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Memory of Romanian Law. The Beginnings of Sibiu Law and Administrative Education

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Abstract: *In 2021 the Law Faculty of the public University in Sibiu is celebrating 50 years of continuous activity starting with 1971. Actually, this institution is one of the oldest juridical teaching institutions in Romania, but not having in mind 1971, but the first institution which was inaugurated in 1844 and closed in 1887. This is why the 2021 moment of the Legal School in Sibiu is a moment of reflection and in the same time of revealing the whole history of this school which marked the legal history of Transylvania and the Romanian national history in the same time. In this study there are some of the starting information about how the Imperial legal faculty in Sibiu / Hermannstadt was opened and how it functioned under legal and administrative aspects. The information is taken from the archives in Sibiu and Vienna and from the few articles which were written in foreign languages about this institution.*
The 2021 moment in the history of Sibiu law school brings with it the obligation of a reflection to situate this event, beyond a simple anniversary stop (counted now beginning with 1971, from the moment of its re-establishment) on the time scale and on the broader coordinates of the place and historical moments in the destiny of the Romanian nation, as well as Transylvanian public law and administration, whose specific dimensions and evolutions have shaped and reflected at the same time.

Keywords: *legal education; juridical academy Sibiu/ Hermannstadt; legal tradition.*

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Distant Origins

Established on November 1, 1844, under the name ***"The Legal School of the Saxon Nation in Transylvania"***, transformed in 1851 into ***"C(aesaro)-R(oyal) Academy of Law"*** by nationalization, and after the year 1867 into ***"Hungarian Royal Faculty of Law",*** the institution had a life of forty-three years, being abolished in 1887, after the establishment of the Modern Hungarian University in Cluj (More details about the history of the institution in Günther H. Tontsch, *Die Rechtsakademie zu Sibiu (1844-1887)*, in *Studia Jurisprudentia*, year XIV, 1969, (97-103); Udo Wolfgang Acker, *Zur Geschichte der Hermannstädter Rechtsakademie (1844-1887)*, in *ZVSL*, No. 1, 1978, pp. 120-129; Emanuel Turczynski, *Die Universität Czernowitz und die Hermannstädter Rechtsakademie*, in Friedhelm Berthold Kaiser, Bernhard Stasiewiski (ed), *Deutscher Einfluss auf Bildung und Wissenschaft im östlichen Europa*, series *Studien zum Deutschtum in Osten*, Böhlau Verlag, Köln-Wien, 1984, (159-177).). Its purpose was to train lawyers for the administration of Transylvania, in general, and to meet the acute need for specialists felt by the Transylvanian Saxons, specialists who have a thorough knowledge of the history of Transylvanian law in particular. The birth of the institution in the political centre of the Saxon patricianism thus has a pragmatic connotation, namely that of forming native Saxon jurists who could provide clear and unbeatable answers to the new modern ideas that had begun, with the Josephine reforms, to question more and more their old privileges. The antecedents of the project can be found, starting with 1811, in the Lutheran gymnasium from Sibiu, where in the last years of study notions of Romanian and Transylvanian law are taught precisely in order to prepare the graduates to become administrative officials. Since 1835, these officials have been obliged to attend a two-year practical course at the Royal Board in Târgu Mureş, followed by an examination held in front of the National University. The need for a Saxon legal institute to study the historical legal tradition of the "homeland" through "German science" (deutsche Wissenschaft) and for the benefit of "Saxon German nationality" was publicly emphasized for the first time in a programmatic editorial published in September 19, 1839 in the Braşov periodical *"Blätter für Geist, Gemüth und Vaterlandskunde",* suggestively entitled: *"On the Establishment of a Legal Institute in the Middle of the Saxon Nation"* (*Über die Errichtung,* (1839, pp. 311-314). The idea was resumed, on February 13, 1840, in the pages of the same newspaper by an article signed JD which motivated the need to establish the second institute of legal sciences in Transylvania by resorting to the traditional political system of governing the principality, but

especially through the practical need to respond to the current scientific and national requirements of the time (*Eine juridische Lehranstalt*, 1840, pp. 54-55).

