

# LAWYERS AND PARAPROFESSIONALS IN HUNGARY\*

(NATIONAL REPORT)

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## 1. The qualification and social situation of lawyers

In Hungary where there is a several hundred year old tradition of legal training, a legal qualification can be achieved in a so called *two-grade system* — this system having been in existence for many years.

The main principles of this system are as follows:

a) Hungarian or foreign citizens possessing preliminary training i.e. secondary school or other equivalent qualification, study at the faculty of law at one of the universities.<sup>1</sup>

During the studies — 9 terms on a normal day-course and 10 terms on an evening or day-release course — the undergraduates study various legal, ideological and miscellaneous subjects such as: theory of state and law (jurisprudence), state law (constitutional law), administration law, penal law, criminal procedure, civil law (private law), civil procedure, agricultural law, labour law, financial law, international law, philosophy, political economy, scientific socialism, two foreign languages etc.

Finishing the university studies i.e. acquiring a university leaving certificate does not entitle the holder to work in a job requiring legal qualifications. It is necessary to secure a legal diploma as well.<sup>2</sup>

A legal diploma can be acquired by an undergraduate who possesses a university leaving certificate and who prepares and defends a dissertation from any chosen legal topic within three years of finishing his studies and who later passes the following state examinations: theory of state and law (jurisprudence), state law (constitutional law), administration law, penal law, civil law (private law — this latter also covering family law and law of succession).

The acquisition of the legal diploma is the end of the first grade of the training, and those possessing it are entitled to work as trainees at the court, at the public prosecutors office, in an advocates office and as legal assistants.<sup>3</sup>

\* National report on the topic "Lawyers and Paraprofessionals" according to the stand-points defined by the General Reporter — to the International Civil Procedure Conference, held in Gent between 27 August and 4 September, 1977.

b) In the first grade of training — as can be seen from above — the primary aim is the ensurance of a common theoretical basic knowledge. As opposed to this, *in the second grade*, the main task is the acquisition of special practical knowledge. In order to achieve this, those possessing the legal diploma have to work for at least for two years after having acquired the diploma either as trainees at the court or in a public prosecutors office, or as trainees in an advocates office, or as legal assistants or in any other sphere of activity where legal qualification is needed.

The trainees and assistants receive organized training during the period of practice, and take part at a preparatory course for the examination. This training is organized by the county courts for those trainees working at the courts by the county level public prosecutor's offices for trainees in public prosecutor's offices, by the National Advocates Council for trainees in the advocates offices and by the Hungarian Lawyers Association for legal assistants and others, working in the sphere of law. After the first year of the practice the trainees pass an oral preparatory examination in front of the organ which gave the training.

The subjects of the preparatory examination are as follows:

— for trainees at the courts: the basic questions of policy and application of law in labour law, and in the area of rules concerning the economy management of enterprises and co-operatives, the organization and management of the courts, court statistics;

— for trainees in public prosecutor's offices: law policy and law application in labour and administration law, organization and management of the public prosecutor's office, police statistics and public prosecutor's office statistics;

— for trainees in advocates offices: law policy and law application in labour law, in the law of social insurance, in administration law, rules concerning advocates;

— for legal assistants: basic questions of law policy and law application in administration and penal law, financial law concerning the income control in enterprises and co-operatives;

— for trainees at the councils: basic questions of law policy and law application in labour law and penal law, the practice of law application in offence cases.

After passing the preliminary examination trainees prepare for the *special legal examination* during their remaining practice period besides carrying out the compulsory practical legal work. The special legal examination can be sat for after the second year of practice. This is taken in front of a board appointed by the minister of justice from the members of the special legal examination committee. The special legal examination consists of two parts: both parts have a written and an oral section.

The subjects for trainees in the courts, public prosecutor's offices and advocates offices are as follows:

law policy and law application

- a) – in penal law  
– in criminal procedure
- b) – in civil law and family law  
– in civil procedure.

The subjects for legal advisers (company lawyers):  
law policy and law application

- a) – in labour law and law of social insurance  
– in rules concerning enterprises and co-operatives, in the basic rules concerning planning, investments and control of materials
- b) – in civil law and family law  
– in civil procedure.

