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The Architectural Background of the Hungarian Justice System in the Age of the Austro–Hungarian Monarchy

1. Introduction

When speaking of the judicial organisation in its physical reality, two factors shall be mentioned. Firstly, the human resources, particularly the judges. Secondly, the whole of material conditions, of which the court buildings are of utter relevance. This study deals with the latter element: the architectural background of the Hungarian court system in the Austro–Hungarian Monarchy.

When dealing with both legal and architectural issues, generally speaking, the worlds of law and architecture are most clearly interlinked in courthouses. The court as a building comprises three sets of rules, according to Werner Gephart: the regulatory system of the court as an organisation, its impact on the technical rules of construction and many abstract rules that define the character of a legal system.[1] A court building, in fact, is a specific projection of legal norms into physical reality. Therefore, in this context, the most fundamental question is: *What is necessary for the construction of a courthouse?*

The answer can be summarised in a few steps that take us from organisational reforms to an accomplished construction of a courthouse. The definition of the task in this process is the starting point, which, in this case, is to build up the judicial organisation. This is closely linked to the judicial reforms carried out throughout Europe in the second half of the 19th century.

1. 1. Reform of the justice system

One of the most important tasks of the State after the Compromise of 1867 was the modernisation of the judiciary, which the government soon set about. The process took several decades, the stages of which are reflected in procedural and organisational laws. We are aware that after the Compromise, the Act No. 54 of 1868,[2] which aimed at reforming civil litigation, also affected the justice system and, subsequently, a decisive step was taken by Act No. 4 of 1869, which separated administrative and judicial activities. From that point on, these two activities went their separate ways, which translated into the language of architecture, led to the appearance in Hungary in the following decades of two different types of public buildings with different functions: court and administrative buildings.[3]

The first organisational laws, which basically determined the later Hungarian court system were passed after 1869, as the courts of first instance were established by the Acts No. 31 and 32 of 1871. The organisational reforms of the following decades (1876, 1881, 1890,[4] 1897, 1912) created the judicial organisation of the dualist era, whose so-called *ordinary courts* are relevant to the present topic. These were courts of general jurisdiction, operating under a hierarchical system, which had fixed location and functioned permanently.[5] These two characteristics did not apply only to their operation, but also their physical existence, which required buildings.

When the state judiciary was set up, new court houses separated from the administrative buildings, as a matter of course, could not be built immediately. It is no coincidence, that the *provisional measures* of the Act No. 31 of 1871 enshrined the question of location and ordered the authorities and municipalities to make their premises available for the courts[6] free of charge. This situation, however, was not satisfactory even then, and the state's financial resources, in addition to the inadequacy of the organisation, preserved the situation for many years in which the state courts had to further operate in municipal-administrative buildings.[7] It was clear that new buildings would have to be erected for the new courts.

1. 2. The relationship between organisation and function

Modernisation therefore resulted in a new court organisational system, which also needed physical space provided by a suitable building in these decades. The definition of function is always a primary condition when it comes to the design of a building. The structure of the judicial organisation is one aspect of the functionality of a court building.

The ordinary court organisation of the Dualism had four instances (the Royal District Courts, the Royal Regional Courts, the Royal Courts of Appeal, and the Royal Curia), to each of which a building had to be assigned. This, in principle, would have meant four types of courthouses, i.e., buildings for the district courts, for the regional courts, for the regional courts of appeal and a building for the Curia. Construction projects of the subsequent period implemented these types of buildings, but expediency required each forum to be housed in the same building, thus various activities of the judiciary were provided for by multifunctional facilities.

However, it is not only the design of a courthouse that determines its appearance, but also the procedural law. This factor has the greatest and most general impact on the design of a building. Thus, a court building has specific space requirements.

1. 3. The specific space requirements of adjudication

The evolution of the space requirements of legislation is closely linked to the codification of procedural law. This is part of the changes of the 19th century leaving a fundamental mark on legal culture since social changes and the emancipation of the bourgeoisie went hand in hand with economic development. Individual liberty became a central political concept and a defining requirement of the constitutional state. This political change and movement has strongly affected the judiciary. The written and secret proceedings were replaced by the independence of judges, the principle of verbalism, the principle of publicity, and the participation of lay people in criminal proceedings. A change in the judicial architecture was also brought by these changes. Oral and public proceedings required a large space,[8] while secret and written proceedings were confined to a small room.

