

# The establishment of the institutional framework of comparative law in the socialist Czechoslovakia and Hungary

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## ABSTRACT

The paper deals with the institutional framework and development of comparative law during the socialist period in Czechoslovakia and Hungary. The history of comparative law in Hungary is longer than in the Czech Lands and later in Czechoslovakia, but its post-war socialist development was very similar. Viktor Knapp and Imre Szabó played the crucial role in the process of forming socialist comparative law. They had law diplomas from the interwar Charles University in Prague, and they sympathised with the left wing of political life. After WWII they both joined the communist movement. Later, they belonged to the communist professional lawyer establishment and played an important role in the personal and institutional changes of the 1950s. Their professional careers were also very similar – they had positions in the state administration and in the educational sphere. Knapp and Szabó managed the institutes of state and law of the Czechoslovak and Hungarian academies of sciences from the 1950s onwards. These institutes played a dominant role in the organisation of comparative research before 1989. Their classical legal education, strong professional skills, knowledge of Western languages, and good connections inside the communist regime helped them to establish the professional centres of comparative law under the communist regimes.

## KEYWORDS

comparative law, Czechoslovakia, Hungary, institutions, socialism

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## 1. HISTORICAL PRECURSORS

The discipline of comparative law began to take shape during the long nineteenth century, primarily in Western Europe. It is widely known that it was largely French and German scholars that made definitive contributions to the process. The method of comparing legal systems also had some relatively early adopters in nineteenth-century Hungary.<sup>1</sup> ‘The early Hungarian contributions to comparative law written around the mid-nineteenth century reflected German ideas about legal comparison’.<sup>2</sup> The observation of foreign law was very popular especially in the so-called Reform-period between 1832 and 1848. Hungary from 1867 became one of the main constituents of the Austro-Hungarian Monarchy, with its own legal system, government (except for defence and foreign affairs, together with common finance policies that covered the joint defence system and foreign affairs), and citizenship. The first attempt at introducing a complete course in comparative law at the Budapest Pázmány Péter University took place as early as 1848.<sup>3</sup> The subject continued to be taught after the failure of the liberal revolution, but did not become an examination subject. Actually, it was taught in close connection with the history of law, particularly as the most important lecturer on the subject, professor Gusztáv Wenzel (1812–1891), was not only one of the first scholars to lay the foundations of comparative law theory in Hungary, but also an important scholar of universal legal and economic history.<sup>4</sup> In addition, he also studied private law.<sup>5</sup> It is a notable fact that Gusztáv Wenzel gave one of the very first Hungarian-language lectures on comparative law at a so-called minor session of the Hungarian Academy of Science as early as 25 November 1850. A memorandum was prepared about the lecture, which was published in the Notices of the Hungarian Academy in the same year.<sup>6</sup> The method or science of comparative law – whether really the former or the latter remained undecided in Hungarian scholarly circles at the time – was also popular in Hungary during the last third of the 19th and the first half of the twentieth century.<sup>7</sup>

The subject appeared in the work of several important public and private law jurists in one form or another, even though during this period the country was characterised by a sort of very strong legal nationalism. The most prominent forms this took were the frequent bandying about of the legal genius of the Hungarian nation, and inordinate pride in Hungary’s independent legal tradition. But the majority of Hungarian jurists were also aware of the challenges of modernisation, and certainly made efforts not to be excluded from scholarly life at the European level. This was probably the reason why in the 1920s and 1930s Hungarian jurists were rather active in international comparative law circles, especially the professors of civil law (e.g. Miklós Újlaky and István Szászy).

<sup>1</sup>See Fekete (2011) 160–65 and Fekete (2021) 331–33.

<sup>2</sup>Fekete (2021) 332. One of the first Hungarian comparative authors was István Szűcs (1811–1891).

<sup>3</sup>Eckhart (1936) 383.

<sup>4</sup>About his life, see Bertényi (1987) 112.

<sup>5</sup>Wenzel (1876).

<sup>6</sup>See Magyar Akadémiai Értesítő (Journal of the Hungarian Academy), November 1850 (Vol. X) 292–96.

<sup>7</sup>Fekete (2014) 424–30.



The situation of Czech and later Czechoslovak jurisprudence was somewhat different. The Czech university professors and academics of the late monarchy used the comparative method as a natural part of their research.

The most important figure among the Czech scholars and the founding father of modern Czech legal culture was Antonín Randa (1834–1914), a professor of civil law and politician and minister in several Austrian governments who was knighted for his achievements by the emperor. In his writings published in Czech and German he analysed various aspects of civil law, always strictly from a comparative perspective.<sup>8</sup>

The level of institutionalisation of Slovak legal science of the late monarchy was very low. The first Slovak professional journal (*Právny obzor*) was established by Emil Stodola only in 1917. Stodola had earned a diploma from Vienna and worked as practical solicitor in Budapest. In parallel, he published on the different issues of Austrian and Hungarian law. Thanks to his brother Aurel Stodola, who worked as university professor in Zurich, Emil Stodola had good connections in Switzerland and sometimes published about Swiss law and the Swiss political model.<sup>9</sup>

International relations and the method of comparative law were present in jurisprudence, too, but their institutionalisation and establishment as independent disciplines were much more laborious, despite the fact that both faculties of the University of Prague (the Czech and the German one) maintained close ties with the German-language scholarly centres of Western and Central Europe of the time. In the Czechoslovakia of the time, whose legal theory was characterised by a combination of legal positivism and strict normativism,<sup>10</sup> there was no intensive interest in comparative law.<sup>11</sup> No university courses were offered in comparative law, and no Czechoslovakian lawyers attended the specialised comparative international congresses before World War II, either. The situation was similar in the period between 1945 and 1948 too.<sup>12</sup> However, for Czechoslovakian legal science between the two World Wars, the history of Slavonic law was very important,<sup>13</sup> as was the legal history of Central Europe. These subjects included comparative aspects. Every university had several specialists dealing with the teaching of these courses. In Czechoslovakia, the first articles on the theoretical issues of comparative law were only published in the 1950s and early 1960s, while the first monograph offering a conceptual treatment of the field only appeared in 1987.<sup>14</sup>

<sup>8</sup>Kühn (2021) 196–97. See for instance publications of Antonín Randa (cited by Kühn): Randa (1865; 4th ed.; 1895); Randa (1867); Randa (3d ed.; 1891; 4th ed.; 1897); Randa (1907; 3d ed.; 1913). Most of those publications were also published in the Czech language.

<sup>9</sup>Vozár (2016) 34–35.

<sup>10</sup>Czechoslovakia had four faculties of law at that time: the Czech and German faculty in Prague, one faculty in Brno, and one in Bratislava. Prague cherished the tradition of legal positivism, Brno that of legal normativism.

<sup>11</sup>Knapp (1996) 9.

<sup>12</sup>Blahož (2014) 426.

<sup>13</sup>Vojáček (2015) 96–111.

<sup>14</sup>Štefanovič (1987) 79.



