

## ANNIVERSARY: COMMEMORATING THE 90TH BIRTHDAY OF FERENC MÁDL, PRESIDENT OF THE REPUBLIC (2000-2005)

# Ferenc Mádl, the Hungarian Professor of European Law

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### Abstract

*Living in a country under foreign occupation he became engrossed in the science of private law, and (under the influence and with the support of his masters) he started to study the characteristics of socialist, and later of Western European legal systems. Within the socialist bloc, he became one of the early experts on Common Market law, who, following an unexpected historical event, the 1989 regime change in Hungary, was also able to make practical use of his theoretical knowledge for the benefit of his country. In 2021, on the 90th anniversary of his birth and the 10th anniversary of his death, the article remembers Ferenc Mádl, legal scholar, member of the Hungarian Academy of Sciences, minister in the Antall- and Boross governments, former President of Hungary.*

**Keywords:** Ferenc Mádl, private international law, Central Europe, V4, Hungary.

### 1. Family Background and Childhood

Ferenc Mádl was born in Bánd, Veszprém County, on 29 January 1931. The erstwhile province of Pannonia, Transdanubia, where his native village was located, had been a part of the Roman Empire for four centuries, uniting significant territories of Europe linguistically, culturally and religiously for the first time. Even with the arrival of the Hungarians the region did not lose its significance: the two neighboring settlements, Veszprém and Székesfehérvár have been important cultural, commercial and administrative centers since the founding of the Hungarian state. It was on the border of the former that the decisive battle between Prince Stephen and leader Koppány took place, as a result of which Hungary confirmed its affiliation with Western Europe and the Roman Church. This decision had both cultural and state organizational consequences. Veszprém, one of the earliest Hungarian Episcopal seats, became “the first citadel of Hungarian legal culture, higher education in law”<sup>1</sup> already in the Árpád-era

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1 Ferenc Mádl, ‘Európa és a magyar jogrendszer’, in Ferenc Mádl, *Az európai örökség útjain*, Athenaeum, Budapest, 1995, p. 24.

since in the 13th century a school providing legal training operated here. “Veszprém – its beauty, history, landscapes speak for themselves”, noted Ferenc Mádl as minister, explaining his close affinity to the city. Székesfehérvár, which is also not far from Bánd, was the first center of the Hungarian Kingdom, the coronation city and resting place of many Hungarian kings, the venue of our first parliaments. Among other things, it was also here that the Golden Bull<sup>2</sup> (*Aranybulla*) which can be considered as one of the earliest declarations of human freedom rights, was proclaimed in 1222.

Thus, although the village of Bánd re-founded by German settlers after the Turkish occupation, “never play[ed] a major role in the culture and public life of the nation”<sup>3</sup> before, history was nevertheless alive in the area, it was present in everyday life, as the ruins of a medieval castle standing on its borders suggested.

The Mádl family has lived in the village since the 18th century. Ferenc Mádl’s parents were farmers who raised six children: three boys and three girls.<sup>4</sup> In one of his early biographies, Mádl described the financial situation of his parents in detail:

“I was born ... as a child of poor peasants on both sides ... Before the liberation my parents used to be day-laborers [...] [after 1945 – E. D.] my parents were able to take over the grandparents’ small farm of 5-6 acres due to their old age. Until March 1959, they worked as individual farmers there.”<sup>5</sup>

Professor Mádl repeatedly emphasized that despite the humble circumstances, his parents provided education for all of their children and all of them graduated. In the twilight of his life, he recalled,

“It is my parents to whom I owe everything. With their human attitude, moral, religious values, diligence, and undeniable human culture, they gave us, children, a start that has defined our lives. [...] I always remember the cleanliness of my mother [...] no matter how hard life was, we always wore clean clothes, our modest home was always clean. Despite being a peasant, my father was highly educated, so he gave us not only Holy Scripture and other devotional works, but also serious literature. I read Széchenyi, Kossuth at home.”<sup>6</sup>

2 See the standpoint of István Csekey, a professor of law in Pécs, quoted by Gábor Schweitzer, ‘Judgment of Act I of 1946 in Contemporary Public Law Literature’, *MTA Law Working Papers*, 2016/14, p. 9. Mádl repeatedly referred to the Golden Bull as an early forerunner of the rule of law, see e.g. ‘A Ius Commune Europae-től az európai közösségi magánjogig – jogi gondolkodás Magyarországon’, in Miklós Király (ed.), *Quo vadis Europa? A magyar államfő Európában*, KJK-Kerszöv, Budapest, 2004, pp. 157-163.

3 Zoltán Balog, ‘Köszöntő előszó’, in *Mádl Ferenc 80*, MPEE, Budapest, 2011, p. 5.

4 ‘Rólunk is szól a mese. Beszélgetés Mádl Ferencsel’, *Magyar Nemzet*, 10 June 2000, p. 25.

5 *Mádl Ferenc önéletrajza*, 22 July 1959, MTAL 68. d. 68/2. Cs.

6 *Magyar Nemzet* 2000, p. 25.

