

VILMOS PESCHKA
(1929–2006)

Professor Vilmos Peschka, editor-in-chief of this review, member of the Hungarian Academy of Sciences passed away on 25 July 2006 at the age of 77. He departed this life as a prominent scholar on legal philosophy during the period following the Second World War in Hungary.

Vilmos Peschka was born at Budapest on 17 December 1929. He graduated from the Law Faculty of Eötvös Loránd University (Budapest), where he obtained a diploma *summa cum laude* in 1954. Between 1954 and 1957 he pursued postgraduate studies in legal philosophy. From 1 September 1957 he was a research fellow at the Institute for Legal Studies of the Hungarian Academy of Sciences up to his retirement in 1999.

Through little short of three decades from 1960 he was teaching civil law at the University of Budapest.

In January 1958 he defended his candidate's thesis (PhD) entitled “Basic Questions of the Theory of Legal Relations” (A jogviszonyelmélet alapvető kérdései) and published by Közgazdasági és Jogi Könyvkiadó in 1960. His second thesis in “Sources of Law and Legislation” (Jogforrás és jogalkotás) he submitted in 1968. He had not yet completed his 50th year when in 1976 he was elected an associate member of the Hungarian Academy of Sciences, in 1982 he became a full member of the Academy.

Professor Peschka was the most outstanding Hungarian scholar of legal philosophy in the last third of the 20th century, one whose work was a worthy continuation of the activities of three Hungarian Neo-Kantian philosophers of law—Felix Somló, Gyula Moór and Barna Horváth—, who had deserved recognition even abroad in the first part of the last century. Professor Peschka's first greater works, his thesis in the theory of legal relations, had shown his greatest assets, primarily his ability to treat fundamental questions of legal philosophy in such a way as to enable both practicing lawyers and scholars to read his writings with pleasure and benefit. As far back as his early works he had broken with an even levelled criticism at socialist normativism. The fact that he had argued for recognizing the law-making function of the judiciary was

seen as a novel contribution particularly in the Hungarian literature of that period. He maintained that the Supreme Court, by its authoritative rulings handed down while interpreting laws and regulations, was actually making law, postulating, however, that the place in the sources of law and the material boundaries of such judicial legislation were exactly established.

The most productive period of his creative work was marked by the 1970s and the 1980s. He focused his scientific activity on dealing with problems of legal philosophy, while publishing several studies on civil law. His book entitled “Fundamental Problems of the Modern Philosophy of Law” (A modern jogfilozófia alapproblémái)–Gondolat Kiadó, 1972–, which presented the contemporary legal philosophy in Western Europe, can be said to have been a pioneering work under conditions of socialism. It continues to be the best overview in Hungarian of the fundamental issues of legal philosophy and will remain so for long, inasmuch as it has even been published in Japanese (Horiku Bunka Sa Co., Kyoto, 1981) on the basis of the German translation, which was edited under the auspices of Akadémiai Kiadó. It was at that time that his monograph on “The Theory of Legal Rules” (A jogszabályok elmélete) appeared, discussing the theory of legal norms as the most basic notion of law and jurisprudence, and this in a way that it is at least as exciting reading for somebody who is familiar with the philosophy of law as it is valuable and useful to the legal practitioner. This cannot be said except of the truly great works on legal philosophy. Similarly, his writing on “Max Weber's Sociology of Law” (Max Weber jogszociológiája; Akadémiai Kiadó, 1975), which was a pioneering work when published and is a classical one today, is still an exciting read. To Vilmos Peschka the relationship between morality and law was more than a question of legal philosophy, for he, in his writings as well as in his life, was a great moralist, as were many among the philosophers of law negating the inevitable relationship between law and morals. He rejected the views on immanent moral value and justice of law, his experience gave him good reason to do so, but the moral issues, perhaps for that very reason, remained fundamental, to him. This is witnessed by his volume on “The Appeal of Ethics” (Az etika vonzásában; 1980), which is a summary of his writings on ethics. His selected studies were published under the title “Law and the Philosophy of Law” (Jog és filozófia; Közgazdasági és Jogi Könyvkiadó, 1980); they contain his fundamental study “Expediency in the Working Process and in the Legal Norm” (Célszerűség a munkafolyamatban és a jogi normában), which is a basic exposition of his concept of law.