## 2. THE EARLY PHASE OF THE BUILDING OF STATE SOCIALISM

When the communist takeover was complete, which occurred in 1948, in both of the countries under consideration the construction of an iron curtain within scholarship began. During the 1950s, this made the cultivation of foreign relations very difficult and made the jurisprudence communities of individual countries quite insular, too. This was particularly true of scholarly links with the West. Under such conditions, working in comparative law became almost impossible. There were two exceptions – the favoured, indeed compulsory, study of Soviet examples and comparisons of legal models with those of the other people's democratic states, called 'brotherly' in communist parlance. In Czechoslovakia, for instance, the first such work was published in 1954,<sup>15</sup> although, truth be told, it was not really about comparative law, as it was limited to individual presentations of foreign models.<sup>16</sup> Nevertheless, the publication of that work created a new tradition which, in essence, still continues today, which concentrates on the examination of the legal systems of Central and Eastern European states with similar histories and situations. After the fall of communism, that line of scholarship continued as the study of the post-transition region. In effect, the field became the terrain of a sort of regional comparative law, as similar work was also published in the other socialist countries during the era of state socialism, including Hungary.

During the period after 1949 legal scholarship in the region began to be concentrated in research institutes established for that purpose. Some of them were initiated by ministries of justice, while others built on previous academic traditions. Initially, they were primarily established in order to mediate the experiences of the Soviet Union (and to a lesser extent, those of other people's democracies), and to follow and translate the work being done therein, but in addition they also had officials dedicated to monitoring the legal developments of Western 'adversaries'. Although those institutes were originally created largely for the purposes of assisting in the codification and legal transplantation work of the ministries of justice, in time they shifted their focus to basic research and soon became the leading scholarly workshops of their respective countries in the field. Therefore, it is necessary to present their histories briefly. However, in order to understand the entire process, we must also provide a brief overview of the previous histories of the national academies of science that were involved.

## 3. THE CREATION OF ACADEMIC INSTITUTES OF JURISPRUDENCE AND THEIR ROLES WITHIN THE SYSTEM

The Hungarian Academy of Science, a prestigious body of scholars, was founded in 1825 with the support of wealthy aristocrats,<sup>17</sup> and has been operating continuously ever since. The Czech Academy of Science and Art was only established much later, in 1890. The main supporter and donor was Josef Hlávka, a wealthy Czech construction entrepreneur.<sup>18</sup> On the other hand, it must be mentioned that the Czech Royal Scientific Society operated from 1784 onwards.<sup>19</sup>

<sup>15</sup>Laco (1954).

<sup>16</sup>Štefanovič (1987) 79.

<sup>17</sup>Primarily the Széchenyi family.

<sup>18</sup>About the history of Hlávka Foundation see [link3](#).

<sup>19</sup>Bárta (2014) 15.



However, during that period neither the Hungarian nor the Czech academy possessed a network of research institutes; they operated much more as scholarly bodies or societies. The networks of research institutes in the modern sense were only established at both academies – with a few exceptions – after World War II. This was the case in respect of research institutes in political science and jurisprudence, too.

The Budapest Institute of State and Law was established in 1949 by decree of Hungary's Council of Ministers. The resolution dissolved the previous Eastern European Institute<sup>20</sup> and established its member institutes as independent organisations.<sup>21</sup> These included the Institute of State and Law. Initially, the Institute worked under the supervision of the Ministry of Justice, as its foundation was also motivated by the unconcealed intention that the new institute should assist government agencies by producing various background materials. As a result, during the initial years the Institute, along with its documentation and bibliographical tasks, also undertook a lot of translation work.<sup>22</sup>

The Institute became a member of the Academy's network of research facilities in 1955 through another decree of the Council of Ministers. From that point on, it gradually became one of Hungary's leading scholarly institutions, reaching a standard of quality that was in many respects on a par with that of other European bodies, and cultivating a wide and open system of international relations that was unusual in the socialist bloc.<sup>23</sup> The process involved a number of factors, which I will discuss later.

The Prague institute with a similar profile and a rather similar career was established in 1955 within the Czechoslovakian Academy of Sciences, which was itself founded in 1952. Initially, it was called the Institute of Law. In 1956, other departments that had engaged in legal studies previously, including the 'cabinet' that had studied Soviet political science and law, merged with the Institute, too.<sup>24</sup> The Institute adopted its present name in 1961 and has operated as the Institute of State and Law ever since.<sup>25</sup>

<sup>20</sup>Actually, this institute was established in that form in 1948 also by government decree. Its predecessor was the Pál Teleki Institute, created in 1941 by the minister of education at the time, Bálint Hóman. The name of former prime minister Pál Teleki, who committed suicide in 1941 due to the anti-Yugoslavian, German-friendly policies of his own government. Hungary this time attacked Yugoslavia together with Germany, Italy and Bulgaria. It was Pál Teleki who, in 1924, appointed by Prime Minister István Bethlen, established the Institute of Sociography, and in 1926 the Institute of Political Science as well, within the framework of the Hungarian Statistical Society. The latter was in effect the predecessor of today's Institute of Legal Studies. Its significance is attested to by the fact that Teleki, who was a prime minister as well as a minister of foreign affairs multiple times, managed the institute directly until his death. [Lamm \(2010\) 7](#).

<sup>21</sup>That was how the Institute of Historical Studies, the Institute of State and Law, the Institute of Linguistics, and the University Institute of Geography were created.

<sup>22</sup>[Lamm \(2010\) 9](#).

<sup>23</sup>[Lamm \(2010\) 12](#).

<sup>24</sup>According to the structure of the Czechoslovakian Academy of Sciences, the cabinets were research units that were smaller than institutes. In general, they followed one of two paths of development: they either became independent institutes or were merged into an existing institute. However, along with the Soviet Law Cabinet already mentioned, there were two other organisational units of that time: the International Law Cabinet, and the Legal History Cabinet. The fact that those three cabinets came to represent the first step along the bumpy road towards the institutionalization of legal studies in Prague was largely related to the acumen of their founding professors. Naturally, this was not quite true in the case of the Soviet Law Cabinet, which, according to the memoirs of Viktor Knapp, would have been formed anyway, as in those days nobody dared speak out against any organisational unit with the word 'Soviet' in its name. [Knapp \(1998\) 139–40](#).

<sup>25</sup>[Bárta \(2014\) 16](#).



However, it must certainly be mentioned here that 1953 also saw the foundation of the Slovakian Academy of Science in Bratislava,<sup>26</sup> which also had (and today still has) an Institute of State and Law. That institute was established back in 1953, so it can be considered a founding institute, too. In fact, Bratislava had a similar organisation even earlier, established in 1942 as the Slovakian Academy of Science and Art. As that body was created during World War II, under a collaborationist regime, the new communist power did not wish to express any solidarity with it.<sup>27</sup>

Both institutes discussed in detail in the present paper (the Budapest one and the Prague one) had a single prominent scholar participating in the process of establishment. In Hungary, this was Imre Szabó, and in Czechoslovakia it was Viktor Knapp – both academicians. Imre Szabó participated in the planning and foundation of the institute that he headed between 1955 and 1980 as an influential official at the Ministry of Justice in 1949 and 1950. In fact, he did not become its first director – that was György Csanádi, followed by Tibor Vas. However, the latter made a much smaller contribution to the life of the institute than Szabó, who in 1954 made a final transition from public administration to scholarship.