Establishment of the Law Academy in Sibiu

Reasoning that "Transylvanian Saxon law" was not sufficiently studied in Hungarian colleges, the Higher Evangelical Consistory and the Transylvanian Saxon University in 1841 sought the emperor's approval for the establishment of a law school of their own. Two years later, a deputy went to Vienna to make a new request to the sovereign in a private audience. Following the approval from July 3, 1843, and the financial amounts released on July 15 by the University, on ***November 2, 1844, was officially inaugurated in the festive hall of the Evangelical Gymnasium in Sibiu "The Transylvanian Saxon Law Academy", through the programmatic speech of the clerk Johann Wachsmann*** (Acker, 1978, 124-125). Until 1848, the duration of the studies was 2 years, their curriculum including law, philosophy and history subjects such as "private law of Transylvania", "Roman law", "natural law" and "state law". At the same time, the foundations of a library were laid, which in 1887 reached over 6,000 volumes[1]. In 1848 the students asked for the reform of the Academy, but the courses were interrupted because Sibiu was occupied by the army of the Hungarian revolutionaries, commanded by General Bem.

As of October 1, 1851, the management of the school was taken over by the Ministry of Cults and Education in Vienna, and the institution was reorganized on the basis of Austrian law. The duration of the courses increased to 3 years and in 1860 to 4 years, the curriculum also undergoing major changes by introducing new subjects: canon law, history of Austria, history of Transylvanian law, economics, statistics, administrative and commercial law. In 1853, with the suspension of Transylvanian Saxon law, Austrian civil and criminal law was introduced. Following the end of the Austro-Hungarian dualism, the institution was renamed the "Hungarian Royal Academy of Law", and in 1870 the teaching language became Hungarian. Simultaneously with the introduction of the school policy of Minister August Trefort, the institution will suffer a gradual dissolution,

[1] Most of the bibliophile patrimony of the Academy was transferred at the time of its dissolution in 1887 in the book fund of the Hungarian University of Cluj. Today these books can be found in the patrimony of the Central "Lucian Blaga" University Library in Cluj-Napoca, as we could see by consulting certain volumes signed by various Transylvanian Saxon authors, which have impregnated on the first tabs the label and inventory number of the *Rechtsakademie Hermannstadt*.

ending its activity in the summer of 1887 (Acker, 1978, 126-127). The act of its dissolution had a wide echo in the Transylvanian Saxon press, being perceived as a direct abuse of the Hungarization policy pursued by the Budapest governments (Die Auslösung, 1887, 581).

From the moment of the inauguration of the courses, although it operated under the authority of the Saxon University in a pre-martial atmosphere, characterized by the spirit of the privileged nations, the institution also opened its doors to Romanians. Their number would increase during the neo-absolutist period, in the academic year 1851-1852 out of 36 enrolled students 16 were Romanians, and during the 1853-1854 academic year out of 33 students, 11 were Romanians (Tontsch et al, 1981, 102). With the adoption of the legislation on the recognition of Romanian nationality and its confessions by the Sibiu diet, Romanian students enjoyed the same rights regarding the celebration of holidays in the Romanian Orthodox calendar by officially exempting them from attending classes during the holidays legally recognized, "in order to search their church"[2]. Simion Bărnuţiu, Ilie Măcelariu, Ioan Petrovici, Ioan Puşcariu, Petru Brote, George Roman, Nicolae Vlad, Nicolae Gaitan, Alexandru Lebu, Moise Branişte, Ieronim Bariţ, Aron and Nicolae Densuşianu, George Pop, Moise Tănase, Ruben Patiţia, Amos and Teofil Frâncu, Iosif Pop and others were among the famous names who studied here, then contributed to the Romanian national movement and to the progress of political, social and cultural life in the second half of the 19th century. From the total of the 1387 graduates, the Romanians represented a number of 392 lawyers and senior officials who left the benches of this institution (Vlaicu, (1988), :34-35). The Transylvanian Saxons graduates include Jakob Rannicher, Albert and Arthur Arz von Straußenburg, Josef Bedeus von Scharberg junior, Gustav Kapp and Eugen von Trauschenfels. During the celebration organized at the end of the last year of this Academy's life, Professor Stefan Fölkel remarked that during the four decades of the institution's activity,