Endre Domaniczky

Ferenc Mádl attended elementary school in Bánd and Szentkirályszabadja,<sup>7</sup> then, between 1943 and 1951 he studied at the Piarist grammar school in Veszprém. It was the oldest Piarist school in the territory of the country after 1920, having been founded in 1711.<sup>8</sup> The grammar school was not only one of the best schools in Hungary, but also an intellectual center, the impact of which spread far and wide both in space and time. Among others, János Batsányi (1763-1845), the famous poet of the Enlightenment, Gusztáv Wenzel (1812-1891), a law professor of European impact at the University of Pest, the pioneer of teaching comparative legal history in Hungary, and Jenő Cholnoky (1870-1950), the internationally renowned geographer, former president of the Hungarian Geographical Society also studied there. The atmosphere of the school, the excellent teachers had a great influence on the young man, who until his death<sup>9</sup> had a close relationship with his former schoolmates and the Piarist order.<sup>10</sup> Perhaps it is no exaggeration to say that Mádl's worldview, in addition to his parents' house, was largely shaped by the formative years in Veszprém.

Following his excellent matura examination, Ferenc Mádl applied for a place at the University of Pécs.<sup>11</sup> "My father conveyed to me that I should be a lawyer or a priest. [...] He said I had to deal with people, people's affairs."<sup>12</sup>

## 2. Pécs and Budapest: the Influence of the University Years

Mádl applied to the Law Faculty in Pécs, but he completed only two years of university, because in August 1953 he applied for a transfer to Eötvös Loránd University (ELTE) in Budapest. Despite his difficult financial situation, he was

7 Ferenc Mádl lived here between 1939 and 1945. See 'Diszpolgári cím Mádl Ferencnek', *Veszprémi Napló*, 21 August 2006, p. 3.

8 About its history, see in particular: András Lichtneckert & Ferenc Tölcséry, *A veszprémi piarista gimnázium története az alapítástól az államosításig 1711-1948*, Veszprém, 2011; Tibor Borján (ed.), *Emlékkönyv a veszprémi Kegyeztetőrendi Gimnázium alapításának 275. évfordulójára 1711-1986*, MPDSZ, Budapest, 1986; László Lechner (ed.), *Alma Mater a veszprémi várban*, VPÖD, Veszprém, 2003.

9 He passed away in 2011 while traveling to Veszprém, to the 60th graduating reunion meeting. According to Ferenc Oberfrank, former president of the Hungarian Piarist Student Association: "On Sunday morning, 29 May 2011, Ferenc Mádl left for a graduating reunion meeting of Piarist alumni in Veszprém, but his journey eventually led him to his Creator." See at <https://hirlevel.mpdsz.piarista.hu/node/93>, 03 March 2021.

10 His friendship with József Antall was also partly based on a common feeling of attachment to the school. PM Antall attended the Piarist grammar school in Pest between 1942-1950.

11 Pécs was founded by the Romans in the first century AD and remained one of the most important religious and cultural centers even after the Hungarian conquest. The city is still proud that the first Hungarian university was established here in 1367. However, the university where Mádl enrolled was the successor of Elizabeth University, founded in Pozsony (Bratislava) in 1912, called the University of Pécs since 1951. Due to the border changes after World War I, the University of Pozsony (Bratislava) moved to Budapest in 1919 and then to Pécs in 1923. See also Act XXXVI of 1912 on the establishment of the Hungarian Royal Universities in Debrecen and Pozsony (Bratislava); Act XXV of 1921 on the temporary transfer of the University of Pozsony (Bratislava) and the University of Kolozsvár (Cluj-Napoca).

12 *Magyar Nemzet* 2000, p. 25.

also an excellent student in Pécs, although (“despite the fact that we had some excellent teachers [...]”) university education “was a huge disappointment then”.<sup>13</sup> László Sólyom, a later colleague and co-author, who was a fellow-student a few years under him, also confirmed this rapid fall in the standard of education in his memoir.<sup>14</sup>

However, Mádl was rather fortunate, because during the transition period when he was at Pécs University, the old and the new teaching staff still taught together for a while. He was one of the last students to listen to the lectures of József Holub,<sup>15</sup> one of the greatest Hungarian legal historians. He also took the exam at another excellence in Hungarian legal history, Alajos Degré.<sup>16</sup> Finally, it should be mentioned that it was also in Pécs that his scientific interest was sparked, it was recognized, even encouraged there. He wrote his first scholarly work in Pécs in 1953 on administrative law, with which he won first prize in a competition announced by the Faculty of Law.

Although the author was young and inexperienced and the writing still unpublished,<sup>17</sup> Mádl considered it to be his first scholarly work.<sup>18</sup> Even today, the paper can be considered a clear and mature legal study. The system of arguments Mádl’s employs in later scientific writings is almost entirely recognizable here; *the comparative legal method, the strong (legal) historical interest, the clarity of questioning and the logical derivation free from detours* all appear in the opus. No wonder one of his opponents wrote the following in his proposal about the young (sophomore) student:

13 Id.

14 “I went to study law without any particular enthusiasm, and a month later I saw that it was a disaster: it was a terrible place where nothing could be gained. [...] We soon saw the fallibility of the teachers. There were those who put on airs, some who did not even do that.” See ‘Hagyni kell történni a sorsot. Interjú Sólyom Lászlóval’, *Századvég*, 2004/1, pp. 135-177.