Viktor Knapp was not only one of the founders but also the first official director of the Prague institute,<sup>28</sup> and also played an active role in the creation of the Czechoslovakian Academy of Science. In 1952, he became a member of the 27-strong preparatory committee that, over a period of ten months, prepared the foundation for the joint academy of the two brotherly nations – the Czechs and the Slovaks. Ten years later, he became a regular elected member, i.e., an academician of that body.<sup>29</sup>

Imre Szabó and Viktor Knapp both had very interesting, varied careers that were often controversial and fraught with contradictions of a type rather characteristic of the twentieth century, with a number of points of contact and many similarities. As they were both directors during the same period, and as they both had important effects on their respective institutes, and not least also because during that time they became the two senior figures of socialist comparative law with a degree of recognition in the capitalist West, we should review their lives at least briefly. Such an overview will allow us to understand the operation of the system better,

<sup>26</sup>Between 1945 and 1968, the asymmetrical public law model of Czechoslovakia had the characteristic that while Czechoslovakian-level bodies and institutions were operating in Prague, their Slovakian counterparts were established in Bratislava. Yet there were no separate Czech national bodies in Prague – their roles were assumed by the Czechoslovakian organisational units operating there. In some areas the situation persisted until the federalization of 1968 (e.g., in the people's representative bodies and in government agencies), while in other areas it went on until the dissolution of the federal state in 1992. The academic world tended to follow that pattern, too).

<sup>27</sup>See *História a súčasnosť Slovenskej akadémie vied* (History and Present of the Slovak Academy of Sciences), [link1](#).

<sup>28</sup>The first leader of the freshly founded institute was Ivan Bystrina, but he was not a formally appointed director. According to Knapp, he was only a sort of *chargé d'affaires*, *ad interim*. Knapp (1998) 141. The main protector of Bystrina, who had just returned from an aspirantship (a form of doctoral training) in Moscow, was Vladimír Procházka, who was one of the main constitutional law experts of the communists in 1948 (at the time when the constitution was written). Most of the Soviet-type provisions of the people's democratic constitution adopted on 9 May 1948 were largely his work. Then, in 1968, Ivan Bystrina joined the reformists, so after the Soviet occupation he chose emigration. Knapp, whose relationship with him was absolutely hostile, commented in his memoirs that the socialist camp had lost nothing while the imperialist class enemy had gained nothing by his leaving the country. Knapp (1998) 140.

<sup>29</sup>Bárta (2014) 16.



while also shedding light on how, within the framework of that system, the two academic institutes were able to become the flagships of socialist comparative law for a while.

#### 4. THE CAREERS OF VIKTOR KNAPP AND IMRE SZABÓ

Viktor Knapp (1913–1996) and Imre Szabó (1912–1996) were contemporaries. That in itself could be considered a historical accident. But other aspects of their lives are rather less contingent. They both spent their youths in interwar, democratic Czechoslovakia, completing state secondary school and then graduating from the Faculty of Law of the historic Charles University of Prague, one of four faculties of law operating in Czechoslovakia at the time.<sup>30</sup> According to the remembrances of his relatives, Szabó, descended from a family of solicitors in Mukacevo/Munkács, decided to study law because he wanted to follow in his father's footsteps as a solicitor.<sup>31</sup> Knapp, from a family of wealthy Prague merchants, was initially more interested in mathematics and literature, but his family, fearful for his future, succeeded in convincing him to enrol at the faculty of law – something he never came to regret, as he later professed that he adored his profession. So much so that during his university days he was already planning to become a university lecturer.<sup>32</sup> That, however, had to wait until after World War II. They both received similar training, with a lot of emphasis on specific articles of law as well as the history of law, but not much attention to comparison. The latter came to the fore to the greatest extent during the study of the legal development of Central European countries and research into Slavic law – generally in an unsystematic manner. Actually, the Prague Faculty of Law was primarily characterised by legal positivism at the time.<sup>33</sup>

As with so many other twentieth-century intellectuals, Knapp and Szabó also committed themselves to left-wing ideals. Szabó joined the *Sarló* (*Sickle*) movement, an organisation for left-wing Hungarian young people in Czechoslovakia quite early on, in the 1930s.<sup>34</sup> It was probably this that led him to the communist movement. In fact, many members of *Sarló/Sickle* only affiliated themselves with the ideals of the communist party during the organisation's third phase of development, which took place in the 1930s. Previously, the situation was not quite as clear-cut.<sup>35</sup> The young activists sought answers to the political and ethnic problems of their own community, i.e., the Hungarian minority in Czechoslovakia, while also championing peace among the Central European nations.

<sup>30</sup>There were two faculties of law in Prague – one taught in Czech and one in German. In addition, there were also law schools in Brno and Bratislava. The Russian white (anti-communist) emigration also had for a short time one special faculty of law that taught in the Russian language.

<sup>31</sup>The author would like to thank Dániel Szabó for his valuable advice and information without which writing this essay would have been much more difficult.

<sup>32</sup>It is interesting that, after he graduated, Knapp first began to work for a publisher and a newspaper, after which he did his compulsory military service.

<sup>33</sup>See Knapp (1998). According to his memoirs, the Brno Faculty of Law was characterised by normativism.

<sup>34</sup>For more details about the Sickle movement, see Vigh (2013) 1–6.

<sup>35</sup>We should not forget that its initial seeds were the Prague student organisation called the Circle of Saint George and the scout camp at Gombaszög. The movement was sympathetic towards the ideals of the 'rurals'.





The fact that in Szabó's case this was no accident is attested to in articles he wrote during his student years for the *Korunk (Our Age)* periodical in Cluj-Napoca (in the Hungarian language, *Kolozsvár*), which was also a left-wing publication. Most of the articles he published there were about aspects of criminal law, but he also wrote several book reviews. However, after the Hungarian occupation of 1940, the periodical was dissolved. Szabó's writings that were published there reflected not only his ideological commitments but also his considerable erudition.

In the case of Viktor Knapp, a son from a wealthy bourgeois family,<sup>36</sup> it is more difficult to establish exactly when and where he came into contact with left-wing or perhaps communist ideas.<sup>37</sup> He did not divulge anything about this in his memoirs written in the 1980s. It is a fact that after 1945 he was an activist for the communist party in the offices that he came to occupy. In his later memoirs he actually repeatedly hinted that the question of the Soviet Union had always interested him, and that he sympathized with it, which is related to the fact that he had had a Russophile upbringing. In addition, in a somewhat romantic fashion, he had always had respect for the Soviet Union, its people and culture, even when his own comrades had persecuted him. Actually, Knapp visited the Soviet Union during his student years – in the first half of the 1930s.<sup>38</sup> This is a telling fact because such journeys were rarely undertaken at that time in Czechoslovakia. But Knapp's memoirs also revealed that France and the French language and culture were also very important to him. Knapp learned Russian at an early age, but this is not very difficult for people whose first language is Czech.<sup>39</sup>

Then World War II took place, having a major effect not only on world history but also on their personal fates. Their ethnic backgrounds and their political views put both of them at risk, but they managed to survive those difficult years, and the opportunity they had in 1945 to relaunch their professional lives came at the best time – they were both in their early thirties.<sup>40</sup>

They both began their post-war careers in public administration – Szabó at the county level, from where he was soon transferred to the Ministry of Justice, where he stayed until the mid-50s. For a while, he headed the Legislative Division. Knapp was a high-ranking and then a senior official of the National Office of Population, which worked on settling people in the areas left vacant by the relocation of ethnic Germans after the war, and cataloguing the property they left behind, between 1945 and 1948. From 1948 until 1954, essentially the most difficult years, he

<sup>36</sup>Žácková (2015) 2–4.