The principles of verbalism, immediacy, and publicity, which were implemented in French law with the Civil Procedure Code of 1806,[9] shaped the court buildings, as these principles required spatial solutions that were unnecessary or even unthought of in the case of earlier written proceedings for many years in the 19th century. Hence the experimental period in the development of court buildings to meet the needs of procedural law. Such an exciting period took place, for example, in the Rhineland, where French procedural law prevailed as a result of the Napoleonic invasion and court buildings had to be adapted and designed accordingly.

Konrad Schall, in his treatise, described this period of experimentation, which lasted several years, through the example of the Grand Duchy of Baden.[10] It shows that Baden was one of the first German states to introduce the principle of publicity by its reform of procedural law in 1831–1832, and thus was confronted with the architectural space requirements this entailed. One of the most eye-catching of these was the need to change the building of the higher courts. The building of the *Hofgericht* in Freiburg and its upstairs courtroom were not suitable for public use due to their small size and location, thus the court looked for a new, larger room in the adjoining wing in 1832. Subsequently, the public courtroom provided space for both trials at first instance and appeals.[11]

However, these principles have changed the life not only of the higher, but also of the lower courts. The task had to be tackled at this level too, since suitable buildings were scarce. However, this was difficult, because, while the Baden Building Authority had experience in the design of administrative buildings, it did not have any for the courts. Thus, there was complete uncertainty as to the layout of the buildings to be designed. This was well reflected by a series of questions sent by the Upper Rhineland district government to the Ministry of Justice asking about the space requirements of defendants, witnesses, lawyers, and the audience, and whether there should be separate rooms provided for persons in proceedings near the courtroom. The size of the prison cells was also in question in which the investigating judge could conduct his proceedings. The response of the ministry showed a lack of experience rather than guidance, referring to the French solution only in regard of the court rooms.[12] The Architecture Office drew up a model plan based on the French model[13] for the design and conversion of the courts in Baden in the following years.

However, it was not only the principle of immediacy and publicity that had influence on the court buildings, but also the emergence of lay judges. This caused a new conundrum also in Baden, after the introduction of sit-in judges in 1864, which required even larger courtrooms. This was met by architectural developments, so the view became widespread that "internal functions should be reflected externally as in the 1850s, by which the independence of the courts is emphasised, their character being different from that of administrative buildings".[14] The place of first-instance lay judging was the courtroom of the sit-in judges, as the most important room in the courthouse was placed in the central axis of the building, in the central rizalit, as a result of the judicial reform. In addition, the rustication[15] on the ground floor symbolised the foundation of the building also as the new judicial law as the trusted basis for the Baden legislation.[16]

2. Developments in Hungary

Codification in Hungary progressed slowly and started decades later in contrast to the development of the Baden and other (German) states, and this, together with the lack of material funds, also hindered the appearance of court buildings that conformed to modern procedural principles. It is also important, however, that this relative backwardness has allowed Hungary to use both modern procedural law and the type of courthouse that serves it as a ready model. The actual establishment of the ready-made model, especially in the field of architecture, occurred in the third or fourth quarter of the century, when the state built a multitude of courthouses across the country in the space of a few years, laying the foundations for the court building stock that is still in operation today.

This *Hungarian model* has often turned towards German solutions, because of our historical connections both in codification and architecture. An architectural scheme adapted to modern procedural law had already been developed in Germany, by the time the building of courthouses was taking off in Hungary in the 1880s and 1890s. In this scheme, the way in which procedural needs could be met by a court building has already been well established. This is well illustrated by architectural textbooks treating courthouses as a separate type of building.[17]

Although the Government's intentions for modernisation after the Compromise also affected higher education in Hungary, the general attention of our architects, in addition to Austrian developments, turned to German architecture, which was also confirmed by the fact that they learned the basics of the profession not only at the

academy in Vienna but also in Berlin in this period. For example, the legal status of the Joseph Polytechnic, which had been in operation since 1856, changed in the course of this process, and as from 1871, among other things,[18] it provided a framework for the training of architects under the name of Joseph University of Technology. Nevertheless, it was common for architecture students to complete their studies abroad until the turn of the century. Hungarian architecture students were mainly to be found at the Academy of Architecture *(Bauakademie)* in Berlin and the Academy of Fine Arts *(Akademie der Schönen Künste)* in Vienna.

