

UDK 37:34(436:497.5)17”(091)
Primljeno: 16. 7. 2017.
Prihvaćeno: 9. 10. 2017.
Izvorni znanstveni rad
DOI: 10.22586/pp.v53i2.25

The ‘Quiet Force’: The Role of Legal Education in the Disciplining of the Hungarian and Croatian Nobility in the 1760s*

Ivana Horbec
Croatian Institute of History
Opatička 10
10 000 Zagreb
Croatia
E-mail: ihorbec@isp.hr

Examining the Habsburg educational policy towards the Hungarian and Croatian nobility in the 1760s through the perspective of the Vienna Court the author analyses the Court’s attempts to overcome conflicting interests of the traditional structures of the estates and the proto-modern state. With the Vienna Court assuming control over education in the second half of the 18th century, tendencies began to appear focusing education on contents that favour the interests of the ruler’s sovereignty and attempts to ‘politically discipline’ become a constituent part of teaching material. These tendencies became especially prominent in the reform of legal education through which relations between the ruler and the estates, between the state and its inhabitants as well as the rights and obligations of political subjects were defined, with emphasis on the meaning of *public good*, *prosperity* and *necessities of time*. The Vienna Court’s education policy in the 1760s presented a turnabout in the history of legal education in Hungary and Croatia and a period of assertion of new educational standards for public servants.

Key words: education, law, 18th century, reforms, Habsburg Monarchy

* This work is based on an oral presentation entitled “Education as a Means Against Political Conflicts. Teaching Public Law at Habsburg Higher Schools in the 18th Century,” held at the V Congress of Croatian Historians (Zadar, 5-8 October 2016), and was drafted within the framework of the project funded by the Croatian Foundation for Science no. 4919.

'This quiet force is the strongest and the most exhaustive'

Encouraged by the success of the University of Vienna reform in the 1750s and 1760s, Count Kristóf Niczky (1714-1787) submitted in 1769 an anonymous proposal to Empress Maria Theresa to reform the University in Trnava following the same model.¹ In addition to his concrete proposals to move the University to Buda as “the old royal seat,” investments into collections and equipment, introduction of new professorships, finding resources for increased funding and, in general, significant secularisation of the University and focusing instruction on contents applicable in practice, Niczky decided to explain why he believed that the King of Hungary – Maria Theresa at the time – possessed the legitimacy to intervene in the Hungarian Kingdom’s education system. In his view, public schools were supposed to be considered “nurseries where subjects needed for public administration are educated and formed enabling thus the supreme ruler and the state to obtain suitable servants and citizens for administration and promotion of his [ruler’s] service.”² Since – in Niczky’s view – schools were for this reason “most closely connected with administration,” only the ruler was entitled to decide on the issues of education. He was allowed to change the decisions of the founders if they did not correspond to “the current situation of the rule and the useful intentions of the state” or “do not bring the right benefit” and, finally, direct studies “towards the current interests of the state and public benefit.” From a moral point of view, Niczky based this ruler’s right on the stand that the ultimate objective of the founders was *bonum publicum* – the public good, and that the way in which the funds were used was *pure iuris majestetici*.³ Niczky also proposed a reform of the *Gymnasien* and envisaged the drafting of a handbook *De officiis hominis et civis*, whose objective would be to instruct pupils on the obligations of each member of society, as well as “direct the way of thinking of the Hungarian youth towards the state’s intentions and encourage a will for services and professions useful for the general public.”⁴

Niczky’s views presented in his proposal to the Empress were not alien at the time to the Vienna Court. “Education was and remains *politicum*” – a statement that in historiography is often attributed to Maria Theresa, emphasized the right of Habsburg rulers to be involved in the process of creating the state education

¹ At the time Trnava was the only university in the territory of the Hungarian Kingdom. Niczky’s proposal see in Hungarian State Archives (hereinafter: MNL OL), holdings A1, 439ex1769; and published by Ernő Fináczy, *A magyarországi közoktatás története Maria Theresia korában*. Vol. I. (Budapest: Magyar Tudományos Akadémia, 1899), 388-401. The proposals are written in German.

² *Ibid.*, 307.

³ *Ibid.*, 308.

⁴ The mere title of this proposal is indicative: “Allergehorsamste Meynung, wie die Gymnasia in dem Königreich Ungarn zum größeren Vortheil und Nutzen des Staats könnten eingerichtet werden.” *Ibid.*, 401-415, quotation p. 412.

system in the second half of the 18th century. An important objective of state education was – completely in the spirit of enlightened absolutism – to form citizens who would be *capable* of earning independently and be *useful* to society, as well as *loyal* to the interests of the ruling dynasty. From the 1750s to the 1770s, in the period when foundations were laid for the Habsburg state education system, as well as the period that the reform activity of the Vienna Court in terms of integration of the Habsburg Monarchy reached its peak, this objective was a frequent motif in debates on education policy. In connection with this, control of the curriculum, as one of the features of the state education system, was massively used to calm political conflicts that necessarily emerged in the period of intense reforms: building loyalty towards the ruler by highlighting his right to sovereign decision-making or proclaiming particular rights detrimental for the public good or opposite to the requirements of a ‘new’ time served, inter alia, to establish the authority of a new state apparatus and to link the political elite to the Vienna Court. “*This quiet force is the strongest and the most exhaustive*” – this was a point made by Baron Egid Borié (1717-1793), councillor in the State Council, in 1765 – because, the ruler can form an entire nation according to this will by caring for the education of youth.

This quotation of Baron Borié was uttered during one of the discussions among the councillors of the State Council⁵ on the need to write a handbook by means of which Hungarian (including Croatian) youth would be systematically taught the principles of contemporary public law. These discussions prove the importance that the Vienna Court attached to the education of Hungarian and Croatian youth in the 1760s – especially nobility as the bearer of political authority. There were several reasons for this. First, the Lands of the Crown of St. Stephen became the centres of interest of the Vienna Court’s home policy in the 1760s. From 1747 to 1763, a number of administrative, fiscal, economic and social reforms were carried out in Austrian and Bohemian provinces, which greatly fostered the integration of that part of the Habsburg Monarchy. The Court attempted to apply similar models on the Lands of the Crown of St. Stephen, however with a compromise policy

⁵ German: *Staatsrath der deutschen Erblanden*. The highest advisory body of the Habsburg rulers established in 1761. On the importance and composition of the body cf. Friedrich Walter, *Die Österreichische Zentralverwaltung*, Part II, Vol. 1/1. Wien, 1938, 272 pp; Franz A. J. Szabo, *Kaunitz and Enlightened Absolutism 1753-1780* (Cambridge: Cambridge University Press, 2009), 56-59 and Karl Ferdinand Hock i Hermann Ignaz Bidermann, *Der österreichische Staatsrath (1760-1848)* (Wien: W. Braumüller), 1872. The records of the State Council were destroyed in 1945. However, part of them was preserved in copies. Among them, one should note individual opinions of councillors Wenzel Kaunitz (Haus-, Hof- und Staatsarchiv in Vienna (hereinafter: HHStA), Kabinettsarchiv, Staatsrat, Kaunitz Voten) and Adam Starhemberg (Upper Austria Archives in Linz, Archiv Starhemberg). A publication that is of particular importance for this topic is Győző Ember, “Der österreichische Staatsrat und die ungarische Verfassung 1761-1768”, *Acta Historica Academiae Scientiarum Hungaricae* VI (1959): 105-153, 331-371; VII (1960): 149-182 contains debates related to Hungarian cases 1761-1768, originally written in German. On Borié’s quotation see Ember, “Staatsrat”, vol. VII, p. 156.

towards the Hungarian estates. The Hungarian Kingdom enjoyed significant autonomy on the basis of the Hungarian Law,⁶ which was, however, heterogeneous in the territory of the Kingdom itself. Thus, the Croatian-Slavonian Kingdom, whose estates held their independent diets, enjoyed fiscal and administrative autonomy within the Hungarian Kingdom, although the Croatian-Slavonian estates in a legal aspect considered themselves Hungarian and participated in the work of the Hungarian Diet and the Hungarian Court Chancellery.⁷ The policy of integration pursued by the Vienna Court had various objectives in the Hungarian Kingdom. In the Hungarian part, it was primarily focused on increasing the annual tax and introducing the urbarium, whereas in the Croatian-Slavonian part, a number of fiscal, administrative and economic reforms were implemented in the 1760s focusing on standardising administration.⁸ As expected, the reforms encountered major resistance by the Hungarian and Croatian estates, who invoked their acquired privileges and liberties. Furthermore, the Hungarian Diet was in session in 1764 and 1765 – for the third time during the rule of Maria Theresa. Due to increased financial requirements in the aftermath of the Seven Year War (1756-1763) and intense reforms on the home policy front, the Vienna Court had great expectations in terms of approving a tax increase. This attempt was also met with major resistance of the estates, but at the same time it denoted a turning point in the relations between the Court and the Hungarian estates. The policy of the Habsburg rulers towards the Hungarian Kingdom from then on showed a tendency of avoiding direct conflicts – which arose, for example, during the Diet sessions – and using indirect methods to achieve positive contacts – such was, for example, education as a ‘quiet force.’ Finally, the 1760s were the years of building the state education system, especially its higher education level, when proto-modern structures of the education process were determined institutionally and legislatively and when obligations of individuals and professional groups to participate in it were defined.