<sup>37</sup>Actually, according to the later remembrances of contemporaries, they persisted until later in the form of social sensitivity (i.e., after 1989). See Pinz (2014) 658.

<sup>38</sup>Knapp (1998) 219.

<sup>39</sup>Knapp (1998) 219.

<sup>40</sup>The next interesting accident of history was that when Szabó and Knapp were students there, another significant figure from post-WWII comparative law was also studying at the Prague faculty of law. That person was Eric Stein, whose pre-war background was similar in many respects to that of Knapp and Szabó. Stein was also born in 1913, got his doctorate at the Faculty of Law of Charles University in 1937, and began compulsory military service. In 1939, he emigrated to the United States and obtained another doctorate in 1942 at the University of Michigan. Between 1943 and 1946 he served in the American army, after which he was employed by the Washington State Department, where he stayed until 1955. During that period, he worked for the US delegation to the UN; his work took him to the international court of law, and he participated in international talks on nuclear energy. In 1956 he became a professor of international law and international organisations at Michigan. He retired there in 1983. He was one of the first to teach about European Communities in the USA, and he also had an abiding interest in comparative law. Between 1990 and 1993, at the request of Czechoslovakian President Václav Havel, he took part in the working group composed of foreign advisors that tried to help Czechoslovakian jurists and politicians save the federal state. They failed. See Stein (2000) 368–69.





worked at the office of the first communist President Klement Gottwald as a member and later the head of the key Department of Politics.

In parallel with this, during the first half of the 1950s they both participated – in a rather debatable manner – in the transformation of the institutional framework of the legal profession, legal training, and legal research, as some sort of ‘official scholars’. That transformation followed the Soviet pattern and involved the removal of people in important professional positions, particularly those among the old guard of pre-war scholars, many of whom had their professional careers terminated curtly.

After 1954 and 1955, respectively, Knapp and Szabó – while retaining their university chairs – both transferred completely to the scholarly-academic world. They became the directors of the institutes of political science and legal studies they had themselves partly formed and shaped at roughly the same time. In addition, they held a number of senior positions at their academies of science – Knapp was a member of the board supervising the institutes of the social sciences,<sup>41</sup> while Szabó was first a deputy general secretary, then a deputy president of the Hungarian Academy of Science. At one point, he was also responsible for the international relations of the HAS.

In contrast to Szabó, who after 1955 avoided direct exposure in politics and public administration, Knapp was a member of the Czechoslovakian National Assembly, later the Federal Assembly between 1964 and 1973. In 1968, as the chairman of the Constitutional Committee, he played a major part in the development of the law on the Czechoslovakian Federation. This was part of the reason he was gradually marginalised during the 1970s – although he never lost his job as a researcher at the academy or his university professorship, the leaders of the new regime of normalisation<sup>42</sup> eventually stripped him of all his leading positions. As a result, during that period he had a lot of time for his undergraduate and postgraduate students, and as a person who had been punished in 1968 he was also able to return to the upper echelons of university and academic circles after 1989.<sup>43</sup>

In the opinion of Michal Kopeček, the political marginalisation of Viktor Knapp under the regime of socialist ‘normalisation’ (1969–1989) can be characterized as only relative. Knapp remained a world-famous Czechoslovak scientist who had survived every internal political change and the crisis of the communist regime in Czechoslovakia from the beginning to the end. He was allowed to travel abroad. During the regime of ‘normalisation’ Knapp had a reputation as the protagonist of 1968 in the legal sphere,<sup>44</sup> but he was not very active in the public and political life of this period and was not a member of the opposition led by the movement Charta 77. The communist secret service watched him during this period as well (1974–1984), but only with low intensity.<sup>45</sup> As an ordinary researcher at an academic institute he was allowed to publish in official journals, and he also participated in several important projects. For example, he was the head of a

<sup>41</sup>Knapp only served as the deputy chairman of the Czechoslovakian Academy of Science between 1990 and 1992.

<sup>42</sup>The term was applied to the political regime of 1969–1989 by contemporaries as well as later experts who followed in their tracks whose legitimization was based on the ‘normalization’ of the ‘muddled year of 1968’. About this period of Knapp’s life see Pavlíček (2014).

<sup>43</sup>Complexly about the professional career of Knapp see Žáčková (2015).

<sup>44</sup>Kopeček (2019) 56–57.

<sup>45</sup>Kopeček (2019) 59. First, he was watched by the Czechoslovak secret service in the 1950s during the preparation of the big political trials. His direct boss and friend Ludvík Frejka was executed as a result of Rudolf Slánský’s trial, which also had an antisemitic background. See Žáčková (2015) 9–10.



project dedicated to elaborating the theoretical problems of Czechoslovak legislation, which proved to be an important theoretical work undertaken in the last decade of the communist regime. A large number of prominent communist legal scientists participated in this project. Knapp did not refuse the main postulates of the communist doctrines in law. He also accepted without hesitation the theory of the class character of law. His attitude to the state can be characterized as etatist; he held normative views; and he always supported the concept of socialist legality, legal stability, and the normative character of law as a main regulatory instrument in social life (at least before 1989).<sup>46</sup>

Knapp and Szabó began to teach at the Prague and Budapest faculties of law at roughly the same time. In accordance with the human resources policies in place at the time, both of them became professors at quite an early age – Knapp at the department of civil law,<sup>47</sup> Szabó in the field of constitutional and legal theory. Although Szabó began to publish articles on legal issues earlier,<sup>48</sup> Knapp had a much wider range of interests.<sup>49</sup>

While the majority of Szabó's most important works were largely concerned with constitutional and legal theory and partly with constitutional law and human rights, Knapp forayed into a relatively large number of fields – he began with civil law, but later also worked in constitutional law and public administration law, made an important contribution to socialist legal theory, and wrote abiding – and still often quoted – pieces during the 1960s about the relationship between law and cybernetics.<sup>50</sup> For that reason, some people hold him to be one of the founders of legal information technology within Czech scholarship.<sup>51</sup> Western researchers saw both scholars as the prime representatives of socialist comparative law, which was obviously no accident, as, beginning in the 1960s, both Knapp and Szabó did a great deal for the revival of the discipline of comparative law in the region.

Perhaps Viktor Knapp was the founder of socialist comparative law in Czechoslovakia, but besides him other Czech and Slovak lawyers also dealt with this issue. Several communist scholars who had had a Stalinist background a decade earlier joined a new reform communist movement which came to a head in the 1968 Prague Spring.

