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(Abstract of Doctoral Thesis)

The thesis aims to trace the spread of divorce (legal dissolution of marriage) in Budapest in 19th century between 1850 and 1910. In this period the Hungarian provincial seat Pest-Buda became a metropolis and capital of the trans-Leithanian half of the Austro-Hungarian Empire. The rapid urbanization led to massive growth of population, which was due to multiethnic and multi-confessional immigration. It has provided me good facilities for studying the spread of divorce simultaneously as a „social fact” and as a legal process in connection with different cultural (religious) traditions.

I have researched mainly the fonds of the Royal Court of Budapest, in this period the competent forum of divorce cases for the whole city. It should be mentioned that in almost all cases only the decrees are preserved. I have organized the data of decrees in a database, which contains personal data of 14000 litigants, as well as the basic information about the marriage and the litigation. I have used the parish and civil registers of marriages, various notarial acts (pre- and postnuptial agreements, separation and divorce settlements), legal cases of property partitioning, dowry devolution, nutritional allowance, children custody etc. too.

First of all, the database analysis showed that the Hungarian divorce statistics are failed in regard to the divorces of Budapest before 1896, so far as the annual number of the legal acts in the statistics is much less than the annual divorce decrees of the Court. The research results indicated that the number of divorces was increasing at least between 1870 and 1880, then – after a short period of stagnation – from the end of the 1880’s. At this time the number of divorce decrees amounted to 100 per year. However, the first „boom” occurred at the turn of the century: as a consequence of the rapid increase in the number of divorces peaked in 1907 at 700. It is important to note that divorce in Pest-Buda was almost unknown still in the first half of the 19th century.

The increase in absolute numbers during the second half of the 19th century accompanied by a steadily rise in divorce rate. Nevertheless, in regional comparison the divorce frequency among the couples in Budapest was presumably moderate before 1896, and only after this time became countrywide higher. Generally, the

regional differences in divorce frequency at the beginning of the 20th century indicates that the divorce rate was high in large towns, but much higher in counties of the Trans-Tisza region and Transylvania with considerable protestant population actually. Thus divorce rate of some relatively underdeveloped Transylvanian counties was higher than of the capital. So it seems plausible that traditional behaviour determined by religion was more important at this time in this field than the processes of industrialization and urbanization.

For the explanation of the increase in the divorce rate of Budapest, respectively of the regional differences, religion – either as religious affiliation of the couples, or as law-making dogmatic theory and rituals – and the confessional system of Hungarian marriage law during the 19th century are fundamental. The spread of divorce in Budapest was in close relationship with the introduction of legal institution in regard to catholic spouses. The number of divorces became to increase first when the Act of Divorce Proceeding of Mixed Marriages (1868) practically permitted the dissolution of Catholic marriages, if at least one spouse converted to Protestantism. The „boom” at the turn of the century occurred after the Hungarian Act of Marriage (1895), which provided the legal possibility already without any restriction. The proportion of (originally) Catholic litigants on the Royal Court of Budapest between 1869 and 1895 was 41%, and it raised between 1896 and 1910 to 52%. At the same time the proportion of Jewish litigants was constantly very high, although decreasing (between 41% 1869 and 1895, and 32% between 1896 and 1910), since the mid-19th century the state more and more kept under control the Jewish marriages. Generally, noteworthy as the disappearing legal differentiation of the confessions reduced the role of traditional patterns of marital behaviour, particularly in examined urban environment.

Furthermore, toward the end of the 19th century, the social structure of litigants changed significantly in Budapest, which also had an effect on the spread of divorce. While between 1866 and 1880 the proportion of the poor litigants – on the base upon occupational classification – amounted to 30%, between 1896 and 1910 already half of the alienated spouses belonged to this social category. Among these people the proportion of migrants somewhat increased, especially of the rural migrants. This development, though the divorce rate of the middle-class couples remained much higher, really might be called the „democratization of divorce”. There is no plausible explanation regarding this, but the spreading possibility of legal aid (in forma

pauperis) at the end of the 19th century inevitably played an important role, particularly because it seems that simultaneously the costs of divorce litigation had increased.

