of the research projekt

The aim of the present thesis is to examine the legislative measures of deprivation and abridgment of rights adopted in the second part of the Horthy-era, with special regard to anti-Jewish laws.

Changes in internal and foreign affairs in the 1930's and 1940's strengthened the authoritarian nature of the era, a significant factor of which nature was the deprivation and abridgment of civil rights, mainly by anti-Jewish laws and the related lower level regulations.

Anti-Jewish laws, as a thoroughly investigated field of the given era, have been subject of examination from social and political sciences' point of view by several studies; however these studies have left many questions of legal history unrevealed. When forming the research hypothesis the need of defining the terms 'legal equality', 'abridgment' and 'deprivation of rights' has arisen; also many questions, like how anti-Jewish laws were adopted, what rights were affected by these laws, how these national and local laws and regulations were enforced on local level, what kind of role the central and local law enforcement organs had in this regard, what exact provisions did these laws prescribe, what exact instructions on enforcement of these laws were given by

the competent ministers, to what extent these laws were enforceable, shall be responded. I also intend to reveal the actual competence and 'freedom' of ministers in this regard, namely how and to what extent governing was solved on ministerial level in the Horthy-era.

At the same time, in addition to the areas regulated by anti-Jewish laws, measures of deprivation of civil rights covered many more fields of private and public law, so the inherence of these measures and anti-Jewish laws shall also be subject to examination.

What kind of role the courts and the court practice played in the enforcement and interpretation of such regulations? To what extent did jurisdiction slow down, or, on the contrary, speed up legalized discrimination?

In my examination of jurisdiction, in addition to citizens' narrowing room to manoeuvre, I also intend to present the interpretation of abridgment regulations by individuals as well as how these individuals tried to interpret their own interests within the limits (or, even crossing the limits) set up thereby.

By detailed examination of such regulations of abridgment and deprivation of rights in each fields of law, based on the terminology of legal and political sciences, this thesis is also aimed at revealing the changes of the three separate branches of government.

In my thesis I intended to present and interpret these measures of deprivation of freedom of the Horthy-era in their complexity.

II. The research methods and resources

To achieve the hereinabove mentioned aims of my thesis I investigated many more sources in addition to the usual ones (including mainly the laws and archives' documents related to the enforcement thereof); my intention was to present the subject matter through investigation of laws and regulations as well as sources from archives and libraries.

Therefore, sources of law form the principal basis of the present thesis, with special regard to decrees, as supplementary sources of law besides the more than thirty acts adopted between 1938 and 19 March 1944.

Detailed analysis of parliamentary instruments (minutes of sessions and submissions) promoted the presentation of discussions related to abridgment laws. Minutes of cabinet council and documents of ministry of internal affairs preserved in National Archive helped to trace the countrywide enforcement of abridgment laws, while documents stored in Borsod-Abaúj-Zemplén County Archive formed the basis of presentation of local law enforcement organs' activity.

Besides the law I processed the documents of court cases related to miscegenation and strawmen, the casebook of Supreme Court and relevant legal literature of the age.

Analysis focusing on jurisdiction is based on sources from archives, principally on documents of court cases related to abridgment laws, which documents are included in contemporary case-books on the one hand; and, on the other hand, on documents related to court cases conducted by Municipal Court of Budapest and Supreme Court on the grounds of elusion of anti-Jewish laws and miscegenation, which are preserved in Budapest Metropolitan Archive and National Archive.

Sources from archives, although fragmental, significantly promoted the examination of abridgment measures, as based on these the cases of Supreme Court as well as those of lower level courts can be investigated and used as sources of legal history.

Horthy-era is the field of Hungarian Jewish history which is the most thoroughly investigated by legal historians, however no work has been published yet – excluding the book of Katalin Szegvári Nagyné – specialized on anti-Jewish laws: publications - focused on the legal and constitutional history and organizational structure of the Horthy-era (for example Andor Csizmadia, Egressy Gergely Egressy, Kálmán Kovács, Katalin Szegvári Nagyné, Péter Tibor Nagy, József Ruszoly, Ferenc Sik, István Stipta.)