15 József Holub (1885-1962) was a humanist in inhuman world and preserved his civilian values throughout the dictatorship. “He was one of those who could not or did not want to cross the Rubicon of the socialist era.” Andor Csizmadia, ‘A jogtörténeti oktatás a pécsi tudományegyetemen a két világháború között. Kérészy Zoltán és Holub József munkássága’, in Tibor Páp (ed.), *Jubileumi tanulmányok II.*, Tankönyvkiadó, Pécs, 1967, p. 125. The parts of his notes from his last, 1950/1951 lectures, on the law of medieval Europe contain statements that still hold true. MTA Könyvtára, MS5205/20.

16 See more on the life and work of Alajos Degré: Gábor Béli, ‘Degré Alajos, a jogtörténész’, *Jura*, 2006/2, pp. 6-13; András Molnár (ed.), *Levéltáros elődeink*, ZML, Zalaegerszeg, 2006. His notes based on the lectures of the 1950/1951 academic year are available again under the editorship of his department’s successor, Gábor Béli. Gábor Béli (ed.), *Alajos Degré: Magyar alkotmány- és jogtörténet*, PTE ÁJK – Publikon Kiadó, Pécs, 2010.

17 Ferenc Mádl, *Az államigazgatási alkalmazottak anyagi felelősségének rendezése*, Unpublished.

18 Archives of the HAS node 699/429, Ferenc Mádl’s application for an independent postgraduate scholarship, Annex No. 2 (My scientific works and works of scientific nature to date).

“The author of the dissertation has a huge potential for development, and if he continues his studies seriously, a lot can be expected from him. I consider the dissertation<sup>19</sup> to be [...] the most outstanding of all the works.”<sup>20</sup>

However, despite his excellent academic results, young Mádl had to leave the university, as he refused to be engaged in political work despite the wishes of the “*hard-liner dean*”. Mádl, however, took a firm stand for his conviction although he was aware that retaliation might occur. The fact that the story ended well was only down to luck, as the dean of the Faculty of Law of Eötvös Loránd University at the time, Professor Miklós Világhy, transferred him to Budapest out of turn. Ferenc Mádl’s modesty is evidenced by the fact that although he could have benefited from it after the change of regime, he never boasted about this story, he spoke about it<sup>21</sup> only once in his life in a few sentences. The details were reconstructed from archival documents found accidentally.<sup>22</sup>

Mádl was a student at Eötvös Loránd University (ELTE) from 1953 to 1955, where he continued his legal studies with excellent results and graduated “with a diploma with distinction”.<sup>23</sup> It became almost immediately clear that he only benefited from the change of university, and here we should not primarily think of the distance between the capital city and the native village or the higher scholarship with which Mádl politely justified his request for transfer.<sup>24</sup> The main gain (“despite the fact that one-party state rhetoric was prevalent here as well”<sup>25</sup> and the purges were also active) was that some old professors still taught there, who were able to maintain their positions in the capital much longer than in the countryside.

Thus, Mádl was able to continue the research he had started in Pécs in close proximity to the greatest, internationally renowned authorities in the field. Géza Marton, professor of Roman law, one of the most outstanding experts in liability, Endre Nizsalovszky, a civil lawyer-turned-*polyhistor* who in addition to law made

19 A total of 42 entries were received from students from different years. In light of this, recognition is even more important.

20 *Opinion of Professor Rezső Hilscher*, 1 June 1953, PTE EL VIII.202.d. 414. Professor Hilscher (1890-1957) was one of the most important Hungarian social politicians. He graduated from the University of Law in Budapest, in 1944, he worked as a lecturer at the Miskolc Law Academy, between 1949 and 1955, he was professor and head of the Department No. 2 of Public Administrative Law (administrative law and financial law). See the lecturer’s data in the Almanac of the University of Pécs, at <https://almanach.pte.hu>.

21 *Magyar Nemzet* 2000, p. 25. It reveals Mádl’s attitude that he didn’t tell the story even when it could have been to his advantage. In 1993, specifically, he averted the inquiry by saying, “Look, I don’t want to tell epic stories in retrospect.” See ‘Legyen az oktatás stratégiai ágazat’, in Mádl 1995, p. 157.

22 The documents related to transfer can be found in two places: in Pécs, in the University Archives and in Budapest, in the Hungarian National Archives. I would like to thank Director István Lengvári and Petra Polyák, director of the archives for their help in searching for the material. For more information on transfer, see Endre Domaniczky, *Mádl Ferenc a pécsi jogi karon (a PTE Egyetemi Levéltár iratanyaga alapján)*, forthcoming, 2021.

23 *Mádl Ferenc önéletrajza* 1959.

24 Ferenc Mádl’s transfer application dated 28 August 1953, MNL XIX-J-5-a. 214 d. F847 / 855 cs.

25 *Magyar Nemzet* 2000, p. 25.

his mark in the field of legal history and literary history, his student association supervisor, Miklós Világhy and later boss, professor Gyula Eörsi taught or assisted him.