In addition to education, trade press[19] has also made a significant contribution to the culture of our architects. "The *Allgemeine Bauzeitung* in Vienna has been an authoritative source already from 1836 in Central Europe, which was followed by many similar publications in the centres of the German-speaking world during the upcoming decades."[20] Consequently, it was obvious that the German-speaking area provided the model for the construction of the judiciary in Hungary. We could draw from these models to build the Hungarian district courts, the regional courts, and the higher courts.

3. Hungarian courthouses in general

The 1880s marked the beginning of the process that resulted in the establishment of an independent court building in Hungary, i.e., we could no longer talk about judicial bodies operating under the same roof as administrative bodies. Courthouses were firstly built in places where regional courts seated. As the result of the practical approach these also functioned as home for district courts, land registry offices and even prison service institutions. This meant that complex buildings were erected, typically known as palaces of justice or judicial palaces. The complexity arose from the housing of several functions under one roof, and the name 'palace' was earned for the size and architectural appearance of these buildings.

3. 1. Palaces of justice

Since function is always a determining factor in the construction of a building, the design of a judicial building depends to a large extent on both the structure of the organisation and the nature of the litigation.[21] As already mentioned, palaces of justice were multifunctional buildings because of their multiple role. Moreover, these complex buildings also met the requirements of fundamental principles of the European development, such as verbalism, publicity, directness, independence of judges[22] and lay participation in (criminal) proceedings. Hungarian procedural law can also be described with all these characteristics, which changes also stimulated the Hungarian judicial architecture, even before the concrete results of codification.

The space requirements of the palaces of justice were made specific by the diversity of tasks and considerations. A palace of justice, arising from the complexity of its functions, included both lower and appellate courts, i.e., the district and the regional court. The prosecution offices were also organised alongside the courts together with the prison service[23] and the land registry authorities, which all operated in the same building. These were located within the building along practical reasons, considering the specificities of the procedure and operation, thus the ground floor was usually occupied by the bodies with the highest client traffic and wide corridors also used for waiting. These included the district court, where most cases were brought, and the land registry. The investigating judge's offices were also usually located in the same area.

The regional courts' offices, the presidency, the groups of prosecution offices and the auxiliary offices were typically located on the floors. Due to the fact that cases with wider publicity were tried there, the jury room, where criminal trials and jury trials were held, has always been a prominent place of the palaces of justice. It was usually accessed by a grand staircase leading up from the atrium connected to the main entrance. The hall was the most representative room of the building.