I relied on foreign literature when exploring the international relations of the subject. I can mention the next authors for example: Randolph L. Braham, Ezra

Mendelsohn, Yehuda Bauer, Yehuda Don, Yehuda Don, Lucy Dawidowicz, and Tim Cole.

Instead of presenting the laws in chronological order, I investigated the measures of abridgment of rights in line with their place in the legal system and in the light of the three separate branches of government.

In compliance with that, the structure of the present thesis includes four chapters, three of those comprising the analysis of the subject in connection with the three branches of government, while the fourth one exploring the legal historical consequences of German occupation.

III. Results of the research and ways of utilizing

By responding the questions posed in the hypothesis, joint investigation of the role and effect of three branches of government on the life of citizens we got a picture of theoretical and practical meaning of deprivation of civil rights in the Horthy-era.

As introduction I summarized the theories of legal equality and anti-Jewish laws of contemporary legal historians, which was, regarding the fact that Hungary did not have a written constitution at that age, a significant question. In the same time, legal historians of the Horthy-era also worked on the interpretation of rights enacted in laws in the second half of 1800's. There is no significant difference between legal historians' – Móric Tomcsányi, József Bölöny, Ferenc Faluhelyi, István Csekey, István Egyed, Kálmán Molnár, Ödön Polner, Vilmos Szontágh, and Béla Zsedényi – opinion of place of anti-Jewish laws among the sources of law: principally all of them agreed, that principle of legal equality was infringed by adoption of anti-Jewish laws, however they had different concept concerning the interpretation of legal equality itself. Legal historians' opinion served as theoretical basis of legislation from 1938.

The first chapter of the present thesis is aimed at presentation of the laws, which were effective in the investigated period, and the method of adoption thereof

from the point of view of the respective civil rights affected by the single laws (instead of using a chronological order), focusing on the two branches of law (private and public law) and separate fields thereof.

Anti-Jewish laws discriminated people on the basis of their Jewish descent, qualifying Jews as 'lower class', breaking the legal equality of Hungarian citizens on religious and racial grounds. Including Act XV of 1920, the national assembly and the parliament adopted 22 anti-Jewish laws, however the total number of abridgement laws was much higher in the era.

While basically the personal scope of anti-Jewish laws did not cover each and every citizen of the country, other abridgement laws affected the rights of everyone – Hungarian citizens and persons residing in Hungary (even if they were not Hungarian citizens). Abridgement laws were adopted also at the beginning of the period, but obviously the number of such laws increased after the second World War broke out.

Although it was not adopted in the examined period between 1938 and 1944, we cannot disregard *numerus clausus*, – Act XXV of 1920 – which is also one of the anti-Jewish laws (due to the measures enacted in it, aimed at deprivation of rights of Jews), however, regarding the circumstances of adoption thereof, it can clearly be separated from laws adopted in the second part of the Horthy-era.

The purpose of investigation of legislation was to establish the pro and contra arguments. There are examples of abridgment of rights constituting accepted and reasonable part of legal systems of democratic states. Preparation for the war justified the adoption of national defence act in 1939. As a third group those abridgments can be identified, which marked separate groups of population on religious and racial grounds. Anti-Jewish laws played significant, but not exclusive role among abridgment measures, as the research revealed.

Regulations aimed at abridgement were adopted on several, different grounds. Question of legal equality first arose as cardinal question in the parliamentary discussion of the first and second anti-Jewish laws. The first anti-Jewish law (Act XV of 1938) nullified the principle of citizens' legal equality, while with the enactment of the second anti-Jewish law the separation of population to groups of people having full and other groups of people having limited rights, was completed. The term 'Jew' was widened and changed after 1939 by the adoption of further laws.

Third anti-Jewish law represents the act of miscegenation in Hungarian legal history, while the fourth one, adopted in 1942, legalized the abolishment of integrity of private property. The act, while downgrading the Jew confession to 'acknowledged', gave judgment on a religion.

Final conclusion in relation to legislation is that enactment of abridgment both in the branches of public and private law is a result of the period between 1938 and 1942.

