

THESES OF DISSERTATION (PHD)

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**Hungarian-German relationships in the History of a medieval city
In the aspect of source history – Buda**

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I. The subject of the dissertation

The main purpose of the dissertation is to show how the direction and the days of the city community in the medieval Buda happened, or perhaps according to what pattern did they shape. Besides revealing the role and the importance of the city salariat and the days of the citizens in forming city life, I tried to reveal the probable roots of the effects of a German source, the Magdeburg Law with the help of Hungarian and German sources, as well as with examining the technical literature being at disposal. Doing this, I analysed one of the most remarkable document of the medieval city history, the medieval German language law book of Buda city, the Buda Law Book, (Ofner Stadtrecht), which was written in the first part of the XV. century, panning out about one of its assumable roots, the Magdeburg Law. Showing the citizens' life-style was in the focus of my research, and also to examine that the city's German-tongue population from where and to what extent did use another city's, first of all Magdeburg's practice and what effect on the city's life did it make, or rather what parallel could be drawn between the Central European cities using the Magdeburg Law and the medieval life of Buda.

My goal was to analyse this significant, most complete - although according to our knowledge it is only in file copies on our disposal - law book of the medieval city life in Hungary in a way to place it among the resources from the XV. century, depending besides the usable inland sources upon the technical literature from abroad, mainly from Germany.

II. The sources of the dissertation

In the dissertation I focused on the Buda Law Book, and from its presumable German roots I examined its relationship with the Magdeburg Law. In the case of the Buda Law Book I took the critical edition of Károly Mollay from 1955 as a basis, notwithstanding that two issues - that can be found in the territory of today's Hungary - of the three medieval file copies being currently at our disposal (Cromer manuscript, script of Budapest) I took in hand. Unfortunately I did not have a chance to survey the third one, the Lyceum script which is kept in Bratislava. Of course I used the first edition of the Buda Law Book - which was published in 1845 thanks to the activity of András Michnay and Pál Lichner - as a source. In connection with the sources of the Magdeburg

Law the researcher has to face a more difficult case, as to the best of our knowledge there are not any remaining collection which would contain totally or at least partly the Magdeburg Law. Such Law Book naimly did not exist, as far as we know. The only opportunities to be able to get to know the Magdeburg Law can be the law dispensings for other cities, the assessors' orders, the law interpretations made for the Central and East European cities using the Magdeburg Law, and the commitments asked in certain cases. Such collection that contains all of these will be hopefully at the research disposal as a result of a currently ongoing international academic collecting work. Accordingly, I used the source editions being continually published from the beginnig of the XIX. Century until now as a source of the Magdeburg Law. Among these we can find *Das alte magdeburgische und hallische Recht* from Ernst Theodor Gaupp, published in 1826; the *Magdeburg-Breslauer Schöffengericht* from Paul Laband, published in 1863, and the *Urkundenbuch der Stadt Magdeburg* compiled by Gustav Hertel in 1892. From the newest ones: the collection *Magdeburger Recht* from Friedrich Ebel, published in 1989, and the collection *Der Rechte Weg* published in 2000. Furthermore, I made case studies in the Magdeburg City Records, and I have got an insight into that international academic work which was led by Professor Dr. Heiner Lück and Professor Dr. Ernst Eichler at the Academy of Sciebces in Leipzig. Its purpose is to search for and collect the elements of the Magdeburg Law as a result of Centre and East European researches.

Before these I made linguistic studies in order to be able to read those source publications being at our disposal that have been written in Middle-High Dutch, and the scripts.

III. The occurent difficulties during the research

The opportunity of comparing the Buda Law Book and the Magdeburg Law can draw the city history research's attention by the link between the sources mentioned in the introduction of the Buda Law Book. Getting to know the Magdeburg Law is not an easy task for the research, as it is not listed by theme and not compiled in one law book, furthermore there are latent charters. Currently, some elements of the Magdeburg Law can be sized up with the help of ready source publications being made by using charters from many Central European records, with the help of the results of the ongoing international research and of the references of the explanatory, analysing, and revealing writings dealing with the Magdeburg Law. Hence, any research being made in

connection with the Magdeburg Law, including the examinations aiming at mapping its reach and sphere of influence, can temporarily lean mainly on source publications.

The effect of the Magdeburg Law on Central and East Europe has been in the limelight mainly of the German academic life for two decades. This resulted in numerous dissertations and analyses, some parts of which reflect the political intention of that era, in which it emerged. The effect of the medieval German cities on the east side of Europe in the national socialism proved as an evidence for the political intentions of that age, to which as a tool the works of the historians and law historians - that dealt with the influence of the Magdeburg Law in this field - were used. That is why it was necessary to size up the academic biography and activities, which came to fruition by using different biographical encyclopedias

During the historical exposition of the comparison the finding of those literature works which dealt with this question from Hungarian or from German side meant a further difficulty, as they did not always make it clear that regarding the Hungarian effect of the Magdeburg Law which city or which era's Hungary they thought of.