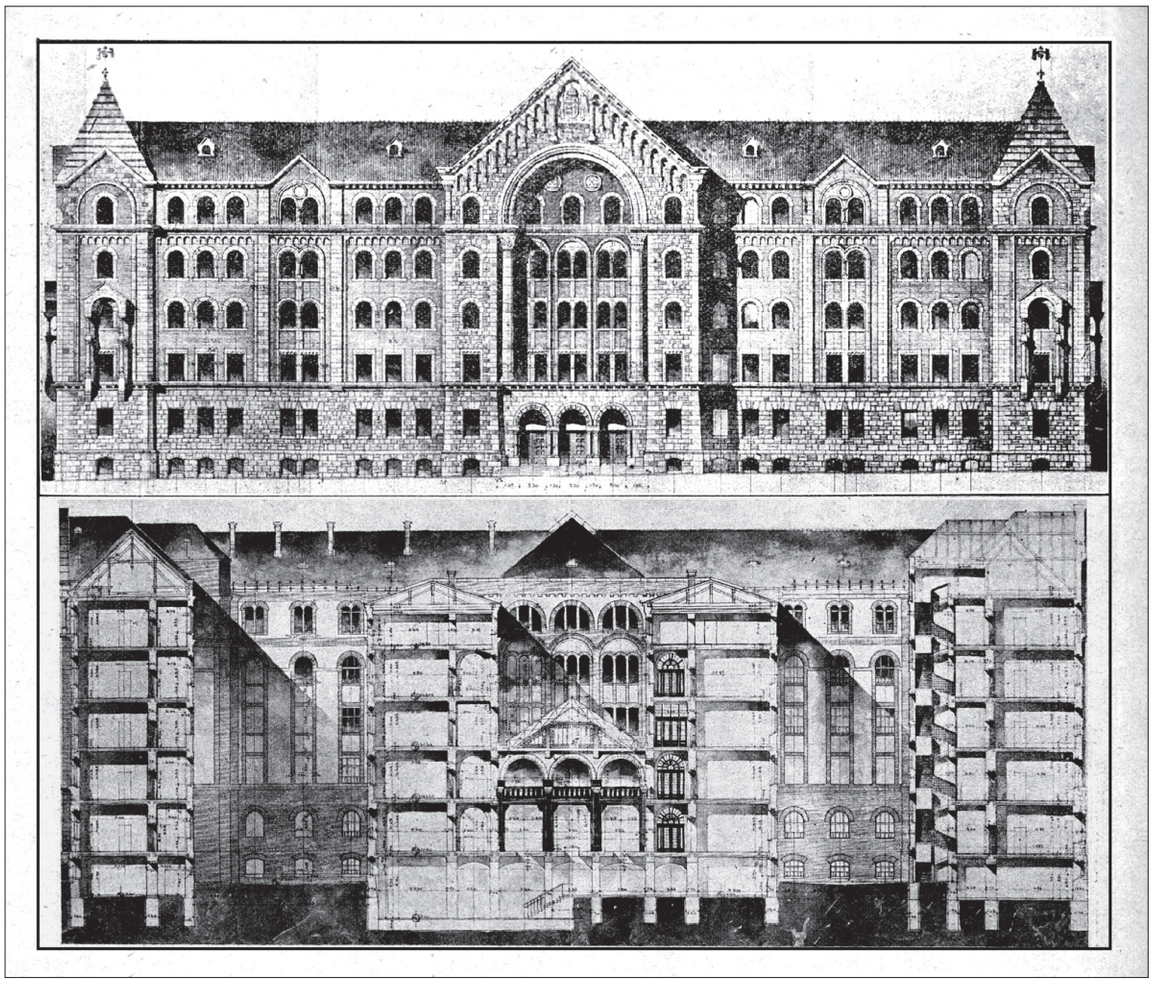
Some of the jury rooms are a sort of print of legal history of our palaces of justice since jury trials were an integral part of the procedural system when these rooms were built. A panel of three judges and a jury of twelve lay members required additional rooms. For the judicial panel and the jury, separate retire rooms were provided next to the jury room, however participants, such as lawyers, accusers, and defendants, as well as witnesses, were also accommodated in separate rooms reserved for them during the trial.

The penitentiary functions as the last stage of the criminal justice process were hidden from view, as the prisons were typically built behind the main wing of the regional courthouses, in the rear courtyard wing, with a simple exterior largely for functionality. Detention houses were usually built with more stories than the court wings and included both private and shared cells with associated service rooms. The prisoner's yard was marked out on the rear part of the site behind the detention wing, preferably isolated from the public by both the courthouse and the street.[24]

3. 2. The architecture of the palaces of justice

Due to their several functions in the civilian era, the palaces of justice required a large building with units under one roof yet separate from each other. The centralisation made all the institutions accessible to the public seeking justice, and the construction costs were more affordable. This was a matter of practicality, however, the need for public and judicial representation made the house a palace.

Such a palace was a revival of the notion that architecture is not only functional, but also a carrier of meaning. Therefore, the palace of justice itself had to express the independence of the civil justice system, the power of the judiciary and the power of law.[26] The building showed all this in its design, in its symbolism and in its floor plan that could be read by the public.



The Royal Central District Court of Budapest[25]

As in case of other buildings of the period, the architectural appearance of these palaces, as well as the architecture of their facades, reflect different stylistic trends of historicism. The buildings of the judiciary are mainly characterised by neo-Renaissance and neo-Baroque styles, and as from the 1910s the Hungarian Art Nouveau was also introduced. As to architecture, innovation always lagged behind the more traditional forms and conservative approach, which can be understood by the fact that these palaces had to be authoritative and serious rather than fashionable, since the power of the state to administer justice was better expressed by historical and traditional forms, according to the zeitgeist.