In 1955, Mádl as a fourth-year law student (this time with his significantly extended topic) also entered the second national law student associations' conference (TDK)<sup>26</sup> at Eötvös Loránd University, where his lecture attracted a lot of attention and generated intense discussion. His dissertation entitled "The historical formation of the objective liability system" (*Az objektív felelősségi rendszer történelmi kialakulása*) was the result of "extensive source research, careful study of relevant foreign literature"<sup>27</sup> and won first prize at the conference.<sup>28</sup> In fact, this dissertation and this conference made him nationally known and set out the further direction of his research; his extensive, more than half a thousand-page PhD dissertation grew out of this research conducted over nearly ten years.

Although Mádl became a practicing lawyer after graduating, this proved to be only a short detour in his life. "After completing my university studies, I was appointed by the Minister of Justice first as a trainee judge and then as a court secretary at the Budapest District Courts<sup>29</sup> for Districts No. XIX and IV."<sup>30</sup> He worked in Kispest (District No. XIX) in 1955-1956 and in Újpest (District No. IV) in 1956.<sup>31</sup> He dealt with civil affairs in both places,<sup>32</sup> but his scientific work was not neglected either. "I was [p]ursued by the passion of writing, I found it hard to bear when I had blank paper in front of me," he recalled, already a minister, this period.<sup>33</sup>

### 3. Official and Researcher of the Hungarian Academy of Sciences

In that period, the Main Committee of Law and Political Sciences of the Hungarian Academy of Sciences (HAS) was

- 26 This competition could be considered the forerunner of the National Conference of Scientific Students' Associations (the so-called OTDK). For more information on the history of OTDK, see at [https://otdk.hu/upload/files/4.%20A\\_magyar\\_tudomanyos\\_diakkori\\_konferenciak\\_tortenete\\_2011.pdf](https://otdk.hu/upload/files/4.%20A_magyar_tudomanyos_diakkori_konferenciak_tortenete_2011.pdf).
- 27 Iván Szász, 'Második országos jogász diákköri konferencia', *Jogtudományi Közlöny*, May 1955, p. 319.
- 28 List of Ferenc Mádl's scientific works for the application for an independent postgraduate scholarship, MTAL 429 d. Dossier 699/429.
- 29 The exact name of the courts at that time, according to Section 2 of 177000/1950. (XII. 10.) IM Decree on the division of the administration of law, was Budapest District Regional Court IV and XV, and Budapest District Regional Court XVIII-XIX.
- 30 *Mádl Ferenc önéletrajza* 1959.
- 31 Personal data sheet of Ferenc Mádl dated 29 October 1985, MTAL Personnel Documents 576. d. 6. cs.
- 32 'Legyen az oktatás stratégiai ágazat', in Mádl 1995, pp. 157-158; Ferenc Mádl's application for postgraduate scholarship, 24 November 1959, I/1, MTAL d. 429 699/429 dossier.
- 33 'Legyen az oktatás stratégiai ágazat', in Mádl 1995, p. 157.



Endre Domaniczky

“[...] the main organizer and manager of scientific work in the field of political and legal sciences. Its activities include[d] ensuring the systemic arrangement of political and legal sciences, promoting the raising of its standard, organizing comprehensive scientific lectures of fundamental importance, and debates and organizational issues affecting the entire state and legal sciences [...]”<sup>34</sup>

Despite the existing dictatorship, the composition of the Main Committee was shaped by professional considerations. This is why in 1954 the chief legal cadre of the period, Academician Imre Szabó, could write with great pride that “the significant results in our Law and Political Sciences have been achieved in close cooperation between old and new legal scholars.”<sup>35</sup>

After graduating, Mádl continued to be in touch with his former teachers, who, in addition to teaching, also participated in research and sometimes in practical legal work.<sup>36</sup> Among them, Academician Endre Nizsalovszky, with whom Mádl, even as a university student came into the closest contact, “even before his release, he was the head of the department at the Budapest Faculty and was one of our best-known private lawyers appreciated abroad as well.” The new system could not dispense with his knowledge either, and in the first half of the 1950s Nizsalovszky

“participated in a wide range and with great zeal [...] in almost every line of our legal life: he was a corresponding member of the Academy of Sciences, member of the Main Committee on Legal Affairs, chairman of the Scientific Council of the Institute of Law and Political Sciences, member of the government committee preparing the civil code [...]”<sup>37</sup>

It was with his help<sup>38</sup> that in May 1956,<sup>39</sup> Mádl was transferred as a “rapporteur-general” from the court to the Office of the HAS.

Initially, he was a “clerk-specialist in Law and Political Sciences and an administrator of international relations at the Department of Social-Historical Sciences”<sup>40</sup> who worked under the direction of the coordinator. His duties also

34 ‘Az Állam- és Jogtudományi Főbizottság munkájáról’, *Jogtudományi Közlöny*, March 1955, p. 184.

35 Imre Szabó, ‘Az állam- és jogtudományi kongresszus után’, *Szabad Nép*, 6 December 1954, p. 4.

36 See ‘Jelentés a Politikai Bizottságnak a jogi oktatás és a jogtudomány helyzetéről’, 18 February 1954, II /2, in Béla Révész, *Iratok az Igazságügyi Minisztérium történetéből 1944–1990*, IM-MHKK, Budapest, Issue 2, 2016, pp. 397–405.