For instance, the Professor of Jurisprudence, Jiří Boguszak (1927–2018), one of the most outspoken Stalinists of the 1950s, took advantage of the opportunity and studied comparative law at the International Faculty of Comparative Law, in Strasbourg, France. In the late 1960s he was part of the reform movement to create socialism 'with a human face' and was active in the reforms of Czechoslovak legal order.<sup>52</sup>

<sup>46</sup>Kopeček (2019) 57–62. Knapp accepted the rule of law, but he kept a critical distance from liberal constitutional theories (e.g., he refused the theory of the separation of powers and he was sceptical of theories about natural law). Independent of this scepticism, Knapp was very active in the process of civil law reform and as 'rehabilitated' director of Institute of State and Law in Prague. See Kopeček (2019) 85.

<sup>47</sup>Actually, Knapp first taught public administration law at the relatively short-lived College of Politics and Social Affairs that was founded at the time, rather than at his own alma mater.

<sup>48</sup>Actually, most of those writings are about criminal law. His 1946 book *The Nuremberg Trials and International Criminal Law* is one example.

<sup>49</sup>Prior to the outbreak of World War II, Knapp, despite the fact that he was a jurist, actually worked for a publisher of fiction. As he spoke a lot of languages, his main task was the selection of works to be translated.

<sup>50</sup>Eliáš (2003).

<sup>51</sup>Cvrček (2013) 1219–20.

<sup>52</sup>Kühn (2021) 203–204.



Vladimír Klokočka (1929–2009) was active as a lecturer of constitutional and comparative law. Later, he became dean of the re-established Faculty of Law at Brno in 1969.<sup>53</sup> He emigrated from Czechoslovakia after the collapse of the reforms and worked as a lecturer in Munich. After the collapse of the communist regime in Czechoslovakia he became a judge on the Czech constitutional court.

According to Zdeněk Kühn,

The most significant contribution of Czechoslovak lawyers to world legal culture and comparative studies seems to have been through the multiple waves of emigration of legal minds to the West, where they often achieved success in comparative legal research. In the twentieth century, there were three main waves of emigration from the Central and Eastern European region, the first during the World War II and the period immediately preceding the War, the second coinciding with the instalment of communist regimes, and the third after the Soviet invasion of Czechoslovakia of 1968. Eric Stein (1913–2011), one of the founders of European legal studies, was a leading representative of the former wave; Thomas Buergenthal, Jaro Mayda, Vladimír Klokočka, or Ota Weinberger represent the latter waves.<sup>54</sup>

## 5. THE REVIVAL OF THE INSTITUTES OF LEGAL STUDIES AND COMPARATIVE LAW

As I have mentioned above, after the end of World War II, and particularly after the establishment of the bipolar world, comparative law lost ground in the people's republics, or socialist countries. More precisely, it was constrained to researching the Soviet model as an example to be followed and the mapping of the experiences of other people's democracies; activities that may not quite fit the definition of comparative law. Comparison with Western – i.e., capitalist – countries (due to ideological prejudices, the lack of sources and opportunity to travel, and the vigilant attention of the secret police) became not only practically but also theoretically problematic. The socialist bloc, and particularly its leaders, certainly believed the system they managed to be superior to the Western model, which, they believed, was destined to wither away. Under such conditions, comparison was (or would have been) truly superfluous.

But Western jurists also raised views that relativized the necessity of making East-West comparisons. Zoltán Péteri described that approach very expressively in one of his articles:

The response to the question of comparability was firm rejection on both sides of the so-called iron curtain, on one side motivated by the maxim 'socialist law cannot be considered law in the traditional sense', and on the other side due to the declared superiority of the new kind of socialist law to 'bourgeois' law, which rendered the two essentially incompatible.<sup>55</sup>

Both parties held on to those views for an extended period, but the vehemence of rejection varied, and not everyone adhered equally strictly to the dogma. It is revealing that the first

<sup>53</sup>Kühn (2021) 203–204.

<sup>54</sup>Kühn (2021) 205–206. Thomas Buergenthal was born in Slovakia (1934), but he left the country of his origin as a small child (author's remark).

<sup>55</sup>Péteri (2010) 77.



institutionalized comparative law workshop of the socialist bloc (i.e., the Comparative Law Institute) was established in the non-aligned Yugoslavia in 1955 at the initiative of Borislav Blagojevic, the vice chancellor of Belgrade University.<sup>56</sup> Elsewhere in the region, the situation only began to improve after 1956. The ‘rejuvenation’ of the notion of comparative law in the 1960s was therefore largely related to changes in the climate of international relations, just as its earlier ‘hibernation’ during the 1940s and 50s had been. The reduction of political tension at that time, and the increasing emphasis on and legitimization of the notion of ‘peaceful coexistence’ of the two systems had a positive effect on legal studies.<sup>57</sup>

For jurists from the socialist countries, it was also especially important that in a highly influential – almost paradigm-changing – monograph,<sup>58</sup> René David treated socialist law as a separate category or type, to which the jurists of the ‘peace camp’ felt obliged to respond. All the more so because that recognition implied that David considered socialist law to be law. And if that were the case, it was in the fundamental interest of socialist legal scholarship to participate in the explication of its own legal solutions, yet that required dialogue with the jurists of the capitalist West and perhaps also those of the so-called Third World. And such a dialogue required a certain degree of opening relative to the rather strict seclusion of the 1950s.

All of this is important to emphasise because, initially, the communist rulers were only willing and able to permit such a professional opening to a limited extent, under the leadership of responsible scholars in whose loyalty, sober judgment and reliability they had absolute trust. That was probably why smaller academic institutes, which were easier to control due to their size and closed character, along with their leaders at the time – namely Knapp and Szabó – came into the picture.<sup>59</sup> Although it is not possible to prove this without further archival research, it is probably that rather than those in power it was jurists who initiated this form of cooperation.

At any rate, it is revealing that at the time the (otherwise quite conformist) pioneers of the rejuvenation of Hungarian comparative law, Imre Szabó and Gyula Eörsi, made an attempt to justify the ‘Western opening’. They did so because they wished to legitimize the area to which they were to devote a great deal of their attention in the years that followed. In their writings on the subject, they first alluded to the excellent utility of comparative law as a means of propagandizing socialist law, and they also attempted to make use of the maxim of the ‘peaceful coexistence’ of capitalism and socialism, which became particularly popular in wider European political discourse from the 1960s. Szabó also pointed out that there are certain limits to relatively free comparison in the wider sense. In his view, there was one limit in particular that should never be transgressed: the limit of ideological consistency.<sup>60</sup> The Hungarian scholar Balázs Fekete has characterised the position of Szabó in the following way:

<sup>56</sup>Fekete (2014) 434.

<sup>57</sup>Péteri (2010) 71.

<sup>58</sup>David (1965).

<sup>59</sup>Along with Imre Szabó, we must also mention Gyula Eörsi here, who was the deputy director of the institute and previously the rector of Budapest University, and who wrote a number of enduring – and still frequently debated – pieces of work of about comparative civil law. For a summary of his oeuvre, see the piece by Balázs Fekete (2014) 434–37. In this paper I shall not provide a more detailed description of Eörsi and his works. This is because Director Szabó had a weightier role in the institutionalization of comparative law, if for no other reason than through his office, or offices.

<sup>60</sup>Fekete (2014) 435.