The subjects for lawyers at the councils:  
law policy and application of law

- a) – in administration law  
– in a special branch of administration law, chosen by the candidate,
- b) – in civil law and family law  
– in civil procedure.<sup>4</sup>

Those who pass the examination, are fully qualified lawyers and thus meet the professional pre-conditions for being elected as judges, for being appointed as public prosecutors for notary public, for working as an advocate, as legal advisers etc.<sup>5</sup>

At the beginning of the second World War, there were 30,978 lawyers in capitalist Hungary. That accounted for 33.8% of high school and university graduates and it was from among this group that most of the leading people active in the country's state and political life came from.<sup>6</sup> As far as their income and financial situation was concerned they were in a advantageous position: even the lower rank lawyer's general income was five times as much as the general income of a skilled worker and it exceeded the general income of other graduated intellectuals as well.<sup>7</sup>

The social and economic situation of lawyers has changed significantly over the past thirty-four years. This change was a necessity originating from the establishment of a socialistic base and superstructure. As a result of this the inter-relationship of social classes and strata has changed.

This change is expressed in the fact (among others), that in state-political life the top management comes mostly from the working-peasant class and lawyers work in important jobs beside them – together with other intellectuals – but only in a number proportionate to the total population.

Among intellectuals too there has been a change concerning the situation of lawyers. This can be seen from the mere fact that the present number which is almost the same as the pre-war total of 28,960 is only 9.6% of high school and university graduates. During the socialistic development,

lines came into prominence that were left behind in the past and that were required by the new economic demands. For example, over the past 30 years the number of economic and technical graduates has increased six times, the number of teachers five times and the number of agricultural graduates four times.<sup>8</sup>

In the first decade of socialism the main feature of the proportion of incomes was that the differences in income in the various occupational groups and grades of qualification decreased significantly beside the change of economic structure and beside the significant increase of the qualification level of the workers. This process aimed at the elimination of the drastic disproportion of incomes in the past, and the improvement of the living conditions of people with small incomes. It resulted in the fact that to-day the general income of graduates is about 1.5 more than that of skilled workers. Besides the elimination of the great differences in income between physical workers and intellectuals, significant changes happened in the hierarchy of income among professions of intellectuals. According to latest investigations the incomes of veterinary surgeons, medical doctors, engineers and economists exceed that of lawyers working in the socialist sector or economy.<sup>9</sup>

In spite of the fact that the privileged position of lawyers has ceased, the legal profession is still very attractive to young people. This is also proved by the fact that the number of applicants to the faculties of law at the universities reaches 4 – 5 times the number of students who can actually be admitted.<sup>10</sup> This over-application is significantly less at other universities or high schools. Law graduates are mostly interested in jobs as advocates and company lawyers. This is explained mainly by the fact that it is possible to earn more in these lines than the general income.

28,960 lawyers make up 0.0027% of the total population of the country (10,572,000 people). However active lawyers only account for 22,184 (0.0021%) because the legal profession is the oldest in Hungary to-day and there are 6,543 lawyers mostly over 65.

There are 1,446 judges, 952 public prosecutors, 169 notary public, 1,527 advocates and about 5,300 company- and co-operative lawyers among the so called active lawyers. The rest of the lawyers work mostly in other areas of administration and economy.

## II. Paraprofessionals

There are three main activity groups among paraprofessionals:

- judicial activity
- legal representation
- legal representation and other legal work.

1. In Hungary the courts exercise their judicial activity in the first instance in civil procedure usually in divisions consisting of one judge ordinary and two lay assessors, exceptionally it may happen that the division consists of three judges or one judge ordinary by virtue of the law. We

have already referred to the necessary preconditions for being elected as a professional judge. We are now only interested in *lay assessors* i.e. in people who exercise judicial activity *without possessing any legal qualification*.

Lay assessors or people's judges express the direct participation of the working people in judicature; the pre-conditions for becoming a lay assessor are as follows: every 24 year old irreproachable Hungarian citizen who has a clean record and who possesses franchise can be elected as a lay assessor; no professional pre-conditions are necessary. Lay assessors are proposed by workers of enterprises, co-operatives, social organizations and state institutions who work in the area of jurisdiction. They are elected by the respective councils for four years.<sup>11</sup>

The elected lay assessor takes a judicial oath and has during *his judicial activity the same rights and obligations as a professional judge* with the only exception that he cannot act as judge ordinary or as chairman of the division because these duties are to be fulfilled only by a professional judge.