[2] In the second part of 1863 the "Direction of the legal faculty c.r." sent a request to the Orthodox consistory requesting the observance of the holidays of the Romanian calendar. The consistory debated the issue, replying that these holidays are identical to those of the Roman Catholic Church, only that they are celebrated 12 days later. However, given that "the studious youth of our religion, with very few exceptions, does not even search the church on Sundays" the central orthodox forum asked the academy leadership that on certain days "youth" be "exempted" from listening to classes, namely on the days of the following important holidays: New Year, Baptism of the Lord, Holy Easter (2 days), Ascension, Pentecost (2 days) and the Nativity (2 days). Summary of Consistory Discussion and Response Epistle in *AMA, Exhibite*, No. 751 of 1863.

there were never any nationalist disputes between its students or professors, which in his opinion still proved one of the major contributions made by this academic institution to cultural progress and peaceful coexistence among the inhabitants of Transylvania (Tontsch et al., 1981, 103).

Legal norms regarding the establishment of the Caesaro-Royal Law Academy from Sibiu

The legal basis for the establishment of the Caesaro-Royal Law Academy in Sibiu was represented by the following imperial normative acts:

1. *Provisional Law of the Zagreb Law Academy*, adopted on September 29, 1850 and brought to the attention of the public on October 4, 1850 by order of the Minister of Culture and Education, which extended its effects, with certain modifications, to *Sibiu Law Academy*, by an Imperial Resolution of August 16, 1851;

2. *The Imperial Resolution of Ischl of September 25, 1855*, brought to the public's attention on October 2, 1855 by order of the Minister of Culture and Education, adapted to the realities of the Sibiu Academy by two Decrees of 1855 and 1856;

3. *Provisional Discipline Regulation for Universities*, established by the Provisional Law, which, according to art. 34 of the Provisional Law, also produced effects for the Academy of Law, adopted on October 11, 1849 and brought to the public's attention on October 13, 1849, by order of the Minister of Culture and Education;

4. *The Provision regarding the Organization of the Theoretical State Exam for the Students of the Faculties of Law and Public Administration,* brought to the public's attention on July 29, 1850;

5. *Government Ordinance of April 16, 1856* on the state theoretical examination for students of law and public administration faculties, issued by the Minister of Culture and Education;

6. *Methodological Norms of May 27, 1856* regarding the theoretical state exam.

Mission of the Academy of Law

The Caesaro-Royal Law Academy in Sibiu, taken over by the State for administration on October 1, 1851, as it did not have its own sources of funding, had the mission to offer specialized knowledge to all those who wanted to enter the state service, law and notary, but also to those who wanted to study law for pleasure. Exceptions were those who wished to obtain the doctorate, because *the graduates of the Academy were not entitled to enroll*

in doctoral studies, unless they attended the courses of a law or public administration faculty for another four semesters, under the supervision of the dean.

Here are the compulsory courses for the students of the Academy (or as the curriculum is known today) and their duration (National Archives, *Fond Bedeus 109, Verzeichnis der an der Rechtsakademie der Sächsischen Nation zur Hermannstadt,* 56):

In the first year:

- **Winter semester:**

History of Roman Law and Institutions, 10 hours a week;
Austrian Criminal Law, 5 hours;
History of Austria I, 5 hours.

- **Summer semester:**

Canon Law, 6 hours;
Austrian Criminal Law, 5 hours;
History of Austria II, 4 hours;
History of Transylvanian Law, 5 hours.

In the second year:

- **Winter semester:**

Austrian Civil Law I, 9 hours;
Political Economy, 9 hours;
Hungarian and Saxon Transylvanian Law, 5 hours.

- **Summer semester:**

Austrian Civil Law II, 5 hours;
Austrian Statistics, 5 hours;
Mining, 5 hours;
Protestant Canon Law, 4-5 hours.

In the third year:

- **Winter semester:**

Civil Procedural Law and Rules of Jurisdiction, 10 hours;
Austrian Administrative Law, 10 hours.

- **Summer semester:**

Extrajudicial Proceedings, 5 hours;
Austrian Financial Law, 10 hours;

Austrian Commercial Law, 5 hours.

Discipline in budget law, which was given 3-4 hours a week, was optional for law school students. The students also had the opportunity to practice sports at the Academy.

Duration of studies. Curriculum

The studies usually lasted for a period of three years (the so-called *Triennium academicum*), with the possibility of extension in case of unmotivated absenteeism from exams and courses, in case of not-passing of exams or other well-founded reasons that prevented participation to teaching activities. The study started at the Academy of Sibiu could be continued only at this or another law academy, and the transfer between two law academies was possible only at the end of the study year, not between the winter and summer semester. The year of study lasted from October 1 to July 31, and beginning with August 1 the summer holiday started. The year was divided into two semesters: the winter one from the beginning of the study year until the end of February, and the summer one from March 8 to the end of the study year.