37 The June 1954 proposal of academicians Károly Szladits and Béla Fogarasi for the election of Endre Nizsalovszky as a full member, MTAL Department No. 2 files, 66 d. dossier 9.

38 *Magyar Nemzet* 2000, p. 25; ‘Legyen az oktatás stratégiai ágazat’, in Mádl 1995, pp. 157–158.

39 Questionnaire related to the candidate’s dissertation completed on 23 November 1959, MTAL 429 d. 699/429.

40 *Mádl Ferenc önéletrajza* 1959.

included editing the Departmental Proceedings<sup>41</sup> and *Acta Juridica*,<sup>42</sup> the “HAS foreign language journal of legal studies”.<sup>43</sup>

Mádl enthusiastically threw himself into the organizing work, and although Nizsalovszky was condemned to silence for his activities in the 1956 revolution, Mádl was allowed to remain. Based on the incomplete and partly unsorted documents in the Archives of the HAS, Mádl cultivated good relationships<sup>44</sup> not only with the members of the academic administration but also with actors of scientific life, including his former teachers in Pécs and Budapest.<sup>45</sup>

Meanwhile, he also made progress with his scientific work. He was supported in this field probably not only because of his performance at the workplace, but also because of his previous writings, which had a general resonance in professional circles. Mádl obtained his doctoral degree in 1957, and in 1958, as a contributor to the Institute of Law and Political Sciences, he also engaged in research in an organized way, on a weekly day-off for research, which he was granted for this purpose. And in 1959, as an individual aspirant, he could begin preparing for his next academic degree.

The postgraduate scholarship was under the strict supervision of the HAS at that time. In addition to their academic performance, candidates ranked by family background had to take serious professional and ideological exams and then report regularly on their progress. Their study plan was approved by the Scientific Qualification Committee, and their language and final exams were also decided by the Committee. It appears from Ferenc Mádl’s application for admission in the Archives, his study framework and some of his grade sheets, his scientific research carried out diligently since his university years, even in addition to his daily work was highly appreciated by the Scientific Qualification Committee. Moreover, his poor peasant class background was taken into account, as well as the fact that “until the beginning of his university studies [...] he also worked as a manual worker.”<sup>46</sup> His high level of language proficiency (he had already taken an advanced language exam in German and English at university

41 The organization and composition of Department No. 2 1958, documents of MTAL No. 2, 68 d, dossier 1.

42 *Mádl Ferenc önéletrajza* 1959.

43 He also highlighted his technical editorial work in his postgraduate scholarship application, 24 November 1959, I/5., MTAL 429. d. 699/429. dossier.

44 The cultivation of acquaintances was also facilitated by performing his duties at work, as part of the postgraduate scholarship affairs of No. 2 passed through his hands and, although he had not yet completed the training himself, e.g. he was allowed to be present at the meetings of the postgraduate scholarship committee. However, Mádl, as one of his later colleagues emphasized “[d]id not like the cult of celebrity in the field of science either.” László Trócsányi Sr., *Jogászai pályafutásom*, Nagy and Trócsányi Law Office, Budapest, 1995, p. 78, but he helped everyone.

45 See e.g. the private letters from Lóránt Rudolf, Alajos Degré or István Szászy and László Trócsányi Sr. written to him in the Archives of the HAS.

46 The opinion of the MSZMP (Hungarian Socialist Workers’ Party) organization of the HAS on Ferenc Mádl’s application, 26 November 1959, MTAL 429 d. Dossier 699/429. Mádl never kept it secret that “due to the difficult financial situation of my parents, I had already been working constantly during my high school studies. I gave language lessons; [I worked] as an unskilled iron worker [...], as a manager [...], as an unskilled mine worker [...]”. *Mádl Ferenc önéletrajza* 1959.



and had a good command of Latin<sup>47</sup> since grammar school) was also acknowledged and in view of this, he was exempted from the compulsory language exam.<sup>48</sup>

Mádl was able to start his studies as an independent aspirant, *i.e.* he was expected to continue the research he had already started while working, primarily on his own schedule.<sup>49</sup> His supervisor was Miklós Világhy, who, although temporarily ousted from the leadership of the university after 1956, remained an indispensable factor in legal education and research.

The dissertation was originally entitled “Objective responsibility and its theory. Development history study” (*Az objektív felelősség és elmélete. Fejlődéstörténeti tanulmány*).<sup>50</sup> Most probably in 1963, just before submission, the title was changed to “Tort responsibility in the history of the development of law and society” (*A deliktuális felelősség a jog és társadalom fejlődésének történetében*)<sup>51</sup> to cover Mádl’s research more appropriately. Despite the fact that Mádl was given a day-off for research, due to his workload, he was only able to pass his candidate exams after the deadline was extended. Eventually, his defense was only carried out almost a year after the submission of the dissertation. The chairman of the reading committee was Endre Nizsalovszky, and its members included István Szászy,<sup>52</sup> an excellent international lawyer who was ousted in the early 1950s and banned from university education, similarly to Nizsalovszky. Later, Mádl worked in close scientific cooperation with the Szászy.