Lay assessors however do not participate in judicature continuously for the four years but only for a month each year, and each takes their turn as specified by the president of the court.

*The lay assessor must receive* a fee for his function. If the lay assessor is employed, his employer must pay him his normal income for the period of his activity (the employer is mostly a state organ). For those, who are not employed i.e. who are not in a labour relationship, the state pays a fee for every day of his judicial activity, this however being lower than the salary of a professional judge (only about 50% of it).

2. Traditionally legal work, professional representative activity is done by *patent agents* who fulfil advocates and legal adviser's tasks in the court or at the respective authorities in cases of so-called *protection of industrial law*. The following are the so called industrial law cases:

a) matters in connection with: licencing, the statement of ceasing of patent protection, annulment of patent, negative statement, preservation and registration of patents and cases in connection with: compulsory licencing, stating the compensation for employment, existence of pre-usage rights, infringement if invention and patents;

b) matters in connection with: registration of trade-marks, renewal of trade-mark protection, statement of ceasing of trade-mark protection, cancellation of trade-marks, negative statement, registration of trade-marks and cases in connection with trade-mark usurpation;

c) matters and cases in connection with acquisition, preservation and ceasing of protection of industrial samples and marking of origin.<sup>12</sup>

In all these cases and matters *the legal status of the patent agent is the same as that of the advocate*.

As far as professional pre-conditions are concerned a patent agent can be a person who has graduated from the technical university or from the university of natural sciences who possesses a university diploma (no legal qualification is necessary) and has passed the patent agent examination.<sup>13</sup>

The training of patent agents is ensured by the National Patent Office and an examination has to be passed before the Patent Agent's

Examination committee, which is organized by the office. The patent agent's examination consists of two parts, both oral and written.

The subjects of the first part of the examination are as follows:

a) the rules of substantive law and law of procedure of Hungarian patent law and the relevant legal practice; the international patent law agreements which are valid in Hungary;

b) rules of Hungarian trade-mark- and sample-protection-law and the relevant legal practice; international agreements valid in Hungary referring to trade-mark protection and sample protection and to origin- and source marking protection;

c) Hungarian rules in connection with innovations and the relevant legal practice;

d) rules of Hungarian civil procedure and civil substantive law, as well as duty law in connection with protection of industrial law.

The subjects of the second part of the examination are as follows:

a) substantive and procedural rules of patent law of the more important industrial countries and the relevant legal practice;

b) substantive and procedural rules of trade-mark- and sample-protection law of the more important industrial countries;

c) special rules of international private law and international civil procedure in connection with protection of industrial law and the relevant legal practice;

d) rules and practical questions of patent agent activity.<sup>14</sup>

The patent agent's fee is paid according to the tariff declared in a decree by the minister of justice; this fee is usually higher than one paid to an advocate for a case connected with something different from industrial law; this is so, because these matters require specialized knowledge.<sup>15</sup>

3. New legal institution was established by the National Council of Trade Unions, together with the minister of justice the minister of labour and minister of finances; this is the so called *trade-union legal-aid service*, which deepens the relationship between the trade-unions and the workers and which provides paraprofessionals with the possibility to act professionally as legal representatives and to do other legal work.<sup>16</sup>

The legal-aid service has so far been organized in about 1,500 industrial, building industrial, transport and agricultural enterprises, institutions and industrial co-operatives. Its aim is the *legal protection of the interest of the workers, to give legal information, to advice and give necessary help and legal representation.*

In achieving this *it is compulsory to give information and advice* to all the workers, regardless of whether they are trade-union members or not, should they turn to the legal-aid service at a given enterprise or co-operative with their problems (in labour law, administration law, family law, civil law, social insurance law and matters concerning the protection of workers). The most important tasks are the giving of information and advice but it is possible that the legal aid service will assist in matters of labour law, law of social insurance and administration law as well as in

certain council proceedings; in matters of law of property however it has to restrict itself to legal advice.

The legal-aid service does however offer *legal representation* too in matters of *work (labour) relation* and *social insurance* in the following cases:

- a) if there has been a breach of law, or
- b) if the worker has suffered serious inequity – other than in the case of breach of law – or he finds measurements deleterious, which may be harmful to socialist morality,
- c) the company organ of the trade-union raises exception in the matter and gives a mandate to the legal-aid service to proceed in the case at the labour court.