Therefore, this paper illustrates the Vienna Court’s policy of disciplining the Hungarian and Croatian nobility in the 1760s on the example of its attempt to dictate the contents of the legal sciences. In this way, it wanted to avoid political

⁶ The customary law of Hungary was described by István Werböczy in 1517 in a law code known as the *Tripartitum*; from the seventeenth century on Hungary’s statute laws were published in the *Corpus Juris Hungarici* – collections of conclusions of the Hungarian Diet as the highest representation of the estates that were sanctioned by the King.

⁷ Affiliation to the ‘Hungarian’ nobility was confirmed in 1741 and 1765. On the state and legal position of the Croatian-Slavonian Kingdom during the 18th century see Ivana Horbec, “Političke ustanove”, in: *U potrazi za mirom i blagostanjem. Hrvatske zemlje u 18. stoljeću*, ed. by Lovorka Čoralić (Zagreb: Matica hrvatska, 2013), 27-52.

⁸ Among the major reforms, one could mention the abolition of the fiscal independence of the Croatian-Slavonian Kingdom as well as the establishment of the Croatian Royal Council as a Government of the Kingdom, through which the Croatian-Slavonian Diet as a representative body of the estates was stripped of its executive powers. *Ibid.*, 32-33.

conflicts which necessarily arose during reforms in the Lands of the Crown of St. Stephen. My analysis focuses on legal sciences: as a necessary part of the education strategy of those peers who had ambitions for the public service, these sciences mostly formed the political elite of the Hungarian Kingdom at that time and thereby the most influential political views of the Hungarian estates. Specifically, my analysis primarily focuses on public law (*ius publicum*) which, in the broadest sense, comprised relations between the authorities (the ruler / the state) and citizens (subjects) and provided a platform for debates on the sovereignty in the age of Enlightenment.⁹ On the other hand, political and cameral sciences which promoted scientific disciplines applicable in administrative practice among prospective civil servants are also of significance. I will argue that the 1760s marked a significant turning-point in the history of legal education in Hungary and Croatia, and set new standards of public servants' education and that the education policy pursued by the Habsburgs at the time towards Hungarian and Croatian nobility was often – perhaps even predominantly – counterproductive.

The Use of Education against Political Conflicts

In the 18th-century Habsburg Monarchy the traditional attainments of a social order clashed with the interests and priorities of the developing state, and the rights and privileges of the estates with the establishment of the ruler's sovereignty. By the end of the century, a new power system was established in the proto-modern state, which was still prominently based on the estates – especially in the eastern part of the Monarchy that comprised the Hungarian Kingdom.¹⁰ The new system faced new challenges in administration, the economy and social policy. Due to the strong political consciousness of the Hungarian and Croatian nobility, reinforced by their active participation in policy-making at the local level, the period of enlightened absolutism, in which I primarily include the period of Maria Theresa's (1740-1780) and Joseph II's rule (1780-1790), was permeated by contrasts: contrasts between "local" and "central," "modern" and "traditional,"

⁹ Michael Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*. Vol. I., 1600.-1800 (München: C.H.Beck), 1988, 170 p. On the importance of sovereign power for the development of early modern state, incl. historiography on the subject, cf. "Introduction", *Royal and Republican Sovereignty in Early Modern Europe. Essays in Memory of Ragnhild Hatton*, ed. by Robert Oresko, G. C. Gibbs and H. M. Scott (Cambridge University Press, 2006), 1-42.

¹⁰ Cf. Peter Schimert, "The Hungarian Nobility in the Seventeenth and Eighteenth Centuries", in: *The European Nobilities in the Seventeenth and Eighteenth Centuries*, sv. II: *Northern, Central and Eastern Europe*, ed. by H. M. Scott (London; New York: Longman, 1995), 144-183. On the role of the nobility in proto-modern state structures, on example of the Austrian and Bohemian nobility, cf. the article of James van Horn Melton, "The Nobility in the Bohemian and Austrian Lands, 1620-1780" in *ibid.*, 110-143. On the role of the estates cf. Wolfgang Neugebauer, *Standtschaft als Verfassungsproblem. Die Historischen Grundlagen ständischer Partizipation in ostmitteleuropäischen Regionen* (Goldbach: Keip, 1995) and Neithard Burlst, "Rulers, Representative Institutions, and their Members as Power Elites: Rivals or Partners?", in: *Power Elites and State Building*, ed. by Wolfgang Reinhard (Oxford: Clarendon Press, 1996), 57-58.

“progressive” and “backward.”¹¹ The Vienna Court sought cooperation from the estates primarily with regard to economic and administrative reforms, but also in the area of the establishment of control mechanisms in administration as well as in the attempts to tax the nobility. Nevertheless, it encountered constant resistance on the part of the estate structures, which interpreted every Court’s attempt as encroachment in the established local power structure. Even a superficial glance at the correspondence between the Court institutions and the representative bodies of the estates¹² reveals a great lack of understanding between central and local political structures and major differences in the interpretation of ideas and intentions of political protagonists. Thus, for example, the institutions of the Court and reform-oriented nobility close to the interests of the Vienna Court emphasised ‘public interests,’ ‘welfare of the state,’ ‘general prosperity,’ ‘necessities’ and ‘equity’ as motives for their demands and proposals.¹³ On the other hand, the estates invoked “grandfathers’ sacrifices for the dynasty,” “ancestral administration” as well as the need to control the executive power, protecting their acquired privileges.¹⁴ They were therefore accused of being “impertinent”, promoting “republican principles” and “old chaos,” and their insistence on preserving old rights and customs was considered “detestable, dangerous and contrary to the order.”¹⁵

A contemporary Joseph von Sonnenfels concluded then, reflecting the belief of the Vienna Court that it worked in the name of progress that it “*was undecided yet whether nobility represents justice towards their predecessors or injustice towards*

¹¹ Domokos Kosáry, *Culture and Society in Eighteenth-Century Hungary* (Budapest: Corvina, 1987), 43; a more detailed analysis in Croatian is available in Ivana Horbec, “Razvoj uprave i javnih službi Banske Hrvatske u vrijeme vladavine Marije Terezije” (PhD thesis, University in Zagreb, 2009), 127.

¹² In the case of the Croatian-Slavonian Kingdom, which can be taken as an example here, these were the documents of the Court Council and the Hungarian Court Chancellery as institutions of the Court and the Croatian Diet and Counties as the representative bodies of the estates.

¹³ For a discourse in the acts of the Vienna Court cf. Maria Theresa’s decisions on the establishment of the Croatian Royal Council in 1767 and the Severin County in 1776, which were both resisted by the Croatian estates, in *Jura Regni Croatiae, Dalmatiae et Slavoniae*, ed. by Ivan Kukuljević Sakcinski, vol. I. Zagreb, 1862, 453-455; Croatian State Archives (hereinafter: HDA), holdings 12, series 12.1., book VIII/10, session dated 29 August 1776; examples of the discourse of reform-oriented nobility can be found in the already mentioned proposal of Kristóf Niczky (who was Grand Count of the County of Virovitica at the time) as well as in the proposal of Baron Ferenc Koller, councillor of the Hungarian Lieutenancy Council and Grand Count of the County of Syrmium for the establishment of the Croatian Royal Council in 1767 in: MNL OL, holdings A1, 182 ex 1767.

¹⁴ Many examples in: *Zaključci Hrvatskog sabora*, vol. VIII-IX, ed. by Ivan Filipović et al. (Zagreb: Hrvatski državni arhiv, 1971, 1974).

¹⁵ Quotation after: Ember, “Staatsrat”, vol. VI, 129 (transl. from German). Many examples can be found in the records of the Hungarian Court Chancellery, MNL OL, holdings A1 and A39, especially years 1756, 1765, 1767 and 1777. The Hungarian and Croatian nobility was often accused for ‘republicanism’ at the time. Cf. Horbec, “Razvoj uprave”, 159-169 and the literature cited; on the correlation between republicanism and monarchism cf. H. G. Koenigsberger, “Republicanism, monarchism and liberty”, in: *Royal and Republican Sovereignty*, 43-74 and the edited volume *Monarchisms in the Age of Enlightenment. Liberty, Patriotism and the Common Good*, ed. by Hans Blom, John Christian Laursen and Luisa Simonutti (Toronto: University of Toronto Press, 2007).

*their contemporaries.*¹⁶ Nevertheless, cooperation with the estates was imperative for Vienna in the period when the nobility held the monopoly over public offices, both to implement reforms and to ensure legitimacy of the authorities at the local level. The role of the estates in state administration during the ancient régime was even more pronounced in the eastern part of the Habsburg Monarchy as an economically less developed area, where the middle class did not fully develop: in the Hungarian Kingdom, nobility remained the main protagonist in the country's political life until 1844, when, in the context of questioning the nobility's collective ability to perform ever more complex work in the public administration, the middle class was also allowed access to public services.¹⁷ However, through the conflicts with the Vienna Court, a circle of reform-oriented nobility was formed which, under the influence of the Enlightenment or for reasons of their livelihood, was prepared to accept the initiatives of the increasing state power and which would actively participate in the formation of a modern state.