The architectural tools of historicism were appropriate to serve this representative intention, thus the articulation of the facades, the plinth zones often accentuated by quadding, the more ornated floor opening frames, the so-called great colonnade of pilasters spanning several stories, the prominent coronation parapets, and the rizalites repeatedly accentuated by spectacular domes and mansards. These elements made these buildings monumental. Judicial buildings have fundamentally defined the urban landscape with their elegance and significance thus achieved, in line with the trend towards the important role of newly erected public buildings in the development of European cities, including Hungary. Since buildings associated with different social factors (ruler, state, municipality, etc.) symbolising both the builder and the function,[27] representativeness was particularly important in the Central European region. This significance was also due to the fact that these multifunctional buildings were often built in the main squares or in prominent locations of settlements, or where good transport facilities were available. This followed with a purpose to facilitate access to justice buildings for the public seeking justice. It was not only the representative palace character that facilitated the orientation, but also inscriptions (e.g., Law House, Royal Regional Court) or plastic display of the state emblem in a prominent place on the facade or, occasionally, the statue of Justitia,[28] the symbol of the goddess of justice.

3. 3. The district courts

The generalities, i.e., the characteristics of the palaces of justice outlined so far are specific to the complexes built on the sites of the regional and district courts. However, in smaller municipalities "only" district courts were built in

accordance with territorial jurisdiction. These smaller judicial buildings were also complex in their own way, as they included both a land registry office and a detention house in many cases. The construction of these buildings took place rather after the turn of the century, after most of the large palaces of justice had been built. These smaller buildings were of similar importance at the district courts' seats as were the palaces of justice in the large cities: they became an important public building for the settlements and were representatives of the state justice system. Since a district court might have had only one or a few district judges, plus support staff, its relevance was commensurate with the size of the organizational unit.

3. 4. Judicial buildings and their architects

The architect and the architectural design are essential elements in the construction of a building, in addition to the definition of its purpose. The sort of the latter is primarily a reflection of the qualities of the designer. Public constructions always offer architects a great opportunity to showcase their talents. To carry out the work, depending on the task and the intention, the State, as the client, either selects the architect through a call for tenders or gives him direct commissions. While the former is always a good way of mobilising the architectural profession at large, launching professional debates and presenting individuals, the latter is usually more definitive, it is about specific people, specific goals, specific tasks. There are several examples of both when it comes to judicial buildings. Prior to the turn of the 19th and 20th centuries, court buildings were designed by the Ministry of Justice by direct commissions, and subsequently the system of tendering for this type of building was introduced.[29]

Since the design of judicial buildings required specific architectural knowledge, a pool of architects specialized in court buildings could be created. One of the most prolific of these was Gyula Wágner (1851–1937), who became known for his prison service[30] and regional court buildings.[31] Direct commissions from the Ministry of Justice enabled Wágner to become the Ministry's "in-house architect".

Similarly, Ferenc Jablonszky (1864–1945)[32] also played a prominent role, who mainly designed district courts in the period up to the First World War. The court buildings of Sándor Aigner (1857–1912),[33] István Kiss (1857–1902) and Pál Tóásó (1870–1927) are also significant from this period, and Alajos Hauszmann (1847–1926) also made his name among judicial architects[34] with the Royal Regional Court of Budapest and the Royal Curia.[35]

4. Epilogue

The stock of court buildings in Hungary built in the civil period are an integral part of the wider geographical context of judicial buildings in Central Europe, reflecting the period of construction in terms of both judicial organisation and architectural stylistic changes. The judicial forums of first instance, the district courts and the regional courts appeared during the Dualism, thanks to the organisational reform of the Kingdom of Hungary, which, together with the Royal Courts of Appeal and the Royal Curia, which had been established earlier, formed the backbone of the Hungarian judicial system of the time.