The defense was long, but at the end the most outstanding lawyers of the period unanimously proposed that Ferenc Mádl be awarded the degree of candidate. It is worth recalling the comment Gyula Eörsi made, who was Ferenc Mádl’s superior at the research institute:

“[...] now, in fact [...] a scientific ceremony is taking place here. Since this is what it can be called when someone over many years of painstaking, arduous labor creates work which I think everyone agrees, easily clears the hurdle of requirements for a candidate dissertation.”<sup>53</sup>

47 It was with such foundation that he began learning French and Russian during his postgraduate scholarship. *See also Magyar Nemzet* 2000, p. 25.

48 Cf. Section 3(2)(d) and Section 5(3)(c) of MTE Decree 7269/1950. (XII. 7.) on the implementation of the Law Decree on the regulation of the introduction of the new-system academic degree and its acquisition.

49 Cf. Section 3(2) of Decree 41/1959. (X. 3.) Government Decree on aspirant training and academic degrees.

50 Ferenc Mádl’s study framework, 13 January 1961, point II, MTAL 429. d. 699/429 dossier.

51 Letter from Sándor Kónya, coordinator, inviting opponents, 14 March 1963, MTAL 429 d. 699/429 dossier.

52 On the role of Nizsalovszky in 1956, *see* Ferenc Mádl, ‘Endre Nizsalovszky (1894-1976)’, in Gábor Hamza (ed.), *Magyar jogtudósok II.*, Professzorok Háza, Budapest, 2001, pp. 129-146. On putting István Szászy aside, *see* László Burián, ‘István Szászy (1899-1976)’, in Hamza (ed.) 2001, pp. 149-168; and Endre Domaniczky, ‘Adalékok Szászy István jogászprofesszor 1950-es évekbeli elhettelenítéséhez’, *Jogtörténeti Szemle*, 2020/3 (forthcoming).

53 Minutes on the discussion of Ferenc Mádl’s candidate’s dissertation, 5 February 1964, MTAL 429 d. 699/429, p. 9.

#### 4. An Examination of European Legal Systems Comes to the Fore

Gyula Eörsi, himself a student of Károly Szladits and Endre Nizsalovszky, who praised Mádl's work with such approval,

"[...] was the greatest and internationally perhaps the most recognized representative of Hungarian civil law after 1945. [...] he was not simply a scientist. At the Faculty of Law of Eötvös Loránd University, he was an enthusiastic supporter of the civil law students' association, a dedicated talent scout who felt, almost unmistakably, in more and more young people that they are the people of the future."<sup>54</sup>

He also spotted talent in Mádl, who had a part-time job in the civil law department under his supervision at the Institute of Law and Political Sciences of the HAS between 1958 and 1967. Therefore, when

"Western Europe became interested in Marxist jurisprudence in the early 1960s [...] some students [...] were allowed to travel to study. We were the first, then gradually more and more people could go."<sup>55</sup>

Mádl studied comparative law between 1961 and 1963 in Strasbourg, where, after graduation, he regularly returned to teach for a long time.<sup>56</sup> Moreover, he also attended conferences and went on study visits abroad, and in 1967, he taught and did research in the US. He witnessed the differences between the legal systems of the Western and Eastern Blocs locally and with his own eyes, and he saw the differences in culture and lifestyle as well.

Due to his language skills, professional status and growing international experience, in 1963, *he was appointed to the research groups studying economic integration in Western Europe and Eastern Europe* at the Institute of Law and

54 Tamás Sárközy, 'Aki a tüzet ivóvízzé változtatta (Eörsi Gyula halálára)', *Kritika*, 1992/6, p. 19. For more on Gyula Eörsi, see e.g. János Verebics (ed.), *Eörsi Gyula Emlékkönyv 2018*, MKLK, Budapest, 2018.

55 *Magyar Nemzet* 2000, p. 25.

56 Biography of Ferenc Mádl, 19 November 1974, MTAL 429 d. 699/429 dossier. See also "[...] the comparative law course in Strasbourg, which lasted two months a year for three years, had to be completed by everyone. [...] And the elders of the institute taught there." 'Hagyni kell történni a sorsot. Interjú Sólyom Lászlóval', *Századvég*, 2004/1, p. 145.

Political Sciences of HAS.<sup>57</sup> The former research group was led by Imre Szabó,<sup>58</sup> the latter by Gyula Eörsi, and in both Ferenc Mádl worked together with Géza Herczegh,<sup>59</sup> later a member of the Hungarian Constitutional Court and the ICJ in the Hague. So, even before obtaining the candidate's degree he found his new research topic, in which he was absorbed partly due to his trips and studies abroad and partly due to the tasks received at the research institutes. Although he continued his research within civil law, his interest shifted from sheer private law issues to border areas, private international law, and international trade law.

Studying private international law had significant history in Hungary, but Mádl was not satisfied with the characteristic mechanical analysis. Within a short period of time he not only became an expert on the subject but moving within the Marxist frameworks he was able to shift the focus of his research from the East to the economic integration of Western European states.<sup>60</sup> He managed to achieve his results with *the method of comparative law*, which he had been using and continuously improving since his student years. However, not only the topics and the research method proved to be novel, but also the legal theoretical approach itself, because within the socialist bloc what was considered necessary at that time was to examine economic integration from an economic point of view.<sup>61</sup> In Hungary, however, several of the leading lawyers of the era believed that with the help of East-West comparative law,

“[...] the *'bourgeois law'* of Europe [...] and its entire set of economic and political values could be beaten and be made to disappear from legal history.