Therefore, in the process of overcoming the conflict between the central and local authorities and in finding a co-existence between 'old' and 'new' structures, education played a significant, if not a key role. Focusing teaching on the contents that were favourable to the interests of the ruler's sovereignty and the interests of the developing state became a constituent part of state education since the mid-18th century. Legal sciences, applicable to state administration, became the centre of interest of education reformists'. Under the influence of the development of natural law and the development of early modern states, law became politicised, and internal state administrative and constitutional problems were eagerly discussed. Through legal science new bonds were created between the state and the justice system reflecting the unity of science, its practical application, administrative practices, the economy and social-political circumstances. *Public law* was given a central role: it was permeated with the issues of the ruler, authority, administration and rights of the estates. During the period of proto-modern states, it was by means of public law that relations were determined between the ruler and the estates, the state and its inhabitants and obligations and rights of political subjects, with an inevitable emphasis on the issues of *public good*, *prosperity* and *necessities of time*.¹⁸ In this context, teaching universal public law, as well as teaching land law in the context of universal public law became a special interest of the nascent state. On the other hand, under the influence of the reforms of German protestant universities a discipline of *political and cameral sciences* developed, which would also play a very important role in the education of prospective public servants and political protagonists. In their essence, political and cameral sciences comprised administrative science, i.e. teaching the obligations which public administration should

¹⁶ Joseph v. Sonnenfels, *Ueber die Liebe des Vaterlandes*, Wien, 1771, 119 (transl. from German).

¹⁷ *Corpus Juris Hungarici*, resolution 1843: 44, §5.

¹⁸ On the influence of public law on the development of the modern state cf. Stolleis, *Geschichte*. vol. I.

take over in order to be able to ensure prosperity and happiness of society and all subjects of the state. Therefore, they referred to many economic, administrative-technical and social issues and emphasized the necessity and benefit of the ruler's intervention and his public administration in many issues which were until then of local political or private character with the aim of achieving the public good.¹⁹

Considering the key role of legal sciences in the education of civil servants – who became the carriers of development of modern state structures in the 18th century Monarchy, as well as an instrument of the Monarchy's discipline – it is no surprise that the Vienna Court focused on legal education during higher education reforms. Questions on the role of the ruler (i.e. the state) and relations between the ruler and his subjects (i.e. the state and its citizens)²⁰ became an important part of legal education. The problems of demarcation of secular and ecclesial power, of international law and the monarch's jurisdictions, the administrative apparatus and the nobility as the bearer of political power at the local level²¹ were then introduced in the curriculum of reformed schools of higher learning providing legal education, together with new, practical disciplines needed for a new profile of public servants: especially statistics (*Staatenkunde*), history, political economy, natural and financial sciences, modern foreign languages, civil

¹⁹ On the significance of cameral sciences in the education of public servants cf. Wilhelm Bleek, "Kameralistische Beamtenausbildung im 18. Jahrhundert", in: *Die Bildung des Bürgers: Die Formierung der bürgerlichen Gesellschaft und die Gebildeten im 18. Jahrhundert*, ed. by Ulrich Herrmann (Weinheim und Basel: Beltz, 1989), 306-321 and Wolfram Fischer, Peter Lundgreen, "The Recruitment and Training of Administrative and Technical Personnel", in: *The Formation of National States in Western Europe*, ed. by Ch. Tilly (Princeton University Press, 1975), 456-561. In the Habsburg Monarchy, cf. the studies of Olga Khavanova, "Official Policies and Parental Strategies of Educating Hungarian Noblemen in the Age of Maria Theresia", in: *Adelige Ausbildung. Die Herausforderung der Aufklärung und die Folgen*, ed. by Ivo Cerman and Lubos Velek (München: Martin Meidenbauer, 2006), 95-116 and "Eine universitäre Lehrveranstaltung als universales Instrument: Joseph von Sonnenfels und die administrative Elite der Habsburgermonarchie", in: *Die Anatomie frühneuzeitlicher Imperien: Herrschaftsmanagement jenseits von Staat und Nation*, ed. by Stefan Wendehorst (Berlin: De Gruyter, 2015), 103-129, as well as of Ivana Horbec, "Učiti administraciju: školovanje javnih službenika u 18. stoljeću", *Hrvatska javna uprava* 9 (2009), 4: 1011-1055.

²⁰ In a period of formation of the proto-modern state structures the concept of the ruler and the state, the subject and the citizen, were still intertwined and inseparable to a large extent. Then, the concept of the state still primarily denoted the ruler and administrative apparatus was subordinated to this control. The concept of the citizen, which was increasingly in use towards the end of the 18th century, was only beginning to disassociate from feudal social structures. On relations between the ruler, estates and the citizens in Habsburg Monarchy cf. Grete Klingenstein, "The meanings of 'Austria' and 'Austrian' in the eighteenth century", in: *Royal and Republican Sovereignty*, 448-478.

²¹ The production of works on legal history and editions on positive law for the needs of government intensified during the early modern era in Hungary and Croatia, as in the rest of Europe. Besides the editions of *Tripartitum* and *Corpus Juris Hungarici*, in the Hungarian Kingdom the manuscript Kristóf Niczky written for Habsburg rulers or their lieutenants need to be singled out in this sense (Christophor Niczky, "Staatskenntniss von Ungarn" [1766.]; National Library Széchényi in Budapest, Collection of Manuscripts (Kézirattár), sign. Quart.Germ.127); and in Croatia in particular the works of Baltazar A. Krčelić, *De regnis Dalmatiae, Croatiae et Slavoniae notitiae praeliminares* (Zagreb, s.a. [1771]), and the manuscript *Notitiae de praecipuis officiis Regnorum Dalmatiae, Croatiae et Slavoniae* [1756] by Nikola Škrlec (published by Zlatko Herkov, "O rukopisu 'Notitiae de praecipuis officiis Regnorum Dalmatiae, Croatiae et Slavoniae'", *Rad JAZU* 405 (1984): 33-193).

and military construction, surveying and other technical disciplines. In organisational terms, changes in teaching were promoted on two basic levels. On the one hand, since the 1740s under the auspices of the ruler, extra-university higher schools were founded, designed primarily for the aristocracy and nobility with affinities for a career in the civil service. In this context, the noble academy *Theresianum* founded in 1746 should be mentioned, where special emphasis was put on teaching state law (*Staatsrecht*), public law, canon law and history. The *Theresianum* soon became an elite higher school and also served as a model for other academies, designed for a socially lower profile of nobility.²² On the other hand, legal courses at the Monarchy's universities underwent significant reforms. They traditionally attracted lower and middle nobility and the middle class desirous of careers in the civil administration. The reforms commenced at the Faculty of Law, University of Vienna, where the practice was applied common to faculties of law at German protestant universities, especially Halle and Göttingen. Many new courses were introduced in the 1750s and 1760s – e.g. public law, state law, natural law, history of the Holy Roman Empire and statistics.²³ The purpose of

²² Its full name upon foundation in 1746, *Collegium Nobilium Theresianum Societatis Jesu*, reflects the conviction about the ruler's exclusive right to intervene in Jesuit education, which was in the Monarchy very closed and autonomous. Following the model of *Theresianum*, Savoy'sche (Emmanuel-) Akademie was established in Vienna and merged with *Theresianum* in 1778. Löwenburg College, a *Gymnasium* in Vienna's district of Josephstadt run by piarists was important for young Hungarians, as well as the noble academy in Vác whose name – *Collegium Theresianum Vacziensis* – revealed its model of establishment. Political and cameral studies, as independent courses, were established in Senec (today's Slovakia) and in Varaždin in Croatia. Cf. Zoltán Fallenbüchl, "Die Entwicklung der Intelligenzberufe in Ungarn im 18. und am Anfang des 19. Jahrhunderts", *Anzeiger der philosophisch-historischen Klasse der Österreichischen Akademie der Wissenschaften* 120 (1983): 34; Khavanova, "Official policies", 101-102; 108-110; Zsolt Kökényesi, "A nemesi ifjak minden szükséges tudományra és exercitiumra neveltesenek – Mária Terézia uralkodói imázsa a bécsi nemesi iskolák tükrébe", in: *Helytállás. Tanulmányok a XII. Eötvös Konferencia történeti üléséről*, ed. by Gábor László and Alexandra Torony (Budapest, 2012), 291-322; On the importance of legal studies at *Theresianum* cf. Gerald Grimm, *Die Schulreform Maria Theresias: Das österreichische Gymnasium zwischen Standesschule und allgemeinbildender Lehranstalt im Spannungsfeld von Ordenschulwesen, theserianischen Reformabsolutismus und Aufklärungspädagogik* (Bern: Peter Lang, 1987), 114; Josip Matasović, *Die Briefe des Grafen Sermage aus dem Stebenjährigen Kriege* (Zagreb: Narodna starina, 1923), 353-355. On noble academies in Early Modern Europe cf. Norbert Conrads, *Ritterakademien der frühen Neuzeit. Bildung als Standesprivileg im 16. und 17. Jahrhundert* (Göttingen: Vandenhoeck & Ruprecht, 1982).