*In family law matters* the legal-aid service can represent the worker, if he puts forward the following claims:

- a) fixing, rendering payable and changing the sum of alimony for a child,
- b) allocation or changing of allocation of the child,
- c) parent alimony,
- d) spouse alimony.

The legal-aid service can only exceptionally represent in the following family law matters:

- a) affiliation or rebutting the presumption of paternity,
- b) adoption or ceasing of adoption,
- c) matrimonial cases (divorce cases etc.).

*In civil law matters* the legal-aid service represents only in especially justified cases, first of all in the protection of the rights of the person.

*In administration procedures* the legal-aid service can act chiefly in the following matters:

- a) matters of housing,
- b) building licencing,
- c) admission to infant's nursery-kindergarten,
- d) matters in connection with the public guardianship authority; in these matters legal representation should be granted as well.

It is possible that the legal-aid service should represent the *offended party in criminal or offence matters* or exceptionally to represent the *accused* in criminal cases where the crime has been committed negligently, or in offence cases.

It is a general rule however that the legal-aid service gives legal representation in a dispute, only in a case where the support of the matter does not conflict with the requirements of socialist morality and where the worker needs legal-aid.

In the following cases, the legal-aid service can help in drawing up contracts – if the subject of the contract and the personal conditions of the worker – require it:

- a) alimony contracts (e.g. life annuity contracts etc.),
- b) contracts in connection with letting and using flats,

c) transmission of ownership of estate, provided that the contract is drawn between two workers of the company or between the worker of the company and another socialist organization if the contract falls in with the category of flat building or selling, acquired or supported by the company.

Since during its activity the *legal-aid service has taken on the legal position of an advocate*, it is necessary to make it clear what the organization is like and who is eligible to work in it.

The legal-aid service is established by the trade-union committee of the company; the legal-aid service operates under trade-union control and bears responsibility towards it.

Usually a suggestion is made — to create a committee which acts as the legal-aid service to emphasize the social character —, this is not compulsory however. These committees have so far been created in 2/3 of the established legal aid services; these committees usually consist of 5–9 members. In the rest of the cases one person acts as the legal-aid service. If there is a committee an appointed member acts in a given case.

Those people can act as members of the legal-aid service who

- consider the political aims of the legal-aid service,
- are able to help the workers, because of their professional knowledge and aptness.

*These people may be active or pensioner advocates, legal advisers or others who have a legal examination or legal diploma, but can also be people who have no legal qualification, i.e. officials working in technical, labour protection, medical field etc. or workers who have experience as lay assessors or council members.*

In principle it is possible that the legal-aid service at a given company could be managed by people none of whom are lawyers, in practice however the trade-unions establish the legal-aid service in such a way that there should be at least one person who has some legal qualification.

The situation is similar in judicial procedures, litigious and non-litigious. Any member of a legal-aid service committee is entitled to legal representation, in addition to information, advice and other legal aid, it is usually the lawyer member of the legal-aid service however who represents the worker at the court.

Paraprofessionals can act in the legal-aid service under labour relationship — in this case the employer's rights are exercised by the trade-union committee of company — or in a relationship of mandate; their fee or salary is more or less the same as that of the lawyers.

### III. Arguments for and against paraprofessionals

There are arguments for and against paraprofessionals.

The *lay assessors* do not only express, for example people's power in judicature but they deepen democracy with their activity, by bringing the court as a state organ nearer to the masses. The presence of lay assessors



ensures e.g. that the simple worker who appears at the court can consider it as his own organ and can feel that the judicial activity is exercised by people who are similar to him.

In addition, lay assessors are intermediaries of public opinion in a general sense towards the court, not only in interpreting the law in a given case, but also in stating the facts of the case and specifying the resulting legal effects. They express the rational, sane sense of public opinion which has to be considered in the judicial activity and which is free of the dangers of commonplaces and routines as well as express the requests of the people towards the court.

The special knowledge of the lay assessors may be advantageous to the court in certain types of case because the participation of the special lay assessors makes the procedure more effective.

It is an inconvenience for example that in more complicated cases, *it takes more work and time* to inform the lay assessors — who do not have legal qualification and judicial practice — about the facts of the case and about the law to be applied and to ensure the appropriate consideration with respect to the contradicting data of the case than a procedure before a judge ordinary or a division consisting of professional judges.