First, he legitimized participation in the international comparative law movement with the aim of carrying out socialist legal propaganda, helping to dismiss many ‘unjust’ prejudices about socialist law. Second, he created the concepts of ‘external’ and ‘internal’ comparative law that enabled Marxist-Leninist legal scholars to engage in a fruitful discussion with their Western colleagues without breaching the requirement of ideological consistency. For Szabó, ‘internal’ comparative law meant the comparison of those legal orders that belong to the same type of law and therefore are based on the same socio-economic principles... In contrast, ‘external comparative law’ involves the comparison of those legal orders that came from different types of law, so their ideological backgrounds differ qualitatively.<sup>61</sup>

Interestingly, the behaviour of the Soviet Union remained cool, even as jurists from the satellite states were permitted to join the international comparative law community. It is probable that the sense of the superiority of socialist law had deeper roots there, while fears of the various convergence theories also cut closer to the bone, coupled with a stronger aversion to ‘infections’ by Western ideology. As a result, the first significant Soviet works on comparative law were largely only published in the 1970s.<sup>62</sup> By that time, Czechoslovakian, Polish<sup>63</sup> and Hungarian jurists had achieved relatively well-respected positions in the world of comparative law – indeed, these countries became the forerunners of socialist comparative law.<sup>64</sup>

That was also the situation in the 1960s in relation to Knapp and Szabó and the institutions they headed. As is clear from the foregoing, the two directors had significant political experience and strong backgrounds for which they had laid the foundations back when the new regime was being created. They also gathered important experience during the 1950s and were by and large familiar with the potential opportunities and risks of the regime. I have already mentioned their senior positions within their respective academies.

On the other hand, Knapp and Szabó were both people educated in the old schools, and by all contemporary accounts were highly cultured, well-mannered people with wide horizons. For a start, they had impressive language skills, irrespective of the fact they had obtained them

<sup>61</sup>Fekete (2021) 335–36.

<sup>62</sup>Péteri (2010) 68–79. That does not mean that during the 1960s no Soviet scholarly articles were published at all about the subject. One good example is this: Zivs (1964). Actually, some of the Soviet scholars often showed a preference for internal comparison within the Soviet Union or within the socialist camp. One example of such thinking was the establishment of a Department of Central Asian Comparative Law at the Academy of Tashkent. Also, the Institute of Political Science and Legal Studies at the Soviet Academy of Science had a department of comparative law. See Štefanović (1987) 81.

<sup>63</sup>Although the present paper does not discuss Poland, at least a few names and research workshops should be mentioned here. Professors S. Rozmaryn and W. Czachórski were those who lectured at the Strasbourg Faculty of Comparative Law (See Knapp (1998)). Unlike in Budapest and Prague, the Warsaw Institute of Legal Studies had no specialist in comparative law in a senior position, and neither did the institute have a separate department of comparative law, but a number of researchers studied the legal systems of other countries at the time. It is interesting, on the other hand, that in the 1970s a centre for American legal and political studies was created at the Warsaw Institute, headed by Professor Wojciech Sokolewicz. In addition, within the Polish Academy of Science there was also a separate institute during those decades that studied socialist allies. Most of the scholars working there, however, were historians, although legal studies were undertaken there. A peculiar division of labour developed between the faculties of law of the Polish universities outside Warsaw – at Łódź, they mostly studied socialist countries, while Wrocław focussed on the ex-colonies and Latin American countries and in Kraków they studied the Scandinavian countries and the USA. The author would like to thank Professor Ewa Popławska from Warsaw for her help and valuable information.

<sup>64</sup>Knapp (1996) 9–10.



during their secondary education, or by birth, or due to their tribulations during World War II, or simply because they were talented. Szabó spoke Czech, German, French and Russian, and, along with Knapp, had a great fondness for Latin. Knapp spoke even more languages – along with those already mentioned, he also spoke English, Spanish, and Italian, and, if pressed, could get by in Portuguese and several other European languages as well.<sup>65</sup> It is a well-known fact that in comparative law, knowledge of languages is rather important. All those qualities probably played a large part in their being accepted and received into the fold by Western jurists.<sup>66</sup>

Despite many biographical similarities, according to the sources and memoirs available at present it seems that Knapp and Szabó, though they did know each other personally, never developed a close personal relationship.<sup>67</sup> Actually, in his memoirs Knapp only ever mentioned Western colleagues (with the exception of Anatoly Vasilievich Venediktov, of Leningrad).<sup>68</sup> On the other hand, in 1957 Knapp, Szabó, and Zdeněk Mlynář, who went on to become one of the main ideologists of the Prague Spring, published a joint collection of essays entitled *State and Law*.<sup>69</sup> This implies that they must have formed a professional relationship quite early, as at that time they were both beginner directors of their respective institutes, so to speak.

However, their performance as builders of institutions for the study of comparative law was not quite identical, despite the fact that their situations were very similar in many respects. The similarities do not end with their both being directors, professionally erudite, politically experienced and perhaps receiving support from their regimes; they were also both frequent and popular guests of the Strasbourg Faculty of Comparative Law and other famous foreign universities, as well as members and sometimes officials of various scholarly comparative law societies.<sup>70</sup> The difference between them was mostly that the institutionalisation of comparative law that occurred in Budapest under the leadership of Imre Szabó was more thorough than that in Prague. Despite Knapp's many foreign lectures and international roles, the Prague Institute of State and Law never established a separate Department of Comparative Law. It is true that during those years many scholars from the Czech Institute also managed to travel to Strasbourg and elsewhere. If they wished to do cooperative research, or to author papers jointly, the

<sup>65</sup>Tomášek (2013) 1172.

<sup>66</sup>In his memoirs, Viktor Knapp expressed pride in his very good relationship with René David, who often attended Knapp's lectures at the Paris universities and took notes diligently.

<sup>67</sup>Knapp (1996) 214. Among jurists from socialist countries, he practically only mentioned Stefan Rozmaryn specifically, and even then he only had a witty story to share. He did not mention him as a role-model – although it is true they were almost contemporaries.

<sup>68</sup>He even devoted more attention to the jurist professor Marcello Caetano (1906–1980), who later became the dictator (prime minister) of Portugal (1968–1974), than to his colleagues from the people's democracies. The only exceptions were Soviet jurists, but he wrote about them in a different – more political and social – context than about their qualities as jurists. (Knapp recognized mainly Anatoly Vasilievich Venediktov, a professor from Leningrad.) Actually, prior to his becoming a dictator, Knapp lectured together with Caetano at summer universities in Lisbon several times. This is what he wrote about him in his memoirs: 'Our contacts were not particularly deep and they did not go beyond collegial politesse, but I still knew him as a highly intelligent, cultured and perfectly polite man, although in Portugal and in general he was feared and hated'. Knapp even acknowledged the sense of humour of the later fascist dictator. Knapp (1998) 214. and 217–18.

<sup>69</sup>Knapp et al. (1957) 278.