The monograph on “The Special Character of Law” (A jog sajátossága; 1988) is Professor Peschka's comprehensive work on the philosophy of law, one that constitutes a system on the subject. The title is connected in the

reader's mind with György Lukács's great work on “The Special Character of the Aesthetic Quality” (Az esztétikum sajátossága), the reference being no accident as Professor Peschka was also an admirer and follower of György Lukács, but he did not share all of the latter's views. Features common to their mentality were an anti-Stalinist Marxism free from Leninism, which was then called Western Marxism, and the determinate role played by the tradition of the classical German philosophy and of German erudition in general. Professor Peschka was a Marxist but (contrary to Lukács) no Communist. This he spelled out clearly in his writing on the “Marxist and Socialist Theory of Law” (Marxista és szocialista jogelmélet), which was published in 1966. It is a fact that Professor Peschka's lifework is the only worthy equal of György Lukács's, the best-known Hungarian philosopher, in the legal philosophy.

His book of the 1990s entitled “Appendix to, ‘The Special Character of Law’” (Appendix, A jog sajátosságához; Közgazdasági és Jogi Könyvkiadó, 1992) was concerned with the achievements of legal hermeneutics.

To Vilmos Peschka the aesthetic quality was a fundamental value. He was passionately fond of literature, and a man of amazingly wide reading. When in company of others, he liked quoting Shakespeare, Goethe, Thomas Mann or, of Hungarian authors, Gáspár Heltai or the poet Endre Ady. The shelves in his Budapest home were overloaded with books in exemplary order, including legal and philosophical works as well as classics, Hungarian and foreign, and the latest literary works, being as he was a regular reader of contemporary literature as well. Moreover, he was a lover and connoisseur of music, fine arts and theatre. A friend of his ironically called him an aesthete of law, a “hallmark” he accepted, and rightly so, as he was indeed one.

This was perhaps an added reason that in the 1980s he was chosen to be a co-editor-in-chief of the Academy's Pocket Lexicon (Akadémiai Kislexikon; I-II. Akadémiai Kiadó, 1990), but it was likewise natural that he should have become co-editor-in-chief of the Lexicon of Law (Jogi Lexikon; Közgazdasági és Jogi Könyvkiadó, 1999).

Vilmos Peschka was an active figure of the scientific community both in Hungary and abroad. In former times was a member of several committees of the Hungarian Academy of Sciences. From 1992 he served as editor-in-chief of *Acta Juridica Hungarica*. Until his death he was President of the Hungarian Section of the International Society of Legal Philosophy (IVR), between 1983 and 1987 he sat on the Board of Directors of that Society, and from 1978 he was a member of the Editorial Board of the *Archiv für Rechts- und Sozialphilosophie*.

In 2001 he received the Széchenyi Prize, the highest award for scientific life achievement in Hungary.

He was keenly concerned with young people, carefully examining works of his students and promoting their careers with sound pieces of advice. He willingly read manuscripts of any authors seeking his views. Although one of the greatest living Hungarian philosophers of law, he was never allowed to teach philosophy of law at university.

A genuine sociable person, he had many friends, liked friendly gatherings and passionate conversations. Receiving someone into his friendship was considered to be a privilege.

He adored Lake Balaton. Fate was gracious to him, death overtaking him in his sleep while on summer holidays by a beautiful lake-shore.

In duty to his wish, his last repose is in Óbuda Cemetery of Budapest. His burial was attended only by his closest relatives, as he had willed. His friends, students, sometime colleagues, and admirers could not pay the last honours to him except in thoughts.

Vanda Lamm