These courts were successively given independent buildings from the 1880s onwards, so that large cities were enriched with palaces of justice, while smaller court seats were enriched with a district court building. Preserving their original function and recalling the specificities of an earlier period, in most places, these buildings still serve the administration of justice today.[36]

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[6] § 32 and 34 of the Act No. 31 of 1871.

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[9] Cf. Kengyel, Miklós: *A bírói hatalom és a felek rendelkezési joga a polgári perben [Judicial power and the right of the parties to dispose of their property in civil proceedings].* Budapest, 2003. Osiris Kiadó, 30–39.

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[11] Ibid. 52.

[12] Ibid. 65.

[13] Ibid. 68–69.

[14] Ibid. 125.

[15] Rustic is a rough stone masonry made of roughly or artificially roughened nap-surface stones. In addition to symbolism, it is to be noted that rustication and squaring was an important architectural method of historical styles that were widespread in the period, including the Neo-Renaissance.

[16] Schall 1994. 127.

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[19] The most important architectural periodicals from the second half of the 19th century: *Építési Ipar* (later *Építő Ipar*, *Építő Művészet*) *[Construction Industry (*later *Building Industry, Building Arts)], Budapester Bauzeitung* (later *Bauzeitung für Ungarn*) *[Budapest Building Journal (later Construction Newspaper for Hungary)], Magyar Mérnök- és Építészegylet Közlönye [Journal of the Hungarian Society of Engineers and Architects].* Cf. Marótzy, Katalin: Mintakövetés és invenció a XIX. század második felének budapesti építészetében [Pattern following and inspiration in Budapest architecture of the second half of the 19th century]. *Építés–Építészettudomány [Construction – Architecture],* No. 1–2, 2005. 36–37.

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[26] Cf. Klemmer–Wassermann–Wessel 1993. 36.

[27] Cf. Moravánszky, Ákos: *Competing Visions: Aesthetic Invention and Social Imagination in Central European Architecture 1867–1918.* Cambridge, Mass., 1998. MIT Press, 25–26.

[28] Cf. Megyeri-Pálffi 2019. 73–75.

[29] For more on this topic, see Székely, Márton –Marótzy, Katalin: A pályázat mint jelenség a késő historizáló építészet korában [The tender as a phenomenon in late historicist architecture]. Építés–Építészettudomány *[Construction – Architecture],* No. 1–2, 2018. 93–116.; Idem: Magyar közigazgatási épületek pályázatai a dualizmus korában. Stílusirányzatok a Földművelésügyi Minisztérium 1907-es átépítési tervpályázatán [Tenders of Hungarian administrative buildings in the dualism era. Stylistic trends in the competition for the Ministry of Agriculture's rebuilding plans in 1907]. Építés–Építészettudomány *[Construction – Architecture],* No. 1–2, 2019. 103–133.; Székely, Márton: Építészeti tervpályázatok Magyarországon 1891–1918 között (Doktori disszertáció) *[Architectural design competitions in Hungary between 1891–1918* (Doctoral dissertation)]. Budapest, 2020. BME ÉPK.

[30] Cf. Megyeri-Pálffi 2018a. 207.

[31] On Wágner, see Dobrotka, Katalin: A magyar börtönügy arcképcsarnoka. Wagner Gyula (1851–1937) [Hungarian Portrait Gallery. Gyula Wagner (1851–1937)]. *Börtönügyi Szemle [Prison Review],* No. 4, 2012. 93–96.; Megyeri-Pálffi, Zoltán: „Following a Model" as an Element of the Hungarian Legal Culture with Special Regard to Gyula Wágner's Judicial Architecture. In Gephart, Werner – Leko, Jure (eds.): *Law and the Arts. Elective Affinities and Relationship of Tension.* Frankfurt am Main, 2017. Vittorio Klostermann, 363–393.; Megyeri-Pálffi, Zoltán: *Az egri Törvényház – The Eger Courthouse.* Budapest–Eger, 2018b. Országos Bírósági Hivatal, 28–32.