<sup>70</sup>About those in the case of Szabó see Peschka (1991) 1521–22. In the case of Viktor Knapp, see Žáčková (2015) 42–44.



researchers working using comparative methods on the same subject formed ad hoc, more informal research groups.<sup>71</sup>

That difference between the two institutes is perhaps also related to the way in which the two directors viewed the institutes they led. According to the memories of Endre Nagy J., when Szabó celebrated his 60th birthday at the institute's library, amid the clinking of glasses he told his younger colleagues that the institute was the achievement that he was most proud of.<sup>72</sup> Endre Nagy J. himself was rather critical of Szabó's work and writings, but even he recognised that the institute had become a truly inspiring milieu and a form of 'intimacy protected by the powers that be' under his direction. Csaba Varga, a research fellow of the Institute of State and Law, characterised the style of Szabó in the following way:

Imre Szabó was, so to speak, an inaccessible, authoritative being. He expressed his opinion almost declaratively. And although, in the narrowest of professional matters, he was willing to listen to, and even debate on, pondering upon dissents to some not-so-controversial points; however, pushing the boundaries further and further would have been dangerous, and, of course, he could, and in fact, did close the debate at any time. But he was always polite and even attentive. The personality who, though sometimes cholericly captivated, was a balanced, especially kind gentleman type in his true self.<sup>73</sup>

In the case of Knapp, there exist more direct statements and memories about the institute he directed for 17 years prior to 1989. In his memoirs (written in 1989 – i.e., prior to his return to the director's chair in 1990), which I have already quoted several times in the present paper, he devoted about a single page (out of 255) to the operation of the institute. Most of that page is about his battles with his predecessor, who later became his deputy, and concerning how he strove to get the researchers to actually do some work, and about how he managed to avoid being removed in 1968. He summed up his long years at the institute in the following sentence: 'In other particulars, I don't remember anything significant ever happening at the institute.'<sup>74</sup> Those two – rather personal and subjective – comments probably reveal a great deal about the operation of the two institutes at the time and the institution-building attitudes of their respective directors.

As I have already mentioned a few paragraphs earlier, the situation shaped up rather differently in Budapest, where, according to the available data, the institutionalisation of comparative law studies was conducted much more purposefully and deeply during the 1960s and 70s than in Prague. At the initiative of the management of the Budapest Institute of Political Science and Legal Studies, built on the basis of the previous Documentation Department – discussed in part above – an independent Department of Comparative Law was created in 1963. (The profiles of the two departments, however, were understandably somewhat different.) Its first and in effect last (so one could say perpetual) head was Zoltán Péteri, currently the doyen of comparative law in Hungary.<sup>75</sup>

<sup>71</sup>The author would like to thank the ex-director of the Prague institute, Josef Blahož, for the valuable consultations.

<sup>72</sup>Nagy J. (n.d.) 3.

<sup>73</sup>Varga (2021) 251.

<sup>74</sup>Knapp (1998) 142.

<sup>75</sup>Fekete (2021) 331–48.





As regards the Documentation Department that operated earlier (i.e., in the 1950s), we must note that it mostly focused on Soviet law and the legal systems of the people's democracies, and only a small part of its work concerned the laws of Western, capitalist states. Yet the presentations, reports, analyses and bibliographies they produced needed scholars that spoke the respective languages. As a result, the department became a meeting point for people with very different backgrounds – 'declassed' bourgeois scholars who had mostly worked under the previous, pre-1945 regime, and ministry officials and similar persons who usually spoke Western languages well.<sup>76</sup>

Naturally, the processing of Soviet legal material also required people with good Russian, some of whom were ex-prisoners of war, some old-time communists, and some jurists who had qualified recently in the Soviet Union. The category of people's democracies almost coincided with the class of neighbouring countries, and studying their legal systems required people who spoke their languages. Most of the scholars with the requisite language skills were recruited among the Hungarians living in the neighbouring countries who had relocated to Hungary before or after World War II.<sup>77</sup>

Similar employment criteria were applied at the Department of Comparative Law, too, with the addition of a new tradition. In effect, this meant that many recent graduates began their careers within the Academy at the department, irrespective of their actual areas of specialisation. This also meant that the department accumulated a highly heterogeneous group of people. Vanda Lamm, who worked at the department at the time and later became the director of the institute, characterised the milieu as follows:

The department had a rather heterogeneous composition as regards the professional experience, the age and the political views of the researchers. As regards professional backgrounds, several of the department's colleagues were recruited from the Documentation Department, and they included specialists in criminal law, international law, labour law, philosophy of law, constitutional law, etc. In addition, the department employed old ambassadors, high-ranking officials of the ministries of justice and foreign affairs passed over for political reasons in the late 1940s and early 50s, veteran communists, as well as criminal judges who had ruled on 1956 cases and whose employment in the justice system had even become awkward for the ruling elite.<sup>78</sup>

At the same time, according to the reminiscences of those concerned, the department had a dual nature – on the one hand, it really did conduct comparative law research and published papers about it, while on the other hand it also organised the international relations of the institute. In addition – although most of the people at the department were employed as researchers – the documentation tasks also continued. So, the officials who generally spoke the language of one Western European and one neighbouring country undertook documentation duties along with their research.

The prominent role that Budapest played in the formation and organisation of socialist comparative law studies was probably related to the institutionalization of comparative law in

<sup>76</sup>About this institutionalisation in the English language see [Fekete \(2021\)](#) 336. and [Varga \(2021\)](#) 253–54.

<sup>77</sup>Csaba Varga mentioned a number of names and careers, professional and social backgrounds in an article of his entitled 'The start of a career at the Department of Comparative Law of the Institute of Political Science and Legal Studies of the HAS'. [Varga \(2010\)](#).

<sup>78</sup>Lamm (2012) 26.



Budapest and the personal scholarly prestige of professor Szabó.<sup>79</sup> The process began as a series of small steps in the 1960s. The first socialist comparative law roundtable workshop among jurists from friendly countries took place in 1969. The role of Budapest is also attested to directly by the fact that the French-language publication entitled *Introduction aux droits socialistes*, coedited by Knapp and Szabó, was published there in 1971.<sup>80</sup> Budapest was also the venue in 1975 for a roundtable discussion about the fundamental issues of socialist comparative law studies. The conference was attended by representatives of most socialist partner institutes.<sup>81</sup> It also represented preparation for the approaching international congress. But the truly massive Budapest event, the 10th International Congress of Comparative Law, was yet to come.

## 6. THE 1978 INTERNATIONAL CONGRESS OF COMPARATIVE LAW IN BUDAPEST

The organisation of the 10th International Congress of Comparative Law in Budapest (23–28. August 1978) was one of the greatest organisational efforts of the Budapest Institute of State and Law. Approximately 600 researchers participated in the work of congress. One hundred Hungarian lawyers helped to organize the event. The main host was director Imre Szabó, together with the head of the comparative law department, Zoltán Péteri.<sup>82</sup> It was the first time in the history of the congresses of comparative law that the event was organised in the capital of a socialist country.<sup>83</sup> That in itself was major recognition of socialist comparative law studies. Unfortunately, the international success of the event was soon overshadowed by health problems – Szabó became practically blind for the last decade of his life. As a result, in 1980 he finally retired as the director of the institute.