- 57 Topic sheet for research in 1965, Topic XVIII, title: 'A békés egymás mellett élésnek az ENSZ-szel összefüggő kérdése'. Subtopic: 'A szocialista államok gazdasági együttműködése, a tőkés integráció[s] szervezetek'. Supervisor: Imre Szabó. Progress report on the research carried out in 1965, Topic XXVI, title: 'A szocialista államok gazdasági együttműködése és kapcsolataik a tőkés integrációs szervekkel'. Supervisor: Gyula Eörsi. MTAL Class II, box 170, dossier 6.
- 58 The duality inherent in the life of Imre Szabó, which also highlights the difficulties of evaluating legal careers during the period of dictatorship, is perhaps best recalled by László Trócsányi Sr. in his *memoir*: “Under the leadership of [Imre Szabó], the institute became an internationally recognized scientific institution, which was frequented by foreign scientists from both the West and the East. [...] On the other hand, there were rumors that in the late 1940s, he was actively involved in the “cleansing work” of the Ministry of Justice and the HAS for the removal of lawyers and academics.” Trócsányi Sr. 1995, p. 59.
- 59 See more on the academic career of Géza Herczegh (1928-2010): Gábor Béli *et al.* (eds.), *Emlékkötet Herczegh Géza születésének 90. évfordulója alkalmából*, Publikon, Pécs, 2018; on his personality: Ferenc Mádl, 'Búcsú Herczegh Gézától', *Magyar Szemle*, 2010/3-4, pp. 118-122.
- 60 According to him, his master, Endre Nizsalovszky, played a decisive role in this recognition: “It was more than twenty years that [...] in his suspension imposed on him, he had been translating and proofreading that many-volumed publication which was then called the encyclopedia of EEC. He involved me in this work [...] This work and his insight into the importance of things to come, his sensibility to new challenges such as EEC law, caused me to ‘wander’ quite a lot in the law of economic integration toward the West and the East, while sometimes I described what I considered important in this new world of phenomena.” See Ferenc Mádl, 'Az Európai Gazdasági Közösség és Magyarország', *Jogtudományi Közlemények*, 1988/6, p. 449.
- 61 Cf. Debate on Ferenc Mádl's doctoral dissertation, Iván Meznerics's opponent review, MTAL 429. d. 699/429 dossier; the event calendar of the Czechoslovak Academy of Sciences in 1966, HAS documents of Department No. 9, box 6, dossier 1.

It was the other way round. There were more and more people who fully endorsed these values, and then they became their dream.”<sup>62</sup>

Thus, in Hungary, paradoxically thanks to Marxist legal scholars, already during the dictatorship several talented lawyers<sup>63</sup> became immersed in Western professional literature, who, by the time of the regime change, even managed to get professorships and start educating students. Giving priority to topics such as Mádl’s new field of research was, of course, motivated not only by legal decisions, but also by changes in the international situation of the country.

“From the sixties [...], especially towards the end of the ’60s, that field became extremely important because Hungary’s foreign trade orientation became stronger. That is why the demand for teaching this subject at university arose.”<sup>64</sup>

Thus, Mádl started teaching in his former alma mater, ELTE, from 1968, while until 1971, he continued to work full-time in the Office of the HAS. In 1966, representatives of economics and law seceded from Department No. 2 (Department of Social-Historical Sciences), which was previously united, and Ferenc Mádl, the head of the department, became the coordinator of the newly organized Department No. 9. His duties grew in number, his responsibility increased, but he continued his research with even greater enthusiasm. According to the available documents,<sup>65</sup> he participated in almost all the organizational work, while also being present at the various committee meetings. He finally left the Institute of Law and Political Sciences at the end of 1967, “because we had fundamental disagreements that could not be resolved.”<sup>66</sup>

## 5. Becoming Professor from Researcher

Between 1968 and 1971, Mádl gave lectures as an adjunct professor at the university.<sup>67</sup> From 1971 he became a full-time associate professor, and in 1975 he was appointed university professor of law.<sup>68</sup> His knowledge of administration gained at the HAS also proved to be useful at the university, where he worked in the rector’s office for six years (1971-1977). From 1971 to 1974, he was head of the International Relations Offices of ELTE, and the vice-rector responsible for international affairs from 1974 to 1977. He worked here to everyone’s

62 Ferenc Mádl, ‘Európa és a magyar jogrendszer’, in Mádl 1995, p. 31.

63 One of the centers of talented lawyers was the Institute of Law and Political Sciences of the HAS. See more on this period: Trócsányi Sr. 1995, pp. 56-79; ‘Hagyni kell történni a sorsot. Interjú Sólyom Lászlóval’, *Századvég*, 2004/1, pp. 143-146.

64 ‘Legyen az oktatás stratégiai ágazat’, in Mádl 1995, p. 158.