Although with statistical methods direct not possible to indicate, how urban environment influenced the behaviour of husbands and wives, the rapid urbanization of Budapest surely had an impact on litigation activity. The localization of the litigant's addresses, which in the divorce decrees or other sources could be find, in Budapest showed that their rate in the old city (Belváros), respectively in those districts (Teréz- and Erzsébetváros, Józsefváros) was high, where the population growth and the transformation of the built urban environment was rapid. In the suburbs or slightly urbanized districts (Óbuda, Kőbánya) the rate of litigants was low. Thus at the beginning of the 20th century, in the inner quarters of Pest there were annually 3-4-5 litigations per 1000 existing marriages, but in the suburbs merely 1-2.

The historians generally leave the role of law and legal change in spreading of divorce out of consideration, however it was fundamental in Budapest. Although in this field, in regard of legal policy and practice, the role of restrictions and the protection of the families is usually emphasized, this intentions rather seem to be secondary in Budapest, and Hungary too. In the multiethnic and -confessional state the requirement of social integration or national standardization inspired by Hungarian nationalism enervated the simultaneous liberal efforts to preserve rights of the accepted churches, as part of the traditional power balance, which despite of secularization extended to the territory of marriage law. Thus, in the second half of the 19th century, while the state established the legal institution of divorce for Catholic spouses, and increasingly got under control the Jewish divorces, the legal dissolution of marriages wasn't perceived as a major social problem.

Paradoxically, the changes in everyday legal practice from the mid-19th century reduced the direct pressures on maladjusted spouses to divorce, which prior was obligatory before the effective separation. The authorities now gave up the discipline of self-divorcees, indeed in certain cases the spontaneous separation was legally acknowledged. Thus, if the spouses agreed and their contract recorded by the authorities or a notarial act (from 1875), there was no need necessarily for divorce proceeding. In addition, the courts from the 1880's might adjudge petitions for alimony, and so acquiescence the disunion, even if the plaintiffs separated from their

husbands without filing for divorce. Nevertheless, the generally broadening legal possibility of state intervention in everyday family life made the legal alternatives more available or created new ones for the alienated spouses, that in the long run increased the number of divorces.

After all, in the field of law was crucial the legal practice of consensual divorce. The general divorce cause for Christian (Protestant) couples before 1896 was the „irreconcilable hatred”, but after for its proving needed only to iterate the declaration that the spouses cannot be expected to go on living together, this was equivalent with „mutual consent”, the general divorce cause for Jews. Although the Act of Marriage abrogated the grounds of „irreconcilable hatred” and „mutual consent”, then introduced the fault principle, the covenanted litigants made use of practice of ground „willful desertion without rightful cause”, which allowed rapid and easy divorce. Thus vainly increased generally at the turn of the 19-20th century the length and costs of procedure, the divorce finally broke through by the spreading application of „willful desertion”. While at the end of the 19th century the rate of on the ground „willful desertion” by the Royal Court of Budapest granted divorces was only 38%, this rate raised around 1910 to 78%.

Finally, despite of very limited historical sources, I have tried to reconstruct social networks of divorcees. According to the empirically proven impression the divorce made oneself, also the divorcees more frequently filed for divorce again than the other spouses. But the personal examples, or in a wider sense the specific pattern of conflict resolution that divorce meant had an important impact on the particular social milieu of the divorcees too. Thus, in some cases in Budapest, many connections were reconstructed between different divorcees as family members, kins, neighbours, colleagues, witnesses etc. In the special case of actors and actresses, which was a rather small and closed profession at this time, the divorce rate was extraordinarily high. It’s interesting also in other aspect, because this pattern of behaviour through the contemporary influence of acting was transmitted to a much wider public. This showed already towards the modernity.