In addition to the summer vacation and the seven-day inter-semester vacation, students also enjoyed the following days off: all Thursdays and Sundays, 10.04, 11.01, 12.08, 12.24-26, 01.01, 01.06, 02.02 (National Archives, *Fond Bedeus 109, Verzeichnis der an der Rechtsakademie der Sächsischen Nation zur Hermannstadt,* 72) carnival days, 03.25, the Easter week from Wednesday to Wednesday, the two fair days from 05.03-04, the second day of Pentecost and 06.29. All these holidays were calculated according to the Gregorian calendar; students who followed the Julian calendar had the right to request verbal consent for these holidays. Students were required to read the bibliography of the main subjects for four hours on days off.

We are therefore in front of the discovery of an institution that preceded the current law faculty of the contemporary university in Sibiu. The marking of the half-centenary of 2021 is a signal for the Sibiu law school, reminding us that we have unfinished debts to its constituent elements and its spirit in the sense of its exemplary reception. And they go beyond their historical recollection, already realized, in their actuality. These debts are situated both in substance and in form, and they draw the present and future lines for the Sibiu law school. Its project cannot be other than the continuous reception of multilateral thinking starting from the 19th century Academy until today.

In a synthetic formula, Transylvania and Romania are heading towards an uncertain future in an increasingly technical and less humane world. We will be able to have a chance to find and remain in it if we rethink and apply the visionary traditions of the model of law institution of the academy, re-established when the times allowed through the efforts of people with vision.

References

Acker, K. (1978). Kathy Acker and Transnationalism. In P. Mackay & K. Nicol (Eds.), *Kathy Acker and Transnationalism*. Cambridge Scholars Publishing.

Die Auslösung der Hermannstädter Rechtsakademie, în Siebenbürgisch-Deutsches Tageblatt [The release of the Hermannstadt law academy, în Siebenbürgisch-Deutsches Tageblatt]. *Jahrgang, 4105*, 581.

Die Auslösung der Hermannstädter Rechtsakademie, în Siebenbürgisch-Deutsches Tageblatt [The release of the Hermannstadt law academy, în Siebenbürgisch-Deutsches Tageblatt]. *Jahrgang,* 4106, 585.

Eine juridische Lehranstalt in der sächsischen Nation [A legal school in the Saxon nation]. *Jahrgang, 7*, 54-55.

Günther, H. T. (1969). Die Rechtsakademie zu Sibiu[The Law Academy in Sibiu] (1844-1887). *Studia Jurisprudentia*, *XIV*, 97-103.

National Archives, Fond Bedeus 109, Verzeichnis der an der Rechtsakademie der Sächsischen Nation zur Hermannstadt [National Archives, Fond Bedeus 109, directory of the Law Academy of the Saxon Nation in Hermannstadt], 56, 72.

Schlussfeier der Hermannstädter königlich ungarischen Rechtsakademie, in Hermannstädter Zeitung vereinigt mit dem Siebenbürger Boten [Closing ceremony of the Sibiu Royal Hungarian Law Academy, in Sibiu newspaper combined with the Transylvanian Messenger]. Sibiu newspaper & Transylvanian Messenger, 1887, 2.

Tonsch, B., Kroner, M., Kutschera, R. (1981). Besprechungen [Book reviews]. *Zeitschrift für Siebenbürgische Landeskunde, 1*, 80-105.

Udo, W. A. (1978). Zur Geschichte der Hermannstädter Rechtsakademie [On the history of the Hermannstadt Law Academy] (1844-1887). *ZVSL, 1*, 120-129.

Ueber die Errichtung einer juridischen Lehranstalt im Mittel der sächsischen Nation, in Blätter für Geist, Gemüth und Vaterlandskunde [About the establishment of a legal school in the middle of the Saxon nation, in leaves for spirit, mind and patriotism]. *Jahrgang, 38*, 311-314.

Vlaicu, M. (1988). Die Hermannstädter Rechtsakademie und ihre rumänischen Studenten [The Sibiu Law Academy and its Romanian students]. *FVL, 1,* 34-35.