65 See in particular: MTAL files of Department, material of boxes 5-9.

66 *Magyar Nemzet* 2000, p. 25. On the termination of the part-time job at the Institute of Law and Political Sciences of the HAS: Change of notification form and note, MTAL 576/6 dossier.

67 Biography of Ferenc Mádl, 19 November 1974, MTAL 429 d. 699/429 dossier.

68 Id.; *ELTE Értesítője 1975/1976*, Budapest, June 1976.

Endre Domaniczky

satisfaction, so when his term of office expired the University Council awarded him a gold commemorative medal, as Professor Mádl

“created the organizational conditions for our expanding international relations alongside his high-level teaching and educational work. Perhaps the most sensitive point in university administration is foreign affairs. The preparation and implementation of cooperation agreements with a number of foreign institutions, the benefits of which can be enjoyed above all by our departments are linked with the name of Comrade Mádl. Comrade Mádl, with his usual modesty and willingness, gained authority and general esteem not only in professional circles, but also in public life wherever he represented our institution.”<sup>69</sup>

However, Mádl’s primary field of work remained teaching and research at the department.<sup>70</sup> There was an entirely new research direction that was founded on the topics of private international law and trade law inherited from the Institute of Law and Political Sciences, followed by the establishment of a new department (Department of Private International Law).<sup>71</sup>

“[Upon] my proposal a larger department was created for studying and teaching international personal, property, economic and sales law. This is now called the Department of Private International Law. I started working on European integration relatively early. At the time I was also tempted by the dream of European integration, although I did not believe that it would ever be a reality for us. In the late 1950s, articles on the Common Market were more like phraseological writings than scientific papers. I think I have managed to analyze that world objectively and scientifically. [...] At ELTE, with the help of the Common Market we established the European Affairs Center.”<sup>72</sup>

– he recalled the years following the change of regime.<sup>73</sup>

Mádl’s research on integration continued in parallel with his university teaching, but his relationship with the Academy was not severed either. During this period he maintained close contacts with Endre Nizsalovszky and István Szász regarding his research topics. The former was one of the opponents of his

69 *ELTE Értesítője 1977/1978*, Budapest, 1978.

70 “He was a professor in the true sense of the word. He laid not simply the curriculum, but also his creed about society and law before his students. He did a great deal for the professional careers of his colleagues who were often decades younger. With his scientific prestige and willingness to cooperate, he created a real professional workshop.” Barna Mezey, ‘Köszöntő’, in Miklós Király (ed.), *Fabula de te narratur. Előadások Mádl Ferenc 80. születésnapjára*, ELTE ÁJK, Budapest, 2011.

71 Until 31 December 1986, Section for Private International Law, from 1 January 1987, Department of Private International Law (the head of both was Ferenc Mádl). *ELTE Értesítője 1986/1987 és 1987/1988*, Budapest, 1988, p. 121.

72 See also János Martonyi, ‘Nélküle másként alakultak volna a dolgok, és mások lennénk mi is’, in *Mádl Ferenc 80* 2011, p. 90.

73 ‘Legyen az oktatás stratégiai ágazat’, in Mádl 1995, pp. 158-159.

doctoral dissertation defended in 1974, the latter was the chairman of the reading committee.<sup>74</sup> He also worked with Szászy on the 1968 draft of the Hungarian Code of Private International Law.<sup>75</sup> The preparation and submission of the doctoral dissertation was supported by all competent bodies (university organizations and academic committees), because they all agreed that Ferenc Mádl's

“scientific work has gained new impetus since he was awarded the candidate's degree. He has published several books, partly in Hungarian and partly in different foreign languages. His work covers civil law, private international law, and comparative private and trade law. [...] In recent years, his scientific work has been extended to ever wider international fields. He has received multiple invitations [...] to Western countries [...]”<sup>76</sup>

Professor Gyula Eörsi, head of Department No. 9 of the HAS added that

“in addition to his dissertation, one book of his was published in Hungarian and English, and another booklet of his in German. He has written a large number of studies published in Hungarian and foreign journals. His theoretical contribution to the field of the law of international economic relations is considerable, and on some issues [...] he was the first to publish in Hungary.”<sup>77</sup>

The doctoral dissertation itself was novel and relevant in the choice of topic, as unanimously emphasized by its opponents. Beyond describing the rules of the narrower field of his research, civil law, “in order to shed light on the problem”, Mádl did not shy away from examining the rules of other areas of law, especially constitutional law, public administrative law, financial law, civil procedural law, international law and labor law.<sup>78</sup> Although it was not specifically stated during the debate of the dissertation, it is clear from the writings of all three

74 The preliminary resolution of the Department No. 9 on Ferenc Mádl's doctoral procedure, undated, MTAL 429 d. 699/429 dossier.

75 Biography of Ferenc Mádl, 19 November 1974, MTAL 429 d. 699/429 dossier, and the recommendation for the initiation of the doctoral procedure issued by the Department of Economics and Law of the HAS on 29 May 1973 – signed by Gyula Eörsi, MTAL 429. d. 699/429 dossier.

76 Opinion of the management of Eötvös Loránd University on Ferenc Mádl's application regarding his doctoral procedure. Preliminary decision of the Subcommittee of Law and Political Sciences of the Scientific Qualification Committee (SