

## LEGAL STUDIES AND WORKS OF JÁNOS BARANYAI DECSI

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**Abstract:** In Hungary from the 16th century on there was a tendency to make a “harmonization” of the Hungarian customary law with the Roman Legal Codex. Baranyai Decsi, besides other activities, made a book on Romanisation of the Hungarian Law. The book, *Syntagma institutionum iuris imperialis ac Vngarici...* (1593) was using both the *Tripartitum* by Werbőczy (a legal compendium for Hungary), and the manuscript for its later variant: *Quadripartitum* (originally by 1552). In the autumn of 1593 Baranyai Decsi became the rector of the college at Székelyvásárhely (Transylvania). From then on, he ceased to do legal work. His book *Syntagma* is an interesting milestone of the reception efforts in Hungary.

**Keywords:** Baranyai Decsi, Hungarian civil law, Roman law, law reception in the 16th century

Based on the *Tripartitum* of Werbőczy and the *Formularium Posoniense* attributed to Pápóczi, György BÓNIS maintains to have discovered two different ways of the “Romanisation” of Hungarian law.<sup>1</sup> In his opinion, one of these authors has in fact attempted to make Hungarian customary law more exact and to put it into good order, aimed at codification, while the other one has tried to adopt many Roman laws in their original forms, filling the gaps of Hungarian law, intending to initiate the development of Hungarian legal literature towards civilian development. In an attempt to comply with the ideology ruling at that time, i.e. in 1972, the latter one was praised as a modern trend, as contrast to the conservatism of nobles intending to preserve the old forms.

In my view, this summary judgement of both legal works is both premature and one-sided. Earlier<sup>2</sup> I have shown in detail that Werbőczy had no intention to produce a code representing the whole of the Hungarian legal practice, and even less to remove the common legal elements from it. His only aim was to prepare the Hungarian reception, or at least the “harmonization” of laws, to present a system of the valid elements of the particular Hungarian *ius consuetudinarium municipale*, to make possible a comparison with the written *ius commune*, being a valid law source in Hungary, too. He has set up a regional special written law beside the written law of general validity.

<sup>1</sup> BÓNIS 1972: 279.

<sup>2</sup> ZLINSZKY 1993a: 374.

The harmonization process was likely planned already by King Matthias in the 15th century. Had it been continued as the task of Werbőczy, then the comparison of the special Hungarian customary law with the general law (*ius commune*), its change and their eventual unification would have certainly been done. This is proved by the move of Werbőczy, printing his non-approved work and sending it to the courts of the country for judgment.<sup>3</sup> This is also witnessed by the series of the decrees of the national assembly aimed at completing it,<sup>4</sup> and by the *Quadripartitum* prepared consequently at the middle of the 16th century. Also proving it are the experiments following the *Formularium Posoniense*, aimed at popularizing the Roman legal concepts, that have appeared mainly in Transylvania in the works on law by HONTERUS.<sup>5</sup> They can be considered preliminary works for modernizing the Saxon Statutes on the basis of Roman law.

The long war-periods in the Hungarian Kingdom, the personal union with the Empire, the need for its continuous material and military support, together with an absence of pressing need from the economy that was declining, have resulted in the gradual disappearance of the need for a legal reform, for the Hungarian reception of Roman laws. It was replaced by a small-minded jealousy. Only the Hungarian constitutional separation was intended to be preserved intact, keeping it free from outside interference.<sup>6</sup> In Transylvania, however, the comparative economic development led to moves aimed at the reception, first in case of the Saxon Statutes, during the reign of István Báthori, taking the form of material law, not only in the re-writing of these statutes on the basis of Roman law, but also in the actual recognition of the imperial law as a valid subsidiary law.<sup>7</sup>

This process did not stop at the time of the death of István Báthori (1586) but it was intended to be continued by the statesmen of his government in Transylvania, by modernizing the Hungarian customary law. They intended to ask for the help of foreign scholars of law, and this intention was conveyed to them by a young Protestant humanist, studying then in Kolozsvár, János Czimor, called later János Baranyai Decsi.<sup>8</sup>

About János Czimor (or Cimor), who came likely from County Tolna, was born in Decs (and named Baranyai, as Decs belonged then to the Reformed Diocese of Upper Baranya) little is known for sure. There are questionmarks even concerning the date of his birth and death. From his own work we know the name of his mother – Erzsébet Által – and that of his stepfather, Gáspár Decsi Borbély, who – together with his stepbrother – came from Tolna to Transylvania in 1592, fleeing the attack of the Agha of Koppány. All other data about his family are rather guessworks of a later date. According to one note, he married in 1600 in Székelyvásárhely and died there in the following year.

<sup>3</sup> ZLINSZKY 1972: 318.

<sup>4</sup> ZLINSZKY 1972: Notes 9–11.

<sup>5</sup> HONTERUS 1539 – HONTERUS 1544. – SZABÓ 1995.

<sup>6</sup> ZLINSZKY 1989: 152 etc. – ZLINSZKY 1993b: 187.

<sup>7</sup> Szász Statutum (Saxon Statute) I. § 4.

<sup>8</sup> ZLINSZKY 1992: 207 etc.; ZLINSZKY 1972.

Decsi studied first at the Reformed school of Tolna (between 1578 and 1581) then at the Debrecen College (before 1586?) and in Kolozsvár. There the attention of Chancellor Farkas Kovacsóczy and Councillor Farkas Bánffy were directed to him and they have appointed him to accompany their sons in the *Kavalierstour* to the University of Wittenberg. They left in 1587 together with the Transylvanian delegation going to attend the election assembly in Warsaw, following the death of István Báthori who was also King of Poland. This journey via Pomerania to Wittenberg was reported to his patrons in a vivid Latin travel description, the *Hodoeporicon*.<sup>9</sup>

From the autumn of 1587 Decsi and Ferenc Bánffy, being always with him, lived the life of university students of that age in Wittenberg and then in Strasbourg. It is not known exactly when they left Wittenberg for Strasbourg. In 1588 Bánffy was still rector in Wittenberg. At the beginning of December 1588 they were already in Strasbourg,<sup>10</sup> and in June 1592 Albert Szenci Molnár still found them there.<sup>11</sup> His book, the *Syntagma* appeared in 1593 in Kolozsvár indicating that Decsi had to spend at least one year before it in Transylvania.

In the years Decsi spent at the foreign universities, he wrote a series of memorial poems and he is the author of a dissertation, the *Synopsis Philosophiae* prepared in 1591 in Strasbourg under the guidance of professor Hawwenreuther.<sup>12</sup> About his stay in Wittenberg the records of the *bursa* and other documents are available, but unfortunately the records of the Strasbourg Academy for the years 1589–1592 were destroyed by fire. His letters, however, written to the humanist professor Johann Jacob Grynaeus in Basel have been discovered and published in Budapest in 1989.<sup>13</sup> These include important data about his legal studies, justifying my assumption published in 1970.

Decsi was inclined to literary, historical and philosophical studies and perhaps – in accordance with the spirit of Hungarian Reformation – to Protestant theological studies, too. But as he himself puts it, in order to support the studies of the young man under his guidance, preparing for political career “*eum politicis hisce studiis imbui maxime cuperem*” – he devoted part of his time to political, i.e. legal studies as well.

But in his political studies there is more than just supporting the studies of Bánffy, as he mentions it in the preface of his legal work dedicated to the Prince of Transylvania. During these studies he realized that the Hungarian laws are defective, unsystematic and also obsolete. In his letter, written in February 1592 to Grynaeus he mentions that several years ago his patrons in the court had called him to try to find scholars of law abroad to compare the Hungarian and the civil law (*Ius Commune*) and to make a coherent work including both, as it was done previously in the Empire in the reception process. “Several years ago I was requested by certain no-

<sup>9</sup> DECZIUS 1587: 18 fol.

<sup>10</sup> ZLINSZKY 1992: Note 36.

<sup>11</sup> ZLINSZKY 1992: Note 37. Based on the diary of Albert Szenci Molnár.

<sup>12</sup> DECZI 1591.

<sup>13</sup> SZABÓ 1989.

blemen of high standing and great influence, to hand over our law to scholars of law to have it compared with the *Ius Civile*, in order that Hungary being under common rule with the German Imperium should join it in the laws as well.”<sup>14</sup>

These men of high position were evidently Chancellor Kovacsóczy, and Councilors Bánffy and Zsámboky. According to this text, we cannot exclude that Decsi and Bánffy have taken a copy of the 1584 edition of the *Corpus Iuris Hungarici* and the 1591 edition of Zsámboky’s *Tripartitum* along with them for study. (It cannot be excluded either that these books were available in the libraries of Wittenberg and Strasbourg – as I have supposed it in 1970 –,<sup>15</sup> but the wording of the letter (*darem*) suggests explicitly a task of handing over these books.) Anyhow, this letter proves that the task of Decsi was intended to serve the political idea of the preparation for the adjustment of Hungarian law to the common law. Just as the reception of the Saxon Statutes was prepared by humanist legal publications, by the corresponding works of HONTERUS, Decsi was expected to initiate similar works in Wittenberg and Strasbourg. Both these institutions of higher learning were suitable as far as scholarly prestige is concerned. When Decsi was in Wittenberg, five ordinary professors (and one extraordinary) were teaching law there. Petrus Wesenbeck taught the *Codex*, Johann Linner the *Pandectas*, Eberhard von Weihe the *Decretalis*, Andreas Rauchbart equally the *Pandectas*, Zanger the *Institutions*, Petrus Hegius the extraordinary *Institutions* and the legal *Regulas*.<sup>16</sup> In Strasbourg Gothofredus was his professor, mentioned in the letter written to Grynaeus, but some time before Cuiacius, Hotomannus and Donellus, too, had taught there. (In 1589/90 perhaps he had a chance to meet them.)

Decsi writes in the Preface of his *Syntagma* that “in supervising the studies of the young man confided to me, I was rather forced than ventured into the study of law, as I intended to introduce him into the political studies as thoroughly as possible”. This is rather a modesty or a change of tone necessitated by the change of the political situation. On going abroad, Decsi was given a definite task, and finding nobody to do the job, he decided to attempt to do it himself.<sup>17</sup> He was also encouraged in this work by his teachers, mainly by Gothofredus.


Based on his correspondence with Grynaeus, now it is certain that the text corresponding to Roman law and at least a considerable section of the Hungarian part

<sup>14</sup> SZABÓ 1989: 57. “Ante multos annos rogatus ego fueram a Generosis et Nobilibus quibusdam hominibus magna autoritate domi suae praeditis, ut Ius nostrum Ungaricum Doctoribus quibusdam Iuris darem, ut illud cum Iure civili conferrent, et sic conferrent, ut sicut imperio ita iure quoque Ungaria Germaniae copularetur.”

<sup>15</sup> ZLINSZKY 1972: 321.

<sup>16</sup> A detailed description of the courses in law is given in Béla Szabó’s dissertation submitted to obtain the degree of candidate of science. Miskolc, 1994. See SZABÓ 1995.

<sup>17</sup> According to the Preface of the *Syntagma*: “I have discussed with excellent scholars of law of Germania and Gallia whether it would be possible to combine the Hungarian institutions of law with the Roman ones. ... They did not, however, undertake to do this, may be as they found the task too difficult, or they preferred more important tasks to this less important one offering little in return. Consequently it was not my preference but rather the reluctance of others that led me to do the job not undertaken by more competent scholars.”



SYNTAGMA  
 INSTITVTIONVM IV-  
 RIS IMPERIALIS AC VNGARI-  
 CI, QVATVOR PERSPICVIS QVAESTI-  
 ONVM AC RESPONSIONVM LI-  
 BRIS COMPREHENSVM OPERA  
 AC STUDIO  
 IOANNIS DECII BAROVII.

ANNO

I 5



SALVTIS

9 3.

II. PARALIPOMENON XIX. §. VI.

Videte, Iudices, quid facitis: Non enim hominis exercetis iudicium,  
 sed Domini. Et quodcumq; iudicaueritis, in vos redundabit. Sit timor Do-  
 mini vobiscum, et cum diligentia facite cuncta: Non enim est apud Do-  
 minum DEVM nostrum iniquitas, nec personarum acceptio, nec cupido  
 munerum.

Impressum Claudiopoli Transylvaniae, Typis Heltanis.

*Ioannis Decsi*

Fig. 1. Frontispiece of *Syntagma Institutionum* (1593) by Baranyai Decsi

of his *Syntagma Institutionum Iuris Imperialis ac Ungarici* (Claudiopoli 1593) were ready in Strasbourg. The volume comprises about 900 pages. Following the dedication to the prince and the Introduction to the readers, there is a subject index and a list of sources. The interrelation of the institutions of law is presented in tables in 122 pages, then a detailed discussion follows, in the form of questions and answers on 620 pages, in sections entitled: *De personis*, *De rebus*, *De obligationibus*, *De actio-*

*nibus*. The volume is concluded by the chapter “Sex centuriae regularum iuris et sententiae” divided according to the different subjects. This is not a simple copy of the *Regulae* at the end of the *Pandectas* and the *Codex Gratiani (liber Sextus)* but a compilation of rules taken from a wide range of sources. These sources and the references are noted on the margin beside the corresponding texts.

Concerning Roman law, in addition to the *Corpus Iuris Civilis* and the Latin authors, 38 authors are quoted by Decsi from the commentator and the literature of his time. Most of them are, however, quoted only once or twice. The *Syntagma* is based mainly on the works of six authors: Udalrich Cesium (Zäsy 1461–1535), whose works were published in Strasbourg by Mynsinger, mainly quoted in the part of the rules of procedure. Johann Schneidewin (1519–1568), professor at Wittenberg, – whose works were published in Wittenberg by Matthaues Wesenbeck, and in Strasbourg by Gothofredus – is the main source of the *Syntagma* both in its system and its form. The cousin of Matthaues Wesenbeck (professor in Wittenberg between 1569 and 1586) Petrus, who was professor of Decsi in Wittenberg, Iacobus Cuiacius (1522–1590), the author quoted most frequently by Decsi, Franciscus Hotomannus (1524–1590), equally a former professor in Strasbourg, and Mynsingerus (Joachim Frundeck) at that time professor of the University of Freiburg, who may have been known to Decsi in person, too.

The works of these authorities are used by Decsi mainly freely, corresponding to their content, without giving exact references. This makes the establishment of the individual source nearly impossible, the more so as their concepts are related. It is fairly sure that even in Strasbourg Decsi could not have all the sources at hand, only the most important ones, so he had to rely on the stocks of the university libraries. He wrote to have returned home without his books,<sup>18</sup> indicating that he might have had Hungarian books taken from home, and also foreign books, taken from Wittenberg to Strasbourg. Consequently it is probable that he took the manuscript of the chapter on Roman law, including the material of the *Tripartitum* and the Hungarian *Decreta* along with him. (This agrees with the information given to Grynaeus, saying that his legal work was fairly ready by the beginning of 1592.)

It is surprising that concerning Hungarian law Decsi often quotes the *Quadripartitum*. Certainly he could not have access to it during his studies in Wittenberg and Strasbourg and had no opportunity to take it along with him on leaving Transylvania. If it is true what he wrote to Grynaeus, i.e. that he had no intention to write the work himself, the study of it at Kolozsvár – before he left – is also unlikely. At first glance the thorough knowledge and inclusion of it are also astonishing. It was only in the 18th century that the *Quadripartitum* was printed, until then only some manuscript copies of it could have existed in different archives. It is surprising that Decsi knew about it at all, and even more so that he had access to it.

The *Quadripartitum*, as a revised, corrected version of the *Tripartitum*, was prepared between 1548 and 1553. Act XXI of 1548 has ruled that a seven member

<sup>18</sup> In the Introduction of the *Syntagma*: “e Germania reversus sine meis libris, quos ibi reliqueramus.” DECIUS BAROVIVS 1593.

commission including two bishops, two councillors, two judges and the Vienna professor of law Martin Bodenarius should prepare a revised version of *Tripartitum*, to be submitted to the Estates of the Land and to the King for assent. The new work, the *Quadripartitum*, intended to replace the *Tripartitum* was ready by 1552. In 1553 it was submitted to the King, who then handed it over to the chief justices of the country for checking it.

The *Quadripartitum* was prepared in the short period of history when, as a consequence of the successful activities of György Fráter, a reunification of Transylvania and the Hungarian Kingdom seemed to become a reality. For some years, between 1548 and 1555 the part of the country being outside the Turkish rule was united, i.e. it is justified to assume that one copy of the manuscript of the *Quadripartitum* was sent to the court of the Voivode of Transylvania. In 1555 the likelihood of the unification again came to nothing, but the *Quadripartitum*, as a modern, revised version of customary law, may have remained in the archives of the Prince of Transylvania. Decsi had an official mandate, working on the codification of the Hungarian and the common law. His attention may have been called to this authentic variant of Hungarian customary law only by the lawyers and councillors of the court, probably by Chancellor Kovacsóczy himself, providing an opportunity for him to revise his work made in Strasbourg, taking into consideration the content of the copy of the *Quadripartitum* in the archives.

The proposal of revision might provide an explanation for the contradiction between the statement in his letter written to Grynaeus in February 1592, stating that his work is practically ready, and another one that it was concluded in one year after his return.<sup>19</sup> On the other hand, the use of the *Quadripartitum* proves that the authorities in Transylvania were interested in his work, providing an opportunity for him to use the archives of the Prince. So they were not at all “neutral” to the “private experiment of reception”. The experts of the time, like Kitonich were wrong believing that this was merely the work of a private person of wide vision, but living in seclusion. On the contrary, concerning Hungarian law the *Syntagma* is the officially initiated second phase of the Transylvanian reception that was discontinued due to the unfavourable turns of history.

The young Prince, Zsigmond Báthori took in the meantime the rule into his own hands and in 1593 he had no more confidence in Chancellor Kovacsóczy, favouring peace with the Turks. Báthori had no intention to get the laurels of a legislator, he preferred successes on the battlefield, in an alliance with the Emperor. He also intended to become one of his family members by marriage. The resistance of the Estates of Transylvania, remembering the serious troubles resulting from a similar unsuccessful move in 1555, and intending to keep the peace with the Turks was violently crushed in the following year (e.g. Chancellor Kovacsóczy was also killed in prison).<sup>20</sup> At the time when Decsi concluded his work on the *Syntagma* and had to

<sup>19</sup> In the Introduction of the *Syntagma*: “... interdum fere annum hic transigere coactus fuerim” – also ZLINSZKY 1992: Note 51.

<sup>20</sup> KÓPECZI (ed.) 1986: Vol. 1, 525–526.

submit it to the Prince, it was not a wise thing to refer to the mandate received from the Chancellor, as an initiation of the work. The young Prince did not show any magnanimity for the author either. As Decsi wrote later, not even half of his corresponding expenses were paid to him.

Fortunately in the autumn of 1593 Decsi got an invitation to the post of the rector of the Székelyvásárhely school and there he found a home together with his relatives who fled there from County Tolna. It seems that in 1595 he greeted the bride of the Prince on her arrival in Transylvania by a festive poem or speech, but being a Protestant he had no chance to get into the inner circles of the court. From his later years three books and some letters giving an insight into his scholarly contacts have survived. His works, the Hungarian translation of the book of Sallust (1596), the Latin-Hungarian collection of proverbs, the *Adagia* (1598)<sup>21</sup> and his unfinished History bear witness to his unfailing and manifold humanist interests. All in all, his legal studies may seem to be only a sidetrack in his career of scholar and teacher.

The assessment of the *Syntagma* by most of the scholars of that time is a superficial one. Mainly KITONICH (in his book published in Nagyszombat) reproached him for expecting to change the Hungarian customary law, although he was only a private person, without the authority of a judge. Furthermore he also maintained that quoting the *Quadripartitum* as a summary of Hungarian customary law is not justified, as – in contrast to the *Tripartitum* – it was not recognized by the judicial practice.<sup>22</sup> As on publishing the *Syntagma* in the changed political climate Decsi could not quote properly the history of his assignment, his venture seemed to be unauthorized and bold, in spite of his own statement: “My friends, if an unknown little private person emerging from the mist of literature would like to reform the Hungarian law by proposing new regulations, not deriving from the consent of the nation, and to make them compulsory, could you refrain from laughing?” He clearly recognized the different competence of a legislator and a scholar. Although he did not know the antecedents of the work of Werbőczy, he realized that the two books representing the Hungarian customary law are unsuitable to satisfy all the needs of those looking for justice and for solving their problems. His work is an evidence of the fact that – although the whole civil law included in the *Tripartitum* and *Quadripartitum* was fitted into the system of the *Pandecta* –, there is scarcely any overlapping between them. The summary of Hungarian customary law made by Werbőczy does not replace but rather supplements the system of the *Ius Commune!*

From among the four parts: *De personis*, *De rebus*, *De obligationibus*, *De actionibus*, Part I contains 25 titles of Roman law, 15 of Hungarian law and one of mixed character. In the parts on family law, however, e.g. in the chapters on dowry, the wedding present (given by the husband, established by law) etc. the change in meaning of the Roman terms, as appearing in Hungarian law are analyzed (e.g. in-

<sup>21</sup> DECIUS BARONIUS 1598.

<sup>22</sup> KITONICH 1619: VIII. 34, 5., V. 15.



stead of “donatio propter nuptias” – dos). Part II includes 38 titles on Roman and 14 on Hungarian law. As expected, the percentage of Hungarian law is the smallest in Part III, only two, as compared to 30. In the part dealing with the rules of procedure there are 22 titles of Roman, 27 of Hungarian law and seven including mixed material.

The work of János Baranyai Decsi was up to the expectations. He showed that the Hungarian customary law can be fitted to the common law and they could supplement each other. In spite of some minor legal errors and defects – due to the fact that he had never been a practicing lawyer, but only a man of scholarship – he produced a valuable work and it was only due to the intervening political turn that finally it became a needless experiment, an unfinished work.

The last work of Baranyai Decsi, the History of Hungary in 11 Decas also remained unfinished. Only Decas X and the first part of Decas XI dealing with events of his age were concluded. The first ten parts of it were shown to the Prince likely in 1598 after the first return of Zsigmond Báthori to Transylvania and then he started to write the continuation in Part XI.

In the following stormy years the peaceful scholar disappears from our eyes and only a marginal note informs us that “our Decsi married in 1600 and died in 1601”. The uncomprehending posterity’s summary assessment – “a big nothing” – proves the total lack of understanding of the legal work of this outstanding representative of humanist scholarship and worthy author of the Hungarian reception of Roman law.<sup>23</sup>

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<sup>23</sup> ZLINSZKY 1972: 325.

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