²³ On reforms at the Faculty of Law, University of Vienna, and the influence on these reforms cf. Stolleis, *Staat und Staatsräson*, 268p; Notker Hammerstein, "Besonderheiten der Österreichischen Universitäts- und Wissenschaftsreform zur Zeit Maria Theresias und Josephs II", in: *Österreich im Europa der Aufklärung. Kontinuität und Zäsur in Europa zur Zeit Maria Theresias und Josephs II.*, ed. by R. Plaschka et al, vol. II (Wien: ÖAW, 1985), 803; Waltraud Heindl, *Gehorsame Rebellen. Bürokratie und Beamte in Österreich 1780 bis 1848* (Beč: Böhlau, 1991), 96-111 (emphasis on the reforms of Joseph II); Ulrike Denk, "Schulwesen und Universität", in: *Wien: Geschichte einer Stadt. Die frühneuzeitliche Residenz*, ed. by Karl Vocelka and Anita Traninger (Wien: Böhlau, 2003), 392-401; Franz Zeilner, *Verfassung. Verfassungsrecht und Lehre des Öffentlichen Rechts in Österreich bis 1848* (Frankfurt am Main etc: Peter Lang, 2008), 68-71. Even before the reforms of legal studies in the Monarchy, reformed legal studies from the German protestant universities had significant influence on the education of highest level of statesmen in the Habsburg Monarchy. Cf. H. M. Scott, "Reform in the Habsburg Monarchy, 1740-1790", in: *Enlightened Absolutism. Reform and Reformers in Later Eighteenth-Century Europe*, ed. by H. M. Scott (London: Macmillan, 1990), 172-173.

the reform was to teach legal traditions by comparing history and dogmatic of positive law with natural law and instil in future jurists, as well as civil servants, new perceptions of law in line with the accepted concept at the Court at the time. In teaching universal state law, *Majestätsrecht* was placed in the centre, with the objective that the future public servant should learn the benefits of the power of the state's administrative apparatus and the independence and inviolability of the ruler's sovereignty.²⁴ From the organizational aspect, the control of the Faculty's management and engagement of professors was ensured. The model was soon applied at the Monarchy's other universities.

As a preparation for curricular reform, in the 1750s Maria Theresa invited excellent theoreticians of law, predominantly from German lands, to Vienna. In the following years, as professors at the *Theresianum* and the University of Vienna, and as reformers of legal science education, they were closely tied to the centres of education policy making and were significantly involved in legal education reforms at institutions of higher learning. Among them, one should certainly mention Karl Anton von Martini (1726-1800), a theoretician of natural and public law and, from 1760, one of the better known members of the Imperial Commission on Education (*Studienhofkommission*); then Paul Joseph von Riegger (1705-1775), an influential theoretician of natural, public and canon law who interpreted positive canon law in the context of natural law and advocated the ruler's greater influence in ecclesial affairs; Christian August von Beck (1720-1781), a professor of public law and Holy Roman Empire law and a private tutor of Heir Apparent Joseph II; Johann Heinrich Gottlob von Justi (1717-1771), a theoretician of political economy and cameralism who advocated in his numerous works a more intense involvement of the state in many issues of economic and social character; and finally Joseph von Sonnenfels (1732-1817), a very influential theoretician of law, politics and cameral sciences.

Education reform in legal sciences was accompanied by an intense production of works – especially textbooks adapted to students – which presented legal matter in a systematic manner and adjusted law theory to practical needs. In terms of the importance of their influence among future civil servants, particularly prominent were works by Karl Anton von Martini which, in addition to many reprints, were for decades used as textbooks of public and natural law at universities of the Monarchy.²⁵ Dealing with universal public law, Martini defined the rights and powers of the ruler in relation to the regalia, administrative apparatus, ecclesial structures, legislation, as well as surveillance (*oberste Aufsicht*) over citizens.

²⁴ Karl-Heinz Osterloh, *Joseph von Sonnenfels und die österreichische Reformbewegung im Zeitalter des aufgeklärten Absolutismus. Eine Studie zum Zusammenhang von Kameralwissenschaft und Verwaltungspraxis.* (=Historische Studien 409) (Lübeck; Hamburg: Matthiesen Verlag, 1970), 22.

²⁵ Karl Anton v. Martini, *De lege naturali positiones in usum auditorii Vindobonensis.* Vindobonae, 1762; *Positiones de jure civitatis in usum auditoria Vindobonensis* (Vindobonae, 1768); and *Allgemeines Recht der Staaten.* Wien, 1788.

Emphasising individual rights arising from the postulates of natural law, he legitimised the ruler to intervene, if he believed that this was in the community's interest, and defined a general rule – which is at the same time one of the frequent motives stated by legal and political theoreticians of enlightened absolutism: “The good of the people should be put before the good of individual citizens.”²⁶ Martini sees security and public good to be the objective of the state in a way that the ruler leads all citizens towards virtue and provides everyone, depending on their social status, with an opportunity to ensure their livelihood and be useful members of society,²⁷ by means of legislation and prudent decisions that are in line with the “requirements of the time.” Emphasising that “glory cannot be won by birth, but by virtue,”²⁸ he promoted a new image of the public servant which corresponded to enlightened absolutism: he was educated, knowledgeable in law and capable of conducting state affairs, but also loyal to the Court's policy and prepared to follow instructions for the purpose of achieving the public good. Obedience and loyalty were also required of all citizens.²⁹

In addition to Martini's works, the works of leading Austrian theoreticians of political and cameral sciences of the time should also be mentioned, given their significant influence on the education of future public servants. Although political and cameral sciences were not originally part of public law or legal studies, through the duties of public administration they promoted, new duties of the ruler, nobility as intermediaries of power, and all citizens were promoted as well. The most influential theoreticians of these sciences for the Monarchy were Johann H. G. von Justi and Joseph von Sonnenfels. Taking over the chair in cameral studies (*Kameralistik*) at the then newly established *Theresianum* in Vienna in 1750, Justi was among the first promoters of the concept of ‘*gute Polizey*’ (“good policy” or “wise governance”),³⁰ which he learnt at the reformed German universities of Halle, Jena and Leipzig. In his works, intended primarily for nobility to be engaged in the civil service,³¹ Justi defined the safekeeping and augmentation of

²⁶ “[...] das Beste des Volkes dem Besten des einzelnen vorzuziehen sey.” Martini, *Allgemeines Recht der Staaten*, §47.

²⁷ *Ibid.*, especially §48-49 and §73-74.

²⁸ “Jeder soll wissen, daß er die Ehrenbahne betreten könne, und daß Ruhm nicht der Geburt, sondern der Tugend zu Theile werde.” *Ibid.*, §257.

²⁹ “Ihre Pflicht ist es also Willen und Kräfte in allen bürgerlichen Geschäften zu unterwerfen, das, was befohlen wird, zu thun, dasjenige aber, so ihnen verbothen wird, zu unterlassen, und diese Fertigkeit zu gehorchen auch bei Gelegenheit durch äussere Zeichen an den Tag zu legen.” *Ibid.*, §266. More extensively on Martini's idea of a profile of the public servant and the ruler's obligations towards his servants cf. *Ibid.*, §257-263.

³⁰ On the concept cf. Osterloh, *Joseph von Sonnenfels*; Karl Kroeschell, “Gute Polizey”, in: *Deutsche Rechtsgeschichte*, vol. II. (Wiesbaden: Verlag für Sozialwissenschaften, 1980), 281-293. Roland Axtman, “‘Police’ and the Formation of the Modern State: Legal and Ideological Assumptions on State Capacity in the Austrian Lands of the Habsburg Monarchy”, in: *Theories and Origins of the Modern Police*, ed. by Clive Emsley (New York: Routledge, 2016), 131-154.

³¹ Here I primarily refer to his works *Staatswirtschaft oder Systematische Abhandlung aller Oeconomischen*

state property and safeguarding the state's security as the fundamental goal of the reign. According to Justi, the task of public administration was to be engaged in economic growth "to the benefit of the state and its subjects," which included a number of measures to increase the population, increase exports, encourage manufacture and crafts, as well as direct the population towards better life and work conditions. This was to be achieved particularly through proper education and keeping public order and hygiene. In Justi's view, the political power in the state arises from the people, although he considered the monarchy to be the ideal form of rule: "only can one ruler establish so much good that free republics could not for centuries."³² He levelled heavy criticism at privileges of all sorts, advocating that only those be retained that do not harm the public good, while those "that are contrary to the principles of reason and good governance" should be repealed. "For, the welfare of the state is the highest law."³³

Justi's concept of '*polizey*' was additionally elaborated in the 1760s, especially in terms of administrative solutions, by Joseph von Sonnenfels, who took over the chair in political and cameral sciences in 1763 at the Faculty of Philosophy, University of Vienna. In subsequent decades, his three-volume textbook³⁴ became one of the most influential works in the education of public servants, since it later served as a textbook of administrative law in specialist schools (such were the schools in Senec and Varaždin) and at reformed faculties of law. Placing the public good above private, Sonnenfels also criticised the privileges of nobility, however he did not place absolute power in the hands of the ruler, but rather emphasised that a *harmony* of the classes is necessary for happiness. Thinking about the state as "a community of citizens, who came together in order to achieve a certain Good with their joint forces,"³⁵ Sonnenfels considered the usefulness of all the estates – including nobility – as the basic objective of their activity. For him, to adapt their activity to the frameworks of this usefulness was the administration's task and a political issue: according to him, one of the objectives of '*polizey*' was to prevent the accumulation of particular powers.³⁶ In this context, indicative is

und Cameralwissenschaften, die zur Regierung eines Landes erfordert werden, vol. I-II. Leipzig, 1755 (in this paper I use the 1758 edition); *Grundsätze der Polizeywissenschaft in einem vernünftigen, auf den Endzweck der Policy gegründeten Zusammenange, und zum Gebrauch academischer Vorlesungen abgefasst*. Göttingen, 1756 and *Die Natur und das Wesen der Staaten*, Berlin, 1760.