The recognition and awarding of academician Imre Szabó by such a prestigious international organisation of scholars was probably no accident, and it was equally related to his activity building the institutions of comparative law and his scholarly work. The significance of the latter was summarised by Balázs Fekete in a recently published volume entitled *The Science of Law* as follows:

<sup>79</sup>At the same time, no joint scientific research workshop of socialist comparative law was ever established in the countries of the Eastern Bloc. The work was done within the framework of bilateral, sometimes multilateral symposia, conferences or joint study trips. The member states of the Council for Mutual Economic Assistance, however, did organise regular discussions of legal issues from 1970, but that was at a different level. [Štefanovič \(1987\)](#) 42 and 89.

<sup>80</sup>[Štefanovič \(1987\)](#) 41–43.

<sup>81</sup>A lecture about the results of Czechoslovakian comparative law was given by legal historian Leonard Bianchi, but he came not from Prague but the Faculty of Law at Bratislava. See [Štefanovič \(1987\)](#) 81.

<sup>82</sup>[Bianchi \(1979\)](#) 421.

<sup>83</sup>The first two congresses took place at the seat of the International Academy of Comparative Law, established in 1924, in the Hague in 1932 and 1937. The third congress was delayed by World War II until 1950, and the venue was London. It was followed by congresses in Paris (1954), Brussels (1958), Hamburg (1962), Uppsala (1966), Pescara (1970) and Tehran (1974). The Budapest congress discussed above took place in 1978, followed by events at Caracas (1982), Sydney (1986), Montreal (1990), Athens (1994), Bristol (1998), Brisbane (2002), Utrecht (2006), Washington (2010) and finally Vienna (2014). See [link2](#).



It is difficult to assess the work of Szabó and Eörsi in comparative law due to the lack of a historic perspective. Nevertheless, we can formulate a few comments, largely based on the reflection of their work in the current international specialist literature. Based on the concept of types of law, Szabó created a coherent theoretical framework that allowed socialist jurisprudence to research Western legal systems without ‘ideological brakes’ and without ‘guilt’, while his conception also protected comparative law from a level of ideological influence that would have rendered it unacceptable in the West. Accordingly, Western scholarly circles accepted Szabó as an equal partner in debate, as evidenced both by the reviews of his work published in English and his positions abroad – particularly his chairmanship of the Académie internationale de droit comparé between 1978 and 1982.<sup>84</sup>

Many scholars attended the six-day congress sponsored by the Hungarian minister of justice and senior officials of the Academy. In line with earlier traditions, the individual keynote speakers based their speeches on the partial papers produced by national officials, whose names were generally included in the forewords of their reports or in footnotes. The proceedings of the congress were published in 1981.<sup>85</sup> The collection of papers shows that a jurist from Czechoslovakia was among the keynote speakers of the congress: the person in question was the still-active Milan Štefanovič, who, however, was affiliated to a Comenius University in Bratislava rather than the Prague Institute. Štefanovič was only a general rapporteur from Czechoslovakia. He dealt with agrarian law problems.<sup>86</sup> The Czechoslovak contributions to the world congress were published by Institute of State and Law of the Czechoslovak Academy of Sciences in the French language (title: *Travaux de droit comparé*).

At this point I must mention that, during this period, comparative law was studied in Czechoslovakia not only in Prague but also in Slovakia. Among the Slovakian comparative law scholars of that period, we should also mention Academician Štefan Luby (1910–1976), that great figure of Slovakian jurisprudence (and especially civil law) who devoted a part of his efforts to comparative law.<sup>87</sup> Luby published several important articles about comparative law in 1970s.<sup>88</sup> It was not his work in that field that rendered him famous, but he was one of the influences of Milan Štefanovič, too. There, however, the main workshop for comparative law was not the Institute of State and Law of the Slovakian Academy of Science, but rather the Faculty of Law at the University of Bratislava.<sup>89</sup> The faculty employed Milan Štefanovič, whom I have quoted several times in this paper, and who wrote the most complex overview of comparative law in Czechoslovakia prior to 1989, as well as the legal historian Leonard Bianchi.<sup>90</sup> Incidentally, back in the day Bianchi often lectured together with Knapp at the Faculty of Comparative Law in Strasbourg.

Returning to the 1978 Congress, it is worth reviewing the composition of the Czechoslovakian delegation. Viktor Knapp, who in 1978 was ‘only’ an ex-director, was not among the

<sup>84</sup>Fekete (2014) 437.

<sup>85</sup>Péteri and Lamm (eds) (1981) 1049.

<sup>86</sup>Bianchi (1979) 422. Knapp presented a report about civil law and parallelly he prepared a national report about the protection of zone of intimate sphere (privacy).

<sup>87</sup>Vozár (2016) 127–81.

<sup>88</sup>Luby (1970) 3–21.

<sup>89</sup>Knapp (1996) 10, footnote 28.

<sup>90</sup>Štefanovič (1987) 76.



keynote speakers, but he did send a national report for one of the topics. The jurists attending the congress from Czechoslovakia were as follows: official delegates of the Prague Institute: Josef Blahož,<sup>91</sup> Viktor Knapp, Pavel Kalenský, Otto Kunz; and from other Czech institutions Antonín Kanda, Jozef Zemánek, and Leonard Bianchi and Milan Štefanovič from Bratislava. In addition, a number of other Czech scholars of comparative law were present in an unofficial capacity, while the following people contributed to the success of the congress by producing or co-producing the national report: Karel Čapek, Jiří Grospič, Karel Svoboda, Jan Kostečka, Marie Kalenská, O. Wagner, Gustav Přenosil, Dagmar Císařová, and Juraj Vysokaj.<sup>92</sup> As a matter of interest, I should also mention that René David, the doyen of European comparative law studies, also attended the Budapest Congress as a keynote speaker.

In effect, the department of comparative law continued to operate until the end of the 1980s. During the 1980s, many scholars were transferred to other areas where they began to work on their areas of specialisation, while a few others passed on. It was no help that another ‘cold front’ impacted the international political climate. Finally, after the fall of communism, head of department Zoltán Péter also began to work in a different field, so he was unable to maintain his activity as a coordinator of comparative law studies at the same level of intensity. In effect, the Department of Comparative Law was dissolved after 1990 in its original form. Naturally, that did not mean that comparative law studies were discontinued altogether, but that is another – and much later – story.

The arc of development presented above, and the comparison of the organisational and partly scholarly achievements of the two directors have led to a paradoxical situation which can be largely summed up by stating that while Czech students of law still study Knapp’s textbook on comparative law (which was actually written after 1990), the same cannot be said about Szabó’s much more theoretical and hence more complex, and especially ideologically more committed work on comparative law. These are largely useful for the purposes of scientific research. I have already discussed the important role that those works played in preparing for the ‘grand opening’. True, Szabó did not even attempt to write a popularizing textbook in this context. It seems, after all, that history and posterity do conspire to bring certain things into balance.

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<sup>91</sup>Josef Blahož, who worked at the Prague institute, primarily studied Anglo-Saxon countries and in particular the comparison of the practices of constitutional courts, a field in which he wrote relevant scientific books. Later – but prior to 1989 – he became the second specialist in comparative law to head the Prague institute.

<sup>92</sup>For the Czechoslovakian report about that congress authored by Bianchi (1979) 421–23.



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