[32] On Ferenc Jablonszky, see Baráth, Attila: *Élő kövek. Emlékek a Körmendi Járásbíróság múltjából [Living Stones. Memories from the past of the Körmend District Court]*. Szombathely, 2015. Szombathelyi Törvényszék, 26–29; Megyeri-Pálffi, Zoltán: A Püspökladányi Királyi Járásbíróság megszervezésének és elhelyezésének története *[History of the organisation and location of the Royal District Court of Püspökladány]*. In Idem (ed.): *A jogszolgáltatás története Püspökladányban [History of Justice in Püspökladány]*. Debrecen, 2021. Debreceni Törvényszék, 83–84.

[33] On the work of Sándor Aigner, see Horváth, Zsuzsa: Aigner Sándor (1854–1907). Az Örökimádás-templom tervezőjének életműve [Sándor Aigner (1854–1907). The life's work of the designer of the Church of the Eternal Adoration]. In Rozsnyai, József (ed.): *Építőművészek Ybl és Lechner korában [Architects in the age of Ybl and Lechner]*. Budapest, 2015. Terc, 166–195.

[34] See more in Pusztai 1993. 33–49.

[35] Cf. Bódiné Beliznai, Kinga: *120 éves az Igazságügyi Palota [120 years of the Palace of Justice]*. Budapest, 2016. HVG–ORAC Lap- és Könyvkiadó Kft.

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The Characteristics of Researching Legal Customs in Spain and Hungary in the Light of the Accomplishments of Joaquín Costa Martínez and Ernő Tárkány Szücs

This article is intended as a comparative analysis of research history in Spain and Hungary linked to the history of European legal custom studies in the context of modern legal development in the 19th–20th centuries, based on the scientific accomplishments of Joaquín Costa Martínez (1846–1911) and Ernő Tárkány Szücs (1921–1984).[1] Studying the two significantly different models and research paths well distinguishable in space and time may present novel information and aspects not only for Hungarian researchers less familiar with the Spanish results and findings, but also on a European level.

1. Legal custom studies in Europe

In the early days of European legal custom studies there was a sharp difference between the essentially theoretical historical-legal German approach and the legal custom surveys associated with Russian imperial government and a pragmatic approach to codification. This was reflected by the varying research disciplines as well: while the historical-legal approach of the German-speaking territories connected legal history with legal custom studies, the Russian social approach with pragmatic roots considered legal custom to be a part of living law.[2]

The *folk-psychological perspective*, as a theoretical starting point, associated with the early 19th-century activity of Friedrich Karl von Savigny (1779–1861) attached particular importance to folk law represented in every aspect of folk culture (e.g., folk tales, proverbs, folk songs), connected with customary law. It was in this spirit that Jacob Grimm (1785–1863) and Wilhelm Grimm (1786–1859) started to collect "legal antiques", Josef Kohler (1849–1919), who considered legal custom to be a part of comparative law, set out to explore parallel features, and Albert Hermann Post (1839–1895) developed a quantitative research methodology.[3] When Savigny, the founder of the historical school of law and initiator of folk law research, was given the task to oversee the drafting of the standard German Civil Code as Minister of Justice (1842–1848), this paved the way for the integration of legal folk customs as well.

Starting from the early 19th century, the Russian state, recognising the right of the conquered peoples to act in their own matters in accordance with their own legal customs, attached increasing importance to surveying legal customs in particular. The survey of customary law associated with Count Mikhail Mikhailovich Speransky (1772–1839) was completed already in 1822; the legal customs of Siberia were studied on the spot, "as told by the people themselves, to be drawn up and testified by the nobility", with several parts of the 1847 survey of the Imperial Russian Geographical Society dedicated to legal customs too. For example, the Russian government conducted a survey of "living customary law" among the peoples of the Caucasus between 1836 and 1844. Maxim Maximovic Kovalevsky (1851–1916), professor of comparative law and a follower of Henry Sumner Maine (1822–1888) set out to study customary law in the Caucasian region with the renowned linguist and ethnographer Vsevolod Fedorovic Miller in 1878.[4] (In the second half of the 19th century a series of additional monographs on judicial life were published with respect to Mordovian, Vogul, Samoyed, Sami, Kryalan, Estonian, Votian, Zuryen, Permian, Cheremis, Chuvash, Baskhir, Yakut, Kyrgyz, Kara-Kirghiz, Turkoman and Buryat peoples, among others.)

Russian government considerations as well as the publication of the survey materials encouraged further