³² Justi, *Staatswirtschaft*, §10, p. 38 (transl. from German).

³³ *Ibid.*, §45. Cf. Also §46: "Wenigstens muß man alsdann solche Privilegien und Gerechtsame derer Verschiedenen Staaten durch dienliche Weghe aufzuheben suchen, welche einer engeren Verbindung, dem gemeinschaftlichen Vertrauen und der Wohlfahrt beiderley Staaten am meisten im Wege stehen."

³⁴ Joseph von Sonnenfels, *Grundsätze der Polizey-, Handlungs- und Finanzwissenschaft*, volls I-III. The first edition was published in 1765-1767, and the work was later reprinted and modified many times. In this paper, I use the 1787 edition.

³⁵ Sonnenfels, *Grundsätze*, §2 (transl. from German).

³⁶ *Ibidem*, §48. For Sonnenfels's standpoints on the role of nobility in society, cf. Zsolt Kölényesi, "Privilegierte im Dienst des Staats und des Gemeinwohls. Der Adel in den Schriften des Josephs von Sonnenfels", in: *Frühneuzeitforschung in der Habsburgermonarchie. Adel und Wiener Hof* –

Sonnenfels's speech "Das Bild des Adels," which he delivered to students of Savoyard noble Academy in Vienna in 1767 emphasising that "after all, everyone stems from the same father." Sonnenfels tried to instil in young noblemen a new value concept of their estate, which does not rely on family glory, but rather utilising opportunities for the achievement of the public good.³⁷

The engagement of eminent professors at institutions of higher learning in Vienna and implemented reforms struck a responsive chord among the youth, especially among those who decided to make careers in the Habsburg system of power. Croatian theologian and historian Adam Baltazar Krčelić (1715-1778) highlighted 1760 this success in his memoirs, testifying to the many students taking the new courses in law these years.³⁸ The Vienna Court also assured the success of these studies through legislative incentives. When opening new institutions of higher learning or chairs, the Vienna Court encouraged youth to take reformed studies, promising to give them priority with regard to employment in the public service. This inevitably changed the nobility's education strategy and a diploma in reformed studies became some sort of a sign of "professional qualification."³⁹ Moreover, Sonnenfels's lectures in political and cameral sciences in Vienna were open to everyone and therefore Maria Theresa encouraged the enrolment in this course of studies by law as early as 1764.⁴⁰ Two years later, it was provided by law that candidates with diplomas in natural, international and state law as the basis for administrative science, as well as in political and cameral sciences should be given advantage in all political, Chamber, financial and trade institutions, and professors were obliged to provide the Vienna Court with a list of students who particularly distinguished themselves during their studies.⁴¹ In 1770, political and cameral studies were defined as a condition for admission to a political institution, whether or not it belonged to the ruler or a city,⁴² and in 1774, a provision was adopted that all court officials should complete mandatory studies in law and obtain the title of doctor of law.⁴³

Konfessionalisierung – Siebenbürgen, ed. by István Fazekas et al. (Wien: Institut für Ungarische Geschichtsforschung), 103-123.

³⁷ Joseph v. Sonnenfels, *Das Bild des Adels: eine Rede gehalten zum Anfange des Studium in der k. k. savoy. Akademie* (Wien, 1767). For the significance of this speech cf. Kőlényesi, "Privilegierte", 117 and Franz Leander Fillafer, "Das Elend der Kategorien. Aufklärung und Josephinismus in der zentraleuropäischen Historiographie 1918-1945" in: *Josephinismus zwischen den Regimen. Eduard Winter, Fritz Valjavec und die zentraleuropäischen Historiographien im 20. Jahrhundert*, ed. by Franz Leander Fillafer and Thomas Wallnig (Wien: Böhlau, 2016), 54-55.

³⁸ Baltazar Adam Krčelić, *Annae ili historija 1748-1767*, transl. from Latin by V. Gortan (Zagreb: JAZU, 1952), 394-395.

³⁹ Khavanova, "Official Policies", 107.

⁴⁰ *Sammlung aller k. k. Verordnungen und Gesetze vom Jahre 1740 bis 1780 [...]*, vol. IV (1761-1765), ed. by J. Kropatschek (Wien 1786), no. 725, pp. 254-255.

⁴¹ *Ibid.*, vol. V (1766-1769): no. 838, pp. 71-72.

⁴² *Ibid.*, vol. VI (1770-1773): no. 1252, p. 303.

⁴³ Heindl, *Gehorsame Rebellen*, 99-100.

Assuming control over teaching material and setting criteria for admission to the public service, the state was given huge influence on the formation of opinions and ways of thinking of future civil servants – the overwhelming majority of whom came from the ranks of nobility. Even in Kristóf Niczky's proposal, described at the beginning of this paper, as well as in the mentioned textbooks in legal disciplines, the influence on mentality (*Denkungsart*) and customs (*Sitten*) as well as formation of reason (*Bildung des Verstandes*) became the most important tasks of state education.⁴⁴ In harmony with the postulates of enlightened absolutism, the objective of education was to enlighten the population and form the ruler's partners who would work for the public good, with the concept of the public good being instructed by the ruler himself. In this sense, disciplining was supposed to prevent conflicts which inevitably arose when calling for "the necessity for changes" in line with the "needs of the time" on the one hand and "ancestral privileges" on the other hand.⁴⁵

The Position of the Hungarian and Croatian Nobility in the Court's Education Policy

In the context of these mentioned changes, it is very interesting to follow discussions of State Council councillors in the 1760s, which were published by Hungarian historian Győző Ember.⁴⁶ Although initially, councillors on the State Council were supposed to discuss exclusively the issues pertaining to the part of the Monarchy that was located within the Holy Roman Empire, soon Hungarian issues became the primary concern of this institution.⁴⁷ Reasons for this can be found, e.g., in the words of Chancellor Wenzel Anton von Kaunitz (1711-1794), who was also the *spiritus movens* of the State Council: "If the right organisation were introduced in the large and fruitful Hungarian Kingdom, the power of the illustrious house would be doubled, and the greatest income could be drawn from Hungary through wise governance [...]."⁴⁸ In these very years, the eastern part of the Monarchy became the prime interest of the Vienna Court, especially its economic-financial aspect – not without the influence of the foreign policy situation. However, different interpretations of royal rights resulted with conflicts. At the Vienna Court, the resistance of the estates was explained by "ignorance," "failure

⁴⁴ Cf. fi. in Justi, *Grundsätze der Polizeywissenschaft*, 187 f. and Sonnenfels, *Grundsätze*, §88-§145.

⁴⁵ The Pietist pedagogy had an important impact on changing pedagogical standards and educational goals in the 18th century. Cf. James Van Horn Melton, *Absolutism and the eighteenth-century origins of compulsory schooling in Prussia and Austria*. Cambridge University Press, 1988 and literature cited, esp. in the Introduction, pp. XVIII-XXIII. The pedagogy emerged from German protestant schools, especially the University of Halle; cf. Udo Sträter, "Aufklärung und Pietismus – das Beispiel Halle", in: *Universitäten und Aufklärung*, ed. by Notker Hammerstein (Göttingen: Wallstein Verlag, 1995), 49-62.

⁴⁶ Cf. footnote no. 5.

⁴⁷ Szabo, *Kaunitz*, 311.

⁴⁸ Ember, "Staatsrat", vol. VI, 135 (no. 1873 ex 1761).

to understand,” “blindness” or – to use the words of councillor Borié – “a sad consequence of the lack of teaching in true natural law.”⁴⁹

In the Hungarian Kingdom, formal legal education which, more or less, included teaching in Hungarian law as well (necessary for public service in the territory of the Kingdom) could then be obtained at the University of Trnava and at the *Collegium Juridicum* (later Lyceum) in Eger. Hungarian law was mainly taught on the basis of *Tripartitum* and *Corpus juris Hungarici*, and István Huszty’s textbook (1754).⁵⁰ Lower and middle Hungarian and Croatian nobility who performed local estate functions in counties and towns were thus often sent to these institutions of higher learning. Those who could not afford higher education, either because of lower financial means, or geographic distance (what was often the case with Croatian nobility), obtained some knowledge of Hungarian law through practice.⁵¹ However, in the period of enlightened absolutism, the Vienna Court expected much more from the education of the Hungarian and Croatian nobility. Several examples of discussions in the State Council reveal a major role of education in issues of political disciplining of the nobility in the eastern part of the Monarchy. The Hungarian Diet, which was in session in 1764 and 1765, and at which royal proposals for tax increases and a number of amendments in the Hungarian Constitution were not accepted by the estates, often gave rise to discussions on this issue. Departing from the tenet that arguments of the estates were based on “an erroneous understanding of freedom,” the Vienna Court attempted to convince the estates of the necessity to amend the Constitutions: “old constitutions, especially in war, are no longer valid and keeping them would, sooner or later, lead to the breakdown of the Kingdom.”⁵² Negotiations were nevertheless marked by strong, opposite positions, and the view prevailed within the State Council that it was necessary to strengthen the authority of the King’s supreme power in Hungary and that – as formulated by councillor Borié – “the arbitrariness of the

⁴⁹ Ember, “Staatsrat”, vol. VII, 168 (no. 2988 ex 1764); cf. vol. VI, 146 (no. 2884 ex 1761).