In addition to this inconvenience which affects the speed of the procedure, there is the *passivity of the lay assessors* in those cases where the dominating questions are those of law. In these cases the activity of the lay assessors is rather formal and as a result of this one can experience from time to time the undervaluation of the role of the lay assessors, the lack of authority on behalf of the lawyers.

In order to eliminate the difficulties and to decrease the inconveniences in those fairly easily defined areas, the latest modification of the Hungarian civil procedure has ceased to require lay assessors in several cases where the positive sides of this institution were not predominant and in these cases the procedure is now with a judge ordinary.

In the capitalist social-economic order the *patent agent's* activity has been important for many years and it has reserved its significance amongst the socialist conditions. The patent agent's activity is highly appreciated by the lawyers. Their job — as it is — requires a high level of technical knowledge, and legal knowledge is more or less subsidiary.

*The legal-aid service of the trade-unions* is a popular legal institution for many people living from their wages or salary and this is natural enough because it is *free* of charge. (To ensure the personal and material conditions of the legal-aid service is the duty of the employer which is a state or co-operative organ.) It is characteristic that in 1975, when the legal-aid service was only in the experimental stage at the appointed 50 companies the workers consulted the legal-aid service concerning 16,000 legal cases over a period of 7 months.

Among lawyers, the advocates are doubtlessly reserved and to a certain extent oppose the legal-aid service because they think that this institution affects their operational sphere disadvantageously i.e. restricts it. In addition, there are judges who understandably work more willingly

with the trained and routined advocate than with the paraprofessional or lawyer — representative of the legal-aid service who is not well — versed at the court.

As far as the trade-union legal-aid service is concerned we have to see very clearly that its introduction was made necessary by a very important political task, by the improvement of the situation of the working class. This is why we have to do our best to see that the more or less necessary insecurities of this new legal institution should cease as soon as possible, the problems should be solved and the legal-aid service should prevail the rights of the workers without difficulties.

#### IV. The organization of advocates and the pre-conditions necessary for becoming an advocate

1. One of the important groups of lawyers working in judicature are the advocates whose task it is to provide their clients with legal help from the point of view of the protection of their rights and legal interests.

In Hungary the advocates work in so-called *advocates communities*. These advocates communities are social, not state organizations which have independent legal entity and comprise 4—20 advocates. (Although it is legally possible that with the special permission of the minister of justice, private advocates should practice as well, this has not happened for years.)

Lawyers who are in a labour relationship or membership with state and co-operative enterprises with industrial and agricultural co-operatives and who represent the given enterprise or co-operative and deal with their legal matters, cannot be considered as advocates. *They have not been admitted as members of the Chambers of Advocates* for more than twenty years and apart from the workers or members of their enterprise or co-operative or the enterprise or co-operative itself they can not represent other private parties etc.

Advocates communities are mostly established in district centers, according to the administrative division, but this does not limit the advocates practice, he can be active anywhere in the country.

*The number of practising advocates is indirectly defined:* the number of communities to be established in the capital and in the various counties as well as the minimum and maximum number of advocates of one community is defined by the minister of justice.

2. In order to bring judicature closer to working people, to make a more direct relationship between the parties and the court as well as to decrease the costs of litigation, civil procedure ceased to require the obligatory advocates participation and the party can act *personally in any case in the court*.

The personal participation of the party is now common not only in minor cases but also in more complicated matters too. The party who has no legal qualifications is helped significantly by the fact that *the court has to instruct the party*, to ensure the equality of rights of the parties. This means that in order to ascertain the truth the court has to give information

to the party and to draw attention to his rights and obligations *ex officio* if he has not got a legal representative (advocate, legal-adviser). In addition to this the court considers the party's declarations and petitions according to their content and not to their form.<sup>17</sup>

The ceasing of compulsory advocates participation did not only result in the party's personal participation but also in the fact that there are other persons in the case who can represent the party regardless of the fact of whether they have legal qualifications or not. These people however *cannot charge a fee for their activity*, they can only charge their loss in income, travelling expenses and costs of provisions and accomodation.