The second part of the thesis works up the local enforcement of laws and regulations; however the picture drawn up herein is incomplete, basically because several books and studies are available in the subject matter, furthermore, an investigation covering all counties of the country would have exceeded the frames of this thesis, in which I analysed the role of the more than 300 decrees in abridgment and deprivation of civil rights and I presented the role of local and certain central enforcement organs through the example of some districts of Borsod county, based on archives' documents.

The survey of the chosen county led to the recognition that in several cases the local government speeded up the enacted discrimination; however no countrywide conclusion may be drawn from the practice of one county.

Also the workload of enforcement organs increased from 1938, due for example to demographical registrations, birth certification procedures and duties related to exemption from anti-Jewish laws; the regulation of the latter amended basically the matters of competence, therefore the circle of proceeding authorities was constantly changing. In the field of law enforcement, Intellectual Government Authority ('Értelmiségi

Kormánybiztosság') had significant role in connection to employment-related questions.

Local regulation and enforcement of abridgement of ownership rights is clearly traceable from the sources, similarly to the changes in economy.

Unfortunately, archives' sources are limited in relation to the local enforcement of public law abridgements, but increasing importance of regulatory legislation is clearly reflected in lower level laws. Examination of more hundred regulations responded the basic question of hypothesis and confirmed the cardinal role of regulations in the course of abridgment. These sources of law include the detailed regulations, description of different phases of procedures, appointment of competent authorities and the templates essential for law enforcement and practical realization.

Besides the legislation and enforcement the examination of the activity of third branch of government, namely the jurisdiction, can provide us with a full picture of this period.

My thesis intends to discover the practice of Supreme Court in interpretation of abridgment laws and regulations; therefore I investigated the judgements and case of Supreme Court based on case-books and instruments preserved in archives.

In the analysis of court cases I relied on division used in my examination of legislation and enforcement (private law – public law), however it was not fully

possible due to the variety of cases, so I put the emphasis on the survey of two new types of cases (elusion of anti-Jewish laws and miscegenation). Based on this survey we can establish, that Supreme Court took a stand in competence questions, resolved the contradictions between laws (between e.g. the second anti-Jewish law and the regulation of compulsory minimum wages), gave an interpretation of abuse of termination right, in relation to pension-related and anti-Jewish laws, and played important role in judgement of labour services.

In the field of criminal law, in most of the strawman-related or miscegenation cases condemning decisions were passed, furthermore, in relation to the latter, the Supreme Court 'further developed' the practice by widening the definition of 'decent woman'. In cases of elusion of anti-Jewish laws usually the judgement was imprisonment and (as second punishment) suspension of exercise of political rights.

Upon the investigation of cases related to sedition against confession it becomes clear that court practise was not totally and finally rejective toward Jews; in many cases the court established the commitment of sedition, protecting the Jews thereby (who, as special part of the population were already affected by abridgement laws).

Examination of jurisdiction gives a full picture of practical realization of abridgement, as (besides the courts' obligation to decide in many, unprecedented

cases), the Supreme Court played a leading role in interpretation of newly adopted laws as well.

The jurisdictional organs slowed down the process of law-based discrimination by being attached to the letter of law and in many cases judging in favour of Jewish persons, awarding to them for example the profit, pension or salary. In the field of criminal law courts acquitted people charged with miscegenation or being a strawman on several occasions. Practically, in these cases Supreme Court protected people falling under the scope of abridgement laws.

However, on the hand, courts speeded up this process of discrimination as Supreme Court confirmed in its decisions the 'possibility' provided by laws to exclude Jewish people from commercial organizations, to nullify their marriage, to deprive them of personal properties or to imprison them based on their Jewish descent.

The last chapter of the present thesis investigates those aspects of period between 19 March 1944 and 16 October 1944 which are important from legal history point of view.

Anti-Jewish regulations are the 'decrees' issued by cabinet council after German occupation, which would have been unenforceable without the adoption and enforcement of the previously mentioned laws prior to occupation. Apparent legality of these decrees (and, thereby, the acceptance thereof by most of the local authorities) was based on the extraordinary power

provided in national defence act; while in case of decrees marked as 'top secret' no special reference to any legal authorization was made.