⁵⁰ István Huszty, *Jurisprudentia practica seu commentarius novus in Jus Hungaricum* (Budae, 1745); for the importance of this work cf. Anton Csizmadia, “Der Unterricht des Heimatrechtes in der zweiten Hälfte des 18. Jahrhunderts und die Jurisprudentia practica von István Huszty”, in: *Die Juristische Bildung in der Slowakei und Ungarn bis zum Jahre 1848. Materialien der IX. tschechoslowakisch-ungarischen Rechtshistorikerkonferenz, Smolenice 10.-12. XI. 1966*, ed. by Martin Vietor (Bratislava: Slov. ped. nakl., 1968), 79-90.

⁵¹ That was often the case with Croatian nobility, only a few noblemen invested in studies in Hungarian law as a pledge for their future career in the public service – brothers Petar and Nikola Škrlec, Count Ivan Patačić and Count Josip Drašković, all without exception Vienna students. They received private classes in *ius patrii*. Kamilo Dočkal, *Hrvatski kolegij u Beču 1624-1784*. (Zagreb; Wien: Hrvatski povijesni institut; HAZU), 1996, 311, 315; MNL OL, holdings P 507 (family Nádasdy), box 30, no. 245 (J. Drašković), fol. 68.

⁵² Ember, “Staatsrat”, vol. VI, 355. Quoted are the words of councillor Anton Stupan v. Ehrenstein; cf. also p. 344. For this Diet cf. István Szijártó, A Diéta. *A magyar rendek és az országgyűlés 1708-1792* (Keszthely: Balaton Akadémia Kiadó, 2010), esp. 248-255.

estates should be brought back to the framework of subordination and respect.”⁵³ Teaching of public law was highlighted as the basic means to achieve this end: “It is known that in Germany the power and strength of the ruler achieved the current completeness because one began to lecture *ius publicum* and thus illuminate the ruler’s rights [...]”⁵⁴ According to the councillors of the State Council, a “well drafted” textbook in Hungarian public law “would gradually clear the fog of previous erroneous education,” “explain the right principles” and “eradicate this detrimental national spirit of an assumed republican freedom.”⁵⁵

According to councillors’ views, nobility should be taught in Hungarian civil, universal and ecclesial law; in political and cameral sciences and particularly in state law, “in order to instil in Hungarian nobility the real principles of overall state law: what a sovereign may and must do for the state’s public good? Furthermore, how far does the subordination of subjects extend, without violating their acquired freedoms [...] when it comes to defence and preserving the state – from itself and from everyone separately?”⁵⁶ However, councillors – specifically Borié – did not recommend teaching of Hungarian history as a link with Hungarian law: “youth will learn little good from it.”⁵⁷

Prompted by this advice, Maria Theresa requested in 1765 Pál Festetics (1722 – 1782) to give an opinion on the possibilities of introducing studies in Hungarian public law, political and cameral sciences for the Hungarian nobility.⁵⁸ Festetics was very careful about this idea.⁵⁹ He emphasised that Hungarian public law should certainly deal with the issue of royal rights in relation to the structures of the estates and the Church, definition of the separation of the legislative power from the executive power, individual jurisdictions and revision of nobility’s prerogatives. Festetics also cautioned that it would be very difficult to articulate these theses in a way that would not invoke public resistance, because each thesis, considering a multitude of contradictory solutions in the Hungarian Constitution, would be easily refuted by positive law. Therefore, he recommended that the Queen should invoke the right of law interpretation and interpret possible contradictory laws to the benefit of the ruling house. He proposed that the Court engage in the introduction of universal state and public law, as well as political and cameral sciences at the existing University in Trnava to shape the way of thinking of the Hungarian nobility. Councillors of the State Council nevertheless did not fully

⁵³ Ember, “Staatsrat”, vol. VI, 367 (no. 2688 ex 1764).

⁵⁴ Ibid., 331-332 (no. 91 ex 1762). Quoted are the words of councillor Borié; cf. Stupan’s view on p. 368.

⁵⁵ Ibid., 332 and vol. VII, 156.

⁵⁶ Ember, “Staatsrat”, vol. VII, 156 (no. 608 ex 1765).

⁵⁷ Ibid., 157.

⁵⁸ MNL OL. holdings P-245 (P. Festetics), box 24, Ah. Billet May 7th, 1765.

⁵⁹ Fináczy, *A magyarországi közoktatás története*, vol. I, 423-425.

agree with Festetics.⁶⁰ According to Borié, “all parts of law” could be explained “in a way favourable for the Court, and then again with no harm for the rights of the Hungarian Kingdom and its estates.” In his view, targeted teaching should begin with state law, however ‘hidden’ under political and cameral sciences, and the Hungarian clergy – something other councillors also agreed with – should receive an education in ecclesial law, based on the textbooks of Paul Joseph von Riegger.

The Queen also did not fully agree with Festetics: in a private letter dated March 1766, she again emphasized the importance of introducing studies in Hungarian public law:

I consider useful the introduction of studies in Hungarian public law: all the important parts of law can be explained in a way favourable for the Court, which does not violate the laws and special rights of the Kingdom and the estates [...]. This will cause no harm to the special rights of the Kingdom and its estates, but only protect them from all misinterpretations that are not only detrimental to the king, but to the Kingdom and the estates as well. All the rights can be connected in such a manner as to spur the public good as the main goal.⁶¹

The initiative, however, did not produce any direct results. The Hungarian nobility was nevertheless encouraged to study political and cameral sciences which – as obvious from the previous analysis of Justi’s and Sonnenfels’s works – also included many issues of public law. Incentives were also systematic, and as a reaction to individual problems. A good example of the latter is an incentive motivated by poor cooperation of the local nobility with civil servants of the Imperial Commercial Council (*Hofkommerzienrat*) in maintaining a trade route towards the Adriatic Sea in 1765. It was then considered that the source of the problem was that capable Croatian young men were directed towards classical studies of law and, consequently, local civil servants were unaware of political and economic problems in their environment. There was an attempt to solve the problem by awarding annual scholarships to Croatian nobility for studies with Sonnenfels.⁶² On the other hand, the Court began to approach this solution systematically: 12 annual scholarships were set up for young men from Hungary for studies with Sonnenfels in Vienna. The Court had high expectations from these scholarships:

thanks to them, republican principles will be destroyed, and [the Hungarian nobility] enlightened as to how to put to greater advantages these lands that God gave them [...] and find out what one citizen owes the state’s ruler,

⁶⁰ For discussion see Ember, “Staatsrat”, vol. VI, 162-164 (no. 2140 ex 1765).

⁶¹ MNL OL, holdings P 245 (Pál Festetics), box 24, letter of Maria Theresa dated 27 March 1766 (the quotation originally in German).

⁶² Österreichisches Staatsarchiv, Finanz- und Hofkammerarchiv, Kommerz Litorale, Fasz. r. No. 720, fol. 1342-1353; Fasz. r. No. 721, fol. 231-236.

another citizen and himself and learn how harmful consequences the abuse of freedom and rights of the estate-owners has not just for the state, but also for each member of the state, because this very abuse is an indicator of the lack of insight and knowledge of one's own good.⁶³

An important objective of the scholarships was to educate future professors of political and cameral sciences who would spread among youth the influences of studies in Vienna and with Sonnenfels within the framework of (reformed) teaching at higher schools in Hungarian Lands. Thus, for example Adalbert Adam Barić (1742-1813), having completed Sonnenfels's course in Vienna as a royal scholar, was appointed the first professor of political and cameral sciences in Croatia in 1769, at the newly established studies in Varaždin, where the attendance was also supported by scholarships.⁶⁴

In addition to securing the teaching staff that would suit the Vienna Court, reforms of law studies at higher schools in the Hungarian Kingdom were initiated these years. The reform activity mainly focused on the University of Trnava, which attracted the many young men. Thus, in 1770, Martini's and Riegger's students were appointed professors in Trnava, and the curriculum of law studies was reformed following the model of the Faculty of Law in Vienna.⁶⁵ Further changes in law studies were part of a systematic reform of education in the Hungarian Kingdom, implemented with the decree *Ratio educationis* in 1777.⁶⁶ With this decree, the objectives of state education were transferred to all levels of education: in the education reform, enlightened absolutism was guided by the

⁶³ Quoted are Borić's words, Ember, "Staatsrat", vol. VII, 167 (no. 1310 ex 1766). On the Court policy of scholarships for Hungarian youth cf. Olga Khavanova, "Official Policies", as well as "Königliche Stipendien als Instrument der Sozialpolitik im Ungarn des 18. Jahrhunderts", in: *Schulstiftungen und Studienfinanzierung. Bildungsmäzenatentum im Spannungsfeld von Konfession, Landespatritismus und frühmodernen Nationsgedanken in den böhmischen, österreichischen und ungarischen Ländern 1500-1800*, dd. by J. Bahlcke and Th. Winkelbauer (Wien: Oldenbourg-Boehlau, 2011), 351-369.