IV. The conformation of the dissertation

The dissertation begins with revealing the so far available antecedents of the relationship between the Buda Law Book and in its initiative mentioned Magdeburg Law. The examination of the relationship between the two laws has been playing an important role in the Hungarian and also in the German history science, law science and linguistic researches since the first part of the XIX. century. Besides the review of the Hungarian and German academic technical literature which was born as a result of these researches, the map-story references of the conquest of the Magdeburg Law in Central and East Europe are the part of that historical exposition which summarizes the results of the examination about the relationship between the two sources.

In my work I aimed at systematizing the so far collected research results, which appear in the form of charts in the dissertation. The makers of the first, in 1845 published Buda Law Book, András Michnay and Pál Lichner have found relationship between the Buda Law Book and the Magdeburg Law again and again. Using these observations too, and complementing them with newer ones, in 1905 Néda Relkovic Davori appointed several conformities and similarities at mind or literally level in further acts. The Hungarian translation of the Buda

Law Book in 2001 used her research results, and the translation features in the footnote written to some parts of the act in the Law Book that part of the Magdeburg Law which can be keyed to the concrete act. In virtue of these researches such a table has been compiled in the dissertation which associates the appropriate points of the Magdeburg Law with some acts of the Buda Law Book in a way that it takes every so far by research revealed opportunity in separate columns into account. Judging by this table we can claim that more than a 10 per cent conformity and similarity can be assumed between the Buda Law Book and the Magdeburg Law.

After the statement of this summary the dissertation gets on analysing the Buda Law Book, in which I tried to examine the source connection attaching to the Magdeburg Law along the junctions which are important in city history respect. I did this by dividing the dissertation into the following four parts: 1. City government, 2. The criminal cases and their forfeits, 3. The patria protestas institution, 4. The church: the role of the parson.

V. The main conclusions of the dissertation

It is an important question of the city history researches whether a certain city's emerge and its functioning is the result of a separate developing, or is thanks to the sample taking of other cities. In the medieval Central Europe it is a well known phenomenon that certain cities take the regulations from other cities or they get it as an imperator's gift, and their own life went similar to the city's one which they took as a sample or which they get. By this certain cities acquired real families. In German territories more law families evolved, from which the *Rechtskreis* belonging to the Magdeburg Law is the biggest one in respect of dimension. This latter has had an effect on the lives of hundreds of Central and East European cities, the examination of which has stood in limelight of numerous East-European researcher's interest organised by the Saxon Academy of Sciences.

Although the examined area is the part of Hungary, it makes the search of the presence of Magdeburg Law more difficult that the borders of today's Hungary are not parallel neither with the medieval country's one nor with the most of those eras when either the Hungarian or the German researches tried to take Hungary too to the examination of Magdeburg Law's dimension territory. But this dissertation had to deal with this question only osculatory, as its theme is to analyse Buda city.

Whether in the case of Buda and Magdeburg the question of connection can be stated at all is thanks to the following reference: „*Hye hebet sich an das Recht puech nach Ofnerstat Rechten, Vnd mit helet in etlichen dingen oder stugken Maidpurgerischem rechten,[...]*. (So begins the Law Book made on the basis of Buda’s laws which in some ways or parts are parallel with the Magdeburg Law, [...].)” (Ofner Stadtrecht 1.) The quotation comes from the Buda Law Book committed to writing in the beginning of the XV. century, of which three file copies have remained until now. One of them, the *Budapest script* does not contain this part at all. But the two other, earlier file copies contain this sentence, so I have come to the conclusion that by searching for the German pattern the examination of the occurent effect of the Magdeburg Law on Buda seems an important, inevitable question.

In the medieval cities it was the every day practice that necessitated framing law books. In German speech areas - just like in Hungary - the practice of law has happened according to the live common law, on the basis of unwritten laws for long. In German territories the phrasing of nascent rules into law books began during the XIII. century. The first German monument in this field was the *Sachsenspiegel* which took a huge effect on city life and became an important source of the Magdeburg Law, too.

The law books regulating city life have appeared in Hungary too, but very few remained of them, and in master print even fewer. Regarding notability *Buda Law Book* exceeds from those and it is one of the latest ones. It set the way Buda must have worked and fixed the city’s old privileges get from king Béla IV and king Leslie IV, and also the newer texts of the privileges get from king Zsigmond. The Law Book building upon the practice of law in Buda city fixed the rules determining the life of the city. Whether these rules were really connected with the norms set by the Magdeburg law and in what extent, is a question which was already asked centuries before. Hungarian and German researchers, too have already tried to give an answer to this question.