This non-professional representation of the litigant party can only be carried out by persons who are 18 years old, who are not under guardianship and who are not prohibited from taking part in public matters and who are authorized by the party. Authorization can only be given to people who are entitled to authority by virtue of the law. These people are:

- a) relatives of the party;
- b) associate party in the case, legal representative or authorized person of the associate party;
- c) worker of the enterprise (office, factory, other state organ) in matters in connection with the enterprise;
- d) member of the communal, municipal, county council, or worker of the executive committee or special management organ of these councils, in cases in connection with the council;
- e) employee or member of the co-operative or its superior authority who is entitled to administration, in connection with the co-operative;
- f) the employee in cases connected with the craftsmans trade, with the office, consultation room, shop and workshop of his employer.<sup>18</sup>

Where as the personal participation of the party fairly often takes place non-professional representation is relatively rare, mostly happening in cases when for example one of the relations of the party is a lawyer or in the case of a company, where the worker has special knowledge concerning the case etc.

3. On the basis of the so-called free undertaking the advocate is entitled

- within the limits of the law — to take on anybody's problem no matter what sort — as a mandate,
- according to his own discretion, to refuse the undertaking of a problem without giving a reason and to give written notice in an already taken on matter — with 15 days notice.

These possibilities of the advocate are limited on one hand by the fact that he cannot give a hand to evade the law or to abuse the laws, on the other hand by the cases of the so-called delegation by the court and other authorities; in the latter case the advocate is obliged to act under state provisions.<sup>19</sup>

The refusal of the mandate without reasoning is not frequent; it mostly happens when the client wants to claim unlawfully.

When taking on a mandate the facts of the matter have to be written down, as the client tells it, and the fee and costs must be incorporated in it.

*The advocates fee is subject to free agreement within the limits defined by the minister of justice.*<sup>20</sup> the fee is due to the community and the advocate receives his share only later.

The fee is due when fulfilling (or ceasing) the mandate; the advocates community can make an agreement however with the client that the fee (or part of it) is to be paid earlier (e. g. when giving the mandate) either personally in the community or through remittance, by the bank or post.

In the case however when the fee is received from the opposing party who failed in the lawsuit, the advocates community is obliged to pay it or credit it to the client who has paid the fee or part of it previously.

Since the minister of justice defined the fees in several types of matters — even with respect to the maximal charges — rather low, there are certain clients who, following the winning of the trial want to give money in addition to the fee. To accept this money however is strictly forbidden because it means the breaking of the ethical requirements.<sup>21</sup>

4. The social organs of the advocates working in the communities are the Chambers of Advocates, which are organized on a self-governmental basis and operate under state supervision; the chambers are organized on the territorial principle, in the capital and in the counties. The tasks of the chambers are as follows:

- to control the work of the advocates;
- to represent the corporational interests of the advocates;
- to protect the rights and to supervise the obligations in connection with the practising of the advocates profession;
- to conduct disciplinary procedure against advocates and trainees;
- to take a standpoint and make suggestions in matters of judicature and legislation.

The national self-governmental organ of the advocates is the *National Council of Advocates*. This consists of the presidents of the chambers and of the elected advocates; these latter are elected by the chambers according to their membership numbers. The task of the National Council of Advocates is twofold:

a) as a forum of appeal, it decides disciplinary matters and matters of admission to the chambers;

b) as the advising organ of the *minister of justice* it takes a standpoint and makes suggestions in more important questions in connection with advocates.

The self-governmental organs of the advocates make various suggestions concerning legislation and the representatives of these organs sit on committees-preparing the more important acts and laws.

The supervisor of the advocates and of their organs is *the minister of justice* — among others — he is entitled to the control of the principle activity of the advocates and their organs. When supervising, the minister of justice is entitled:

a) to invalidate the resolution of *any organ* which opposes the law or is not established and to instruct the organ to bring a new resolution;

b) to *suspend the operation of the organs of the chamber of advocates* and to appoint a delegate to the chamber, should the activity of the chamber be dangerous to the interests of the state or if the chamber becomes permanently incapable of fulfilling its tasks or if it repeatedly opposes the measurements of the minister of justice note a).

Co-operation is usually good among the judicial organs. The courts, the public prosecutor's offices and the organs of advocates have various common work-conferences on district and county levels where they discuss their work and define the common tasks for the future, for example to shorten the period of cases, environmental protection etc. In order to deepen co-operation the leaders of the chambers regularly take part in the sessions of court boards, and the leaders of the courts and the public prosecutor's offices take part in the general assemblies of the chambers of advocates; thus they become acquainted with one another's problems.