⁶⁴ On Barić cf. Olga Khavanova, "Адалберт Барич: От студента в Вене до профессора в Заребе", *Славянский Альманах* 207 (2006): 434-446 and Ivana Horbec, "Između siromaštva i časti: profesor Adalbert Adam Barić (1742.-1813.)", in: *Ljudi 18. stoljeća na hrvatskom prostoru. Od plemića i crkvenih dostojanstvenika do težaka i ribara*, ed. by Lovorka Čoralić et al. (Zagreb: Hrvatski institut za povijest, 2016), 422-431. The political and cameral studies in Varaždin were established as an extra-university course, however in 1776 they became a chair at the Faculty of Law of the Zagreb Royal Academy. The studies were under the control of the Croatian Royal Council (Government for the Kingdoms Croatia and Slavonia established in 1767), whose task – according to its initiator Baron Ferenc Koller – was care for "the education of Croatian youth and for their impertinent way of thinking instilled in them, and for the sake of showing those features that are appropriate to a noble spirit." Cf. MNL OL, holdings A1, 182ex1767, fol. 63. For the scholarships for these studies cf. HDA, holdings 12, no. A77/1769.

⁶⁵ Kosáry, *Culture and Society*, 123-124.

⁶⁶ *Ratio educationis totiusque rei literariae per Regnum Hungariae et privincias eidem adnexas* (1777); an abridged translation in Croatian is available in the work of Maja Matasović, "Sustav obrazovanja i cjelokupnog školstva za Ugarsko Kraljevstvo i njemu pridružene zemlje (1777.)", in: *Od protomodernizacije do modernizacije školstva u Hrvatskoj. Book. I: Zakonodavni okvir*, ed. by Ivana Horbec, Maja Matasović and Vlasta Švooger (Zagreb: Hrvatski institut za povijest, 2017), 83-142. [Available as e-book on <http://histedu.isp.hr/grada-za-povijest-skolstva>; accessed on July 1st, 2017].

idea of usefulness of education both for society at large and for each individual. As far as law studies were concerned, two-year faculties of law were established at all academies in Hungary and Croatia offering the following courses: public law, which was taught on the basis of Martini's textbook, and comprised universal public law; international law; state and ecclesial law of Hungary; homeland law; common law; history of European countries; general history; political and cameral sciences (on the basis of Justi's and Sonnenfels's textbooks) and a course in public news.⁶⁷ When publishing *Ratio educationis*, the legislator explained the objective of law studies: for the ruler, law studies should have shaped "suitable adherents of the king and the state."⁶⁸ Since a textbook on Hungarian public law, contrary to the major plans of the Vienna Court a decade earlier, had not yet been written, professors of Hungarian public law were instructed to "prudently make use of the books on public law of the Roman Empire and other kingdoms, avoiding more difficult issues on the assemblies of the Kingdom, witty remarks and legal nuances, and focusing on what is necessary or useful."⁶⁹

Conclusion: From *Heretical Things* to the Imperative in the Education of Civil Servants

In his work *Notitiae praeliminares* (1770), already mentioned Baltazar Adam Krčelić blamed the poor level of education of noblemen who performed public functions for the poor quality of administration in the Croatian-Slavonian Kingdom and levelled strong criticism:

We fed on metaphysical trifles. We were not even allowed to think of the sciences of state, politics, military and economic circumstances and public law in general – these were said to be heretical things. [...] We will not take a man who is not familiar with horses to be a groom, or a man who is not familiar with sheep to be a shepherd, or a man who has not seen vine to be a wine-maker; now they ask of us to consider the best rulers people who have never dealt with sciences that are the only ones teaching us how to rule people and how to perform public services.⁷⁰

This problem – especially for the Croatian-Slavonian Kingdom – was also emphasised by the Vienna Court and other individuals: the Hungarian Court

⁶⁷ For the reforms of law studies in Hungary and Croatia in 1777 cf. Peter Vajcik, "Die Ratio Educationis und das Planum Juridicae Facultatis", in: *Die Juristische Bildung in der Slowakei und Ungarn*, 279-285.

⁶⁸ *Ratio educationis*, §184; Matasović, "Sustav obrazovanja", 124.

⁶⁹ *Ratio educationis*, §186; Matasović, "Sustav obrazovanja", 124. Cf further: "Among the existing commentaries of homeland law and customs there is none that could be recommended for use in schools. One should forego the kind of teaching used thus far and introduce an auxiliary science, history of Hungarian law, in order to achieve a true understanding of law, the most important part of this teaching." (transl. from Latin).

⁷⁰ Krčelić, *Notitiae*, 440-441 (transl. from Latin).

Chancellery reported in 1769 that “the overall knowledge” of public servants in Croatian towns boiled down to “a little reading and writing.”⁷¹ Just a few noblemen were at the time educated for public services – although studying in Vienna was a status symbol, until the 1770s the overwhelming majority completed just a few years of *Gymnasium* or studies of philosophy.⁷² Part of the reason for this practice was revealed by a contemporary, Nikola Škrlec Lomnički (1729-1799), one of the rare noblemen who invested a great deal in targeted legal education in order to be able to perform public services: “Yes, this is difficult, both because of the risks and the costs; education abroad has a bad reputation because of the potential of children straying away from the right path [...].”⁷³

Nevertheless, in parallel with the engagement of the Vienna Court in establishing a new education system for public servants of the Monarchy, studies at reformed and newly established institutions of higher learning became an indispensable part of education strategies of the Hungarian and the Croatian nobility. At the time, the majority of young men from aristocratic families studied at noble academies after which they indeed assumed influential positions in administration and judiciary of the Lands of the Crown of St. Stephen. Besides the aristocracy, which was traditionally more linked to political and social structures around the Vienna Court, Habsburg education policy of the time focused particularly on middle and lower nobility, which had major influence in counties. At the local level of administration – whose cooperation was exceptionally important in economic and fiscal reforms – the Court strove to win over vice-ispáns and ‘kleine Noblesse.’ “It would be more useful for the state when the rich would pay taxes, and the poor serve the state” – wrote councillor Borié in 1761 and most likely struck the essence of the strategy of enlightened absolutism.⁷⁴ Royal scholarships had great influence on attracting middle and lower nobility to reformed higher schools, since they often had insufficient means to educate themselves. Finally, promises of an easier access to careers in the structures of the proto-modern state for those who distinguished themselves during the studies also exerted influence: e.g. in the 1760s, Chancellor Kaunitz advocated that “when conferring awards

⁷¹ MNL OL, holdings A1, no. 610 ex 1769, fol. 20 (transl. from German).

⁷² On students from Croatian lands in Vienna cf. Ivana Horbec, “Kroatische Studenten in Wien im Zeitalter des aufgeklärten Absolutismus”, in: *Die Kroaten an der Wiener Universität: 650 Jahre Universität Wien*, ed. by M. Kalapurić et al. (Wien: KAGverlag, 2016), 155-175 and Iskra Iveljić, “Kroatische Eliten in Wien im 19. Jahrhundert”, in: *The Entangled Histories of Vienna, Zagreb and Budapest (18th-20th Century)*, ed. by I. Iveljić (Zagreb: FF Press, 2016), 457-520.

⁷³ Nikola Škrlec, “Četvrti dijalog. Za politiku, a potom o domovinskoj politici ili Kako se živi u Hrvatskoj”, in: *Nikola Škrlec Lomnički 1729-1799*, vol. I, ed. by E. Pusić et al. (Zagreb: Hrvatski državni arhiv, 1999), 37 (originally in Latin, transl. to Croatian by Neven Jovanović).

⁷⁴ Ember, “Staatsrat”, vol. VI, 153 (no. 3564 ex 1761). The same year, Chancellor Kaunitz also emphasised that lower nobility in counties could have the decisive prevalence for the interests of the Court at the local level. Cf Ember, “Staatsrat”, vol. VI, 136 (StR 1873 ex 1761). In the Hungarian and Croatian counties, the position of Vice-Ispán (in the Croatian-Slavonian Kingdom also the position of Vice-Ban), which was very influential among the county nobility, was traditionally awarded to the middle nobility.

and promotions one should be guided by the fervour for the interests and intentions of the Court,” and that magnates and nobility should be cautioned that, should they resist, “the path to rewards would forever be closed to them and their children.”⁷⁵ By calling upon loyalty and financing education, the Vienna Court gave a chance to the lower nobility, who could not make a breakthrough in the structures of power of the local order based on the estates, for ascent and vertical mobility, often also for a livelihood within the structure of a new, proto-modern administration.