'Legal inequality' turned into completeness in this period; discrimination of people enacted already in 1938 became literally visible from April 1944 with the compulsory wearing of yellow badge.

In the last part of the chapter I revised the local enforcement of central order prescribing the segregation of Jews in ghettos in four districts. These orders of magistrates served as 'legal' basis of deportation.

Obviously, legal continuance was not interrupted by German occupation, laws and regulations adopted prior to that remained the basis of wearing of yellow badge, ghetto segregation and deportations.

Despite the standpoint of the previous literature according to which there's a clear cut between the pre- and post-German occupation period, researches led to the unambiguous result that, regarding legal continuity, the difference between the said periods is trivial; from legal history point of view there's a much more important contrast between the periods before and after the regime of Arrow Cross Party (Hungarian Nazi Party).

Conclusions of thesis may be subject of further analysis for researchers of the Horthy-era and may promote further survey and evaluation of the period. Literature of anti-Jewish laws included few studies of

legal history; the present thesis tries to reduce this deficiency.

Real usability of results of this research is reflected in studies published in the recent years as well as in lectures presenting parts of scientific achievements hereof.

In university education actual results of the study are used in optional classes, called already in several semesters.

IV. List of publications related of the dissertation

1. *The execution of the anti-Jewish law and orders in the district of Mezőcsát (1938-1944).*
(Doktoranduszok Fóruma Állam- és Jogtudományi Kar Szekciókiadványa. Miskolc, 2007. 113-117. p.)
2. *Additives to the confining of Jews to the ghetto in the district of Mezőcsát.*
(Jogtörténeti Szemle. 2008/2. szám. 52-59. p.)
3. *The legal history aspects of the second anti-Jewish law.*
(Doktoranduszok Fóruma. Az Állam-és Jogtudományi Kar Szekciókiadványa. Miskolc, 2008. 109-114. p.)
4. *The legal history aspects of the first anti-Jewish law.*
(Miskolci Doktoranduszok Jogtudományi Tanulmányai. 9. szám. Bibor Kiadó. Miskolc, 2008. 241-265. p.)
5. *The enforcement of the regulations of the property in the second anti-Jewish law in Miskolc and in the settlements in Borsod County.*
(Profectus in Litteris I. Válogatott előadások a 6. debreceni állam-és jogtudományi doktorandusz-konferenciáról. Debrecen, 2009. 47-55. p.)

6. *Additions to the Act XV of 1941.*
(Doktoranduszok Fóruma. Az Állam-és Jogtudományi Kar Szekciókiadványa. Miskolc, 2009. 73-77. p.)
7. *The Act XV of 1941. and the judicial practice.*
(Profectus in Litteris II. Előadások a 7. debreceni állam-és jogtudományi doktorandusz-konferencián. Debrecen, 2010. 219-225. p.)
8. *Additions to the history of the ownership between 1939 and 1942.*
(Doktoranduszok Fóruma. Az Állam-és Jogtudományi Kar Szekciókiadványa. Miskolc, 73-77.p.)
9. *Immunity requests before the Hungarian authorities between 1938 and 1942.*
(Publicationes Universitatis Miskolcensis. Sectio Juridica et Politica. Tomus 29/1. 2011. 39-55. p.)
10. *Abridgments in the public law in the second period of Horthy-era.*
(Miskolci Jogi Szemle. VI. évfolyam. 2. szám. 2011. 67-86. p.)

11. *The interpretation of the second anti-Jewish law in the Hungarian judicial practice between 1938 and 1944.*
(XII. RODOSZ Konferenciakötet. Társadalomtudományok. 2. kötet. Kolozsvár, 2011. 49-60. p.)

12. *Ownership rights in Hungary between 1939 and 1944.*
(Bögre Zsuzsanna-Keszei András-Ö. Kovács József (szerk.): Az identitások korlátai. Traumák, tabusítások, tapasztalattörténetek a II. világháború kezdetétől. L'Harmattan Kiadó, 2012. 125-132. p.)