5. Advocates can act in *any civil case* with the only understandable restriction that if he was a judge, public prosecutor or other civil servant before his admittance to the chamber, he cannot represent clients at the authority where he used to work, for two years after the ceasing of his office function.

The advocate representing the litigant party is usually entitled to act and declare anything in connection with the case, including the receipt of objects and money. The client however is entitled to restrict the activity of the advocate in the mandate.

The court is not obliged to restrict itself to the declarations and presentations of the advocate of the litigant party, neither when stating the facts of the case nor in the case of legal declarations; in its opinion if it is necessary, it can summon the party to appear personally or can order to hear the party who is present. The advocate however has to be summoned even in a case where the party was summoned for personal appearance.

6. To finish the civil court cases as soon as possible stands in the interests of the litigant parties, organs and persons taking part in judicature. The valid legal rules ensure the possibility of stating the facts of the case truthfully and provide quick and effective legal remedy; this is proved by the fact that *the majority of civil cases are terminated within three months*.

In certain cases however it happens that the termination drags on unjustified; this might happen for example because of the negligence of the advocate e.g. belated proposal of evidence or an incomplete petition etc. For this reason advocates have to be more cautious, should widen their professional knowledge and specialize in their work and in this way contribute to the growth of social esteem.

#### NOTES

<sup>1</sup> See in details §§ 1-3 of decree 3/1968. (V. 26.), by the Minister of Education on the regulations of high school and university admissions.

<sup>2</sup> See section (2) of § 23 of Act III. from 1961, on the educational system of the Hungarian People's Republic and section (4) of § 20 of government decree 25/1969. (VI. 20.), on universities and high schools of university nature.

<sup>3</sup> See in details § 79 of Act IV. of 1972, on the courts, §§ 21–24 of Act V. of 1972 on the Public Prosecutors Office of the Hungarian People's Republic and § 36 of Law decree 12. from 1968, on the advocates profession and on the organs of advocates.

<sup>4</sup> See §§ 3–4, 6, 9, 11–14 of decree of the Minister of Justice 12/1976. (XI. 6.), on the special legal examination.

<sup>5</sup> See §§ 40, 54 of Act IV. of 1972, on the courts, § 22 of Act V. of 1972, on the Public Prosecutors Office of the Hungarian People's Republic and § 3 of Law decree 12. from 1958, on the advocates profession and on the organs of advocates.

<sup>6</sup> See also: dr. Kulcsár Kálmán: Gondolatok a jogászság társadalmi szerepéről szocialista társadalmunkban. Magyar Jog és Külföldi Jogi Szemle (Thoughts on the Social Role of Lawyers in our Socialist Society, Hungarian Law and Foreign Law Survey) 1975. No. 3–4. page 144.

<sup>7</sup> See „Az ELTE Szociológiai Tanszéke és a Magyar Jogász Szövetség közösen végzett jogászfelmérésének rövidített anyaga. Kézirat. (Abbreviated material on legal surveying made by the Department of Sociology of Eötvös Loránd University and the Hungarian Lawyers Association, Manuscript) Budapest 1976, page 11.

<sup>8</sup> See „1970. évi népszámlálás 28. A felsőfokú végzettségűek demográfiai adatai.” Központi Statisztikai Hivatal. (Census 1970. 28. Demographic data of high school graduates. Central Statistical Office) Budapest, 1976. page 12.

<sup>9</sup> Képzettség és kereset 1971. Központi Statisztikai Hivatal (Education and Income 1971. Central Statistical Office) Budapest, 1974 Vol. III. page 11.

<sup>10</sup> Oktatási adatok gyűjteménye. Statisztikai időszaki közlemények 354. kötet. Központi Statisztikai Hivatal (Collection of Educational Data Statistical periodical reports Vol. 354. Central Statistical Office) Budapest, 1975. page 42–43.

<sup>11</sup> See §§ 72–73 of Act IV. of 1972. on the courts.

<sup>12</sup> See § 1 of decree of the Minister of Justice 4/1976. (III. 30.) on the execution of the government decree of patent agents 5/1976. (III. 30.).

<sup>13</sup> See §§ 2, 6 of Government Decree of Patent Agents 5/1976. (III. 30.).