Available sources allow us to conclude that the Vienna Court’s education policy towards public servants of the Hungarian Kingdom, combined with the strategy for attracting the Hungarian and the Croatian nobility to Vienna’s political and social structures, initially had strong impact on the implementation of the Habsburg policy in the eastern part of the Monarchy. In that sense, former students of reformed higher education came to the fore. This referred primarily to members of aristocratic families. An example illustrating this was Baron Ferenc Balassa (since 1772 Count; 1736-1807). Educated at Vienna’s *Theresianum*, Balassa later assumed high functions of the Grand Ispán of the County of Syrmia, councillor in the Lieutenancy Council and governor of a school district, then of Croatian Ban during the rule of Joseph II (1785-1790). In the 1760s, he regularly corresponded with the Empress’s secretary Cornelius MacNenny,⁷⁶ where he gave numerous advice to the royal government on how to relate to individual parts of the Hungarian law. For example, he proposed ways on how to assume political control over county administration or control over economically strategic places in the Kingdom,⁷⁷ and his reports on the situation in the territory under his jurisdiction from the 1780s are a textbook example of Justi’s and Sonnenfels’s teaching in political and cameral sciences as the basis for administrative knowledge.⁷⁸ The influence of new education is also visible in the writings of other Hungarian or Croatian aristocrats – e.g. Count Josip Drašković, a former *Theresianum* student, who also attended political and cameral studies in Varaždin, in 1770 defended, on the basis of Sonnenfels’s teaching, theses in which he claimed that: “the legislator can justifiably revoke privileges that could disturb public security, whether they were granted to someone personally or his predecessors, or whether they were acquired by other means.”⁷⁹ I will use here the example of Alexander Szécsén (1740-1813) to illustrate a consequence of the Court’s strategy to attract lower

⁷⁵ Ember, “Staatsrat”, vol. VI, 135 (no. 1873 ex 1761); Cf. also Ember “Staatsrat”, vol. VII, 168 (no. 1310 ex 1766).

⁷⁶ ÖStA, HHStA, Kabinettsarchiv, Nachlass Nenny, box 1-2.

⁷⁷ ÖStA, HHStA, Kabinettsarchiv, Nachlass Nenny, box 1, subd. 6, fol. 247 and box 2, fol. 140-142.

⁷⁸ Cf. for example Balassa’s annual reports from 1787 and 1788. MNL OL, holdings P-1765 (F. Balassa), box 10, fol. 256-287 and 315-358.

⁷⁹ Josephus Draskovics, *Positiones ex universa scientia politico-camerale excerptae ...* (Zagreb: A. Jandera, 1770).

(poorer) nobility to the interests of the Court. As a commoner, he invested in studies at the Faculty of Law in Vienna in the 1760s, when the reform spirit could already be felt. Since his family received nobility in 1763, and he a position as a clerk in a chancellery, his success was rapid: fervently advocating the Vienna Court's policy, he could boast of the highest ranking posts by the end of the century; among them councillor in the Hungarian Chancellery and President of the Hungarian Chamber. Since 1811, he held the title of a count.⁸⁰

However, although this new education policy – under the general influence of ideas of the Enlightenment – exerted considerable influence on forming a circle of reform nobility in the Lands of the Crown of St. Stephen, it did not at the same time ensure loyalty to the interests of the Vienna Court. On the contrary – it was among educated Hungarian and Croatian nobility that a critical mass was formed opposing absolutism (even 'despotism') of the Habsburg government. The period of rule of Joseph II (1780-1790), successor of Maria Theresa, was marked primarily by the resistance of the Hungarian and the Croatian estates, to such an extent that this caused repealing all reforms in 1790.⁸¹ For example, in Croatia, Nikola Škrlec Lomnički, already mentioned advocate and promoter of reforms of enlightened absolutism, levelled strong criticism at the ruler's absolutism:

Who does not know that the basis of our system lies on the ruler disposing only of executive power, whereas he shares legislative power with the estates of the Kingdom? Who does not know that, by the nature of things, government becomes arbitrary as soon as executive powers are merged with the legislative, i.e. as soon as the one who makes laws and interprets them the way he wants to, who violates them as he wishes and who – finally – enforces them?⁸²

Škrlec blamed the nobility that consented to the usurpation of government for the newly arisen situation: "We alone have given up care for the state. It has been considered customary to seek promotion in one's own honours and career [...]."⁸³ At the same time, individuals who were perceived as bearers of government by the rest of the nobility, were often criticised as being 'traitors': this happened to Škrlec in Croatia as well, independently of his subsequent critical views, to Szécsén, and also to Ban Balassa, who, implementing Josephinian policy in

⁸⁰ For his career cf. Ivana Horbec, "Iz anonimnosti na put slave: Aleksandar Szécsén (1740. – 1813.) i svijet kancelarijskih službenika", in: *Ljudi 18. stoljeća*, 300-308.

⁸¹ For a discourse of the Hungarian nobility at the 1790 Diet cf. a study by Olga Khavanova, *Нация - отечество - патриотизм в венгерской политической культуре: движение 1790 г.* (Moskva, 2000).

⁸² Nikola Škrlec, "Obračanje velikog župana Zagrebačke županije kad je, po ponovnom uvođenju zakonitog sustava, usklađivao magistrat sa zakonom, i poticao skup na ojačavanje ustava Ugarskog Kraljevstva. 15. travnja 1790.", in: *Nikola Škrlec Lomnički*, vol. I, 51, 53, 55 (originally written in Latin, translated to Croatian by Neven Jovanović).

⁸³ *Ibid.*, 55.

Croatia, was remembered as ‘Ban-Commissioner’.⁸⁴ Finally, in the Lands of the Crown of St. Stephen, the absolutist rule in the second half of the 18th century, along with attempts to impose the Court’s positions, brought about a significant political rapprochement of the Hungarian and the Croatian nobility, whose objective was to join forces in a political resistance to claims of the Habsburg rule.⁸⁵

Bearing in mind such developments, it is clear that writing a textbook on Hungarian public law, in order to educate the Hungarian and the Croatian nobility in modern principles of government, according to the plan of the Vienna Court, could not be realised without a consensus, although the Vienna Court had both possibilities for realising and implementing such an attempt at ‘political disciplining’. However, the direction of the Vienna Court’s education policy towards the Hungarian nobility in the 1760s certainly laid new foundations for the Vienna Court’s relations towards the Hungarian estates, and created new criteria for the education of nobility for public service. On the one hand, it is clear that the Vienna Court then ceased to seek arguments to convince the estates of the justified nature of its demands and instead decided to use education to achieve the objective – acceptance of state interests as the public good – believing education to be a “more powerful” weapon. On the other hand, although following the breakdown of Josephinian reforms, the emphatic promotion of the royal house’s interest significantly lost in popularity, and since the 1790s, the estates began to invoke their prerogatives and their right to control of executive power even more, reforms undertaken by the Vienna Court in legal education in the 1760s and 1770s were ultimately not without success. Quite the contrary, these endeavours of the Court paved the way for new standards in public administration – this refers primarily to the obligation and right of the state to direct and control the education of public servants, as well as establishing the necessary educational criteria for careers in the public service. Ultimately, these reforms brought about changes in the methods of political and administrative leadership, in the choice and behaviour of people in power and in the concept of rights and obligations in the public service, thus paving the way for developing standards of public service in modern state structures.

⁸⁴ Cf. the poem of Tituš Brezovački, “Dalmatiae, Croatiae et Slavoniae trium sororum recursus ad novum proregem comitem Joannem Erdoedy [1790]”, published by Darko Novaković, “Novi rukopis prigodnice Dalmatiae, Croatiae et Slavoniae trium sororum recursus iz Hrvatskoga državnog arhiva u Zagrebu,” in: *Nikola Škrlec Lomnički*, vol. III, 127-141 and “Pismo od Balasse Gyarmaticha Bana Hrvatskoga”, published by Stjepan Antoljak, “Franjo Balassa de Gyarmath”, in: *Hrvatski biografski leksikon*, vol. I (Zagreb: LZMK, 1983) 383.

⁸⁵ Ivana Horbec, “Habsburška Monarhija”, in: *U potrazi za mirom i blagostanjem*, 415-416.

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'Tiha sila'. Uloga pravnoga obrazovanja u discipliniranju mađarskoga i hrvatskoga plemstva 1760-ih

Ivana Horbec
Hrvatski institut za povijest
Opatička 10
10 000 Zagreb
Republika Hrvatska
Email adresa: ihorbec@isp.hr

Sažetak

Promatrajući habsburšku obrazovnu politiku prema mađarskom i hrvatskom plemstvu 1760-ih kroz perspektivu bečkog suda, autorica analizira pokušaje bečkog dvora da nadvlada suprotstavljene interese tradicionalnih struktura vlasti i protomoderne države. Kako je Habsburška Monarhija preuzimala kontrolu nad obrazovanjem u drugoj polovici 18. stoljeća, obrazovanje se usmjeravalo na sadržaje koji favoriziraju interese vladarskog suverena te pokušaji "političkog discipliniranja" postaju sastavni dio nastavnog materijala. Te su tendencije postale osobito istaknute u reformi pravnog obrazovanja kroz koje se tada definiraju odnosi između vladara i staleža, između države i njezinih stanovnika, kao i prava i obveze političkih subjekata, s naglaskom na značenje *javnog dobra*, *blagostanja* i *potreba vremena*. Obrazovna politika bečkog dvora u 1760-ima predstavljala je preokret u povijesti pravnog obrazovanja u Mađarskoj i Hrvatskoj, kao i razdoblje utvrđivanja novih obrazovnih standarda za javne službenike.

Ključne riječi: obrazovanje, pravo, 18. stoljeće, reforme, Habsburška Monarhija