In respect of source history I regarded the 1845 edition of Buda Law Book made by András Michnay and Pál Lichner as a starting point for comparing the Buda Law Book and the Magdeburg Law. Néda Relković Davori probably took their results in 1905 as a basis for examining the Geman source relationships with the Buda Law Book, when she among others searched for the role of the Magdebur Law. A part of Néda Relković Davori’s researches survived in the footnote of the Hungarian translation of Buda Law Book called Buda City’s Law Book published in 2001 by Blazovich László. According to the summary of the so far research results in the case of the Buda Law Book I have found in more than 10% presumable token relationships between the Buda Law Book and the Magdeburg Law.

I made a resource history review not only from Hungarian but from German respect too, apropos of which I experienced that the German academic

life has also showed an interest in the influence of the Magdeburg Law on Buda, but first of all they reckon it as a part of the Central and East European effect of the Magdeburg Law. The German researches have regard it less as their task to confirm with source parts that assumption that there can be a relationship between the Buda Law Book and the Magdeburg Law. After having reviewed the relevant technical literature I came to the conclusion that the research goes back to the first part of the XIX. century, but it was the XX. century's period between the two world wars which showed a bigger interest in this question. Of course during the national socialism numerous results were born but one needs providence to analyse them, as their purpose was not rarely to confirm the contemporary political intension.

I reviewed some part of the so far reached results of history science and law science in the form of map delineation, too. I took some of them into account which tried to draw the whole territory dimension of the effect of the Magdeburg Law on Central and East Europe.

In this dissertation the examination of the relationship between the Buda Law Book and the Magdeburg Law founds on that conception that - after comparing Buda and the Magdeburg Law only by confing only to source notification or to theoretical compare ignoring sources - it makes the surch for the relationship in city history respect too. So my primary goal is to present it confirmed with sources and with the help of technical literature how the direction of Buda city and the every days of the city community happened or perhaps on the basis of what pattern they worked out. In the four chapters of the IV. part's D point (1. City government, 2. The criminal cases and their forfeits, 3. The patria protestas institution, 4. The church: the role of the parson) I presented the correspondences, the similarities or even differencies between the every days of the cities living according to the Buda Law and Magdeburg Law.

In the dissertation the judgement of the citizens within the city's life proved a really important question. Namely, only those had a right to take part in determining the city community's life and fate that had a property in the city, that payed tax for the city, took a hand in and beared the responsibility of solving all financial and non-financial questions of in connection with the city. They were the citizens that among others could decide about the person heading the city, the city judge year by year. In Buda the judge and its board together had a hold on administration and gave judgements fot the city on behalf of persona authentica (legal entity). On the basis of comparing the sources electing the city judge out of the city government's topmost people and salariat proved to be the citizens' law according to the Buda Law and Magdeburg Law too. It meant a relief for the citizens that only their own judge could call them to account. In every year the judge and its board were elected, and they tried to quarter such person they honoured and trusted in. In the election only the citizens were permitted to take part. In the management of the community's affairs the tasks

which were incumbent on the individuals were strictly hauled up. When somebody kept away from an announced assembly – although he should be there – in the case of both cities he get a penalty.

The judge's work was helped by the city council's body and by the city's notary, and they also complemented it according to both cities' regulation. But the sources in point of city jurisdiction had notable differences because while in Buda sentencing was the task of the city council, in Magdeburg there was a separate body, the assessor body on which one more very significant task was incumbent. As the cities living according to the Magdeburg Law could take and they took the sense of the Magdeburg assessors regarding their moot questions and doubtful legal transactions, hence this body also worked as an upper judicial cue. In the dissertation I aimed at presenting the city assessors' activities of such nature and also presenting the body's historical development expansively. Regarding the electing of the city's major governor and salariat, their scope of duties, activities and oath sometimes punctual accordances and principled similarities emerged between the Buda and Magdeburg practice.

The examination of the committed delinquencies in the city and their penalty showed in some cases literally accordance. Homicide, endangering bodily fear, the delinquencies against assets and property, bullying with women are the most common forms of guilts committed in the field of Magdeburg Law's validity territory and in Buda. After the collation of sources I came to the conclusion that both cities' regulation aimed at reserving city peace, so they tried to punish those who committed delinquencies in a way that it meant a competent retentiveness in favour of the city's calm. In this respect the important performers of the city's commodity trade, the market-women are significantly emphasized in the dissertation, who in Buda and also in Magdeburg were characteristic and loud performers of the fairs, their frequent arguments and jaws often meant the constant event of disturbing the city's peace. This was of course punished and in both cities they tried to obviate this behaviour by ignominious punishments. Nevertheless market-women were an integral part of catering the city, because the food bidden by them meant the main basis of the alimentation of the city.

Both regulations in connection with the traffic of animals having a high property value aimed at doing by the most possible care and at constricting the risk of cheating to the lowest possible.