<sup>14</sup> See §§ 1, 5–7 of decree of the Minister of Justice 6/1976. (III. 20.), on the patent agent's examination.

<sup>15</sup> See in details §§ 2–4 of decree of the Minister of Justice 5/1976. (III. 30.) on the patent agent's fee.

<sup>16</sup> See Directive of the Trade Union Council 1/1976. (III. 27.), on the organization and functions of the legal-aid service.

<sup>17</sup> Section (1) of § 3 of Act III. from 1952, on code of civil procedure.

<sup>18</sup> See §§ 67–68 of Act III. from 1952, on code of civil procedure.

<sup>19</sup> See in details Law decree 12. from 1958, on the advocates profession and on the organs of advocates.

<sup>20</sup> See decree of the Minister of Justice 5/1962. (VI. 19.), on the advocates fee and tariff.

<sup>21</sup> Article IV/22 of Advocate Political Directives.

## ЮРИСТЫ И НЕЮРИСТЫ, РАБОТАЮЩИЕ В СФЕРЕ ПРАВОВОЙ ДЕЯТЕЛЬНОСТИ В ВЕНГРИИ

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(Резюме)

Научную работу автор составил, как национальный реферат к конференции по гражданскому процессу, состоявшейся с 27 августа по 4 сентября в Женеве по указанию General Reporter к теме „Lawyers and Paraprofessionals”.

Научная работа занимается следующими четырьмя вопросами:

- I. Квалификация и общественное положение юристов.
- II. Неюристы, работающие в сфере правовой деятельности.
- III. Аргументы за и против занятости неюристов в сфере правовой деятельности.
- IV. Организация адвокатуры и условия деятельности адвокатов.

В первой части автор излагает двухступенную систему получения квалификации юриста и роль юристов в социалистической Венгрии. Во второй части занимается народными заседателями, исполняющими деятельность судей, делопроизводителями по патентам, исполняющими правозаступничество, а также неюристами, работающими в рамках службы юридической помощи профсоюзов, исполняющими правозаступничество и другую правовую деятельность. В третьей части научной работы кратко приводит аргументы, которые возникли в теории и практике за и против занятости неюристов в сфере правовой деятельности. В четвертой части автор подробно анализирует кроме структуры организации адвокатуры и формы проверки деятельности адвокатов.

## JURISTEN UND NICHTJURISTEN IM JURISTISCHEN ARBEITSBEREICH IN UNGARN

von

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(Zusammenfassung)

Die Abhandlung war vom Autor als Nationalreferat für den Internationalen Kongress für Prozessrecht für ein Gericht mit menschlichem Antlitz, der vom 27. August bis 4. September 1977 in Gent stattfand bereitet worden, aufgrund der vom General Reporter angegebenen Gesichtspunkte zum Themenkreis „Lawyers and Paraprofessionals“.

Die Abhandlung beschäftigt sich mit vier Hauptfragen. Diese sind:

- I. Qualifikation und gesellschaftliche Lage der Juristen,
- II. Nichtjuristen in juristischen Arbeitskreisen,
- III. Argumente für und gegen die Beschäftigung von Nichtjuristen im juristischen Arbeitsbereich,
- IV. Organisation der Rechtsanwälte und Bedingungen zur Ausübung des Rechtsanwaltsberufes.

Im I. Abschnitt erörtert der Autor das zweistufige System zur Erwerbung des Juristen Diploms und die Rolle der Juristen im sozialistischen Ungarn. Im II. Abschnitt beschäftigt er sich mit den Schöffen, welche die Tätigkeit eines Richters ausüben, mit den Patentanwälten, die als Rechtsvertreter fungieren, sowie mit den Nichtjuristen, die im Rahmen des Rechtshilfedienstes der Gewerkschaften tätig sind und die Rechtsvertretung sowie ausserdem auch andere juristische Arbeiten versehen. Im III. Abschnitt der Abhandlung werden die Argumente skizzenhaft aufgezählt, die für und gegen die Anstellung von Nichtjuristen in juristischen Arbeitskreisen in Theorie und Praxis auftauchen. Im IV. Abschnitt analysiert der Verfasser ausführlich ausser der Behandlung des organisatorischen Aufbaus der Advokatenchaft auch die Formen der Kontrolle der Rechtsanwalts-tätigkeit.