Within the issue of family the institution of 'patria potestas' has been examined. In the father's life the liberation from the almost unrestricted authority of the father was only possible by marriage in girls' case and by leaving the father's house in the boys' case. After the father's death a guardian looked after the child's interest for most of the time. How much a child was at the guardian's mercy changed according to its age. The underage child was totally regarded as incapable of law; it was their guardian who decided instead

of them in all respect. The already adult youngsters linked to different ages were gradually given certain rights. In the dissertation I also collated the important ages in point of actions, of course confirming by sources. According to this, male children were regarded being at the age of consent at the age of 10 in Buda and at the age of 12 in Magdeburg, and they already possessed certain rights without their guardian. After reaching age of discretion they had total legal capacitation, and they were responsible for their acts.

Examining the importance of the institution of the church and the parson's cue in the city I have found significant differences between the regulation of the two cities. I started from that axiom that the right for electing the parson or the even the lack of it was an essential element of the the city council. In this field a significant difference appeared between the regulation of the Buda and Magdeburg Law. Namely in Buda the citizens chose their parson on their own, while Magdeburg did not have this right. In Buda the election of the parson was the citizens' duty but regarding its person the ecclesiastical reinforcement of the archbishop of Esztergom was also needed. The confessional reinforcement derived from the church, but it depended on his suitability made according to claims by the community that what kind of personality they chose as a parson. Regarding the treatment of the patrimony there were different regulations in the two cities. In Buda the parson was responsible for keeping patrimony and for its as far as possible enlargement. In Magdeburg for the treatment of the patrimony a separate profane post, the father of the church (Kirchenmeister) was developed. While in Buda the election of the parson was in the hand of the citizens, but the profans did not have any authority over patrimony, in Magdeburg the city community did not have right to elect the parson but the treatment of patrimony was in the hand of a profain. In respect of electing the parson and patrimony there was a difference between the two cities, so the commands for the parson of the Magdeburg Law Book werenot parallel with the arrangements of the city Magdeburg.

While I was writing the dissertation the Buda Law Book appeared to be an inexhaustible source of the research trying to get to know the everyday life of the people living in the contemporary cities. In the case of the Magdeburg Law it seemed that the research results being at the moment at our disposal can not be regarded as definite. All these facts bear a chance for the analysis to continue, panning out about the newer and newer fields of the medieval city's life. This dissertation made comparisons by giving some of those questions that are important in respect of city history researches prominence, and it focused on them, and centered them. The goal of the dissertation: a) was presenting the medieval Buda's life in comparison with an other resource; b) analysing the home city history's significant, in one of the most complete forms so far remained law book, the Buda Law Book which by depending upon the German language and German subjected technical literature apart from the domestic

technical literature using the Law Book, set among the resources from the XV. century. Proceeding from the results of the earlier Hungarian researches showing more than 10% accordance and similarity I collated the Buda Law Book and the Magdeburg Law according to four aspects, and I came to the conclusion that the Magdeburg Law featured among the resources of the Buda Law Book can be evinced in the Law Book apropos of concrete cases, itemizedly too. As the Magdeburg Law can be still at our age really hardly summerized, it is important that the researches in connection with this theme could reveal newer and newer results, the use of which could definitely further modulate the picture about the Buda Law Book and the Magdeburg Law.

VI. Publications of the author relevant to the dissertation

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4. A teljes kor fogalma középkori német és magyar városi jogforrásokban. In A Dunaújvárosi Főiskola Közleményei XXVII/I-II. Dunaújváros, 2006. 579-587. p.
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6. A Magdeburgi Jog Közép- és Kelet-Európában. Beszámoló a magdeburgi Eike von Repgow-ösztöndíj keretében végzett kutatásokról. In Turul 2006/3-4. 95-97. p.
7. A patria potestas intézménye középkori német és magyar városi jogforrásokban. In Kút 2006/1. 1-13. p.
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9. Magyar-német jogtörténeti kapcsolatok a középkorban. A Budai Jogkönyv és a Magdeburgi Jog magyar művekben való összevetésének rövid történeti bemutatása. In A nyelvi, a szaknyelvi és a szakmai kommunikáció jövője Európában. X. Dunaújvárosi Nemzetközi Alkalmazott Nyelvészeti és Kommunikációs Konferencia. Szerk.: Kukorelli Katalin. Dunaújváros, 2008. 105-111. p.

10. Magyar-német várostörténeti kapcsolatok a középkorban. A plébános szerepe a középkori város életében. Jellegzetességek Buda és Magdeburg esetében. In Hatékony nyelvi, idegen nyelvi és szakmai kommunikáció interkulturális környezetben. XI. Dunaújvárosi Nemzetközi Alkalmazott Nyelvészeti és Kommunikációs Konferencia. Szerk.: Kukorelli Katalin. Dunaújváros, 2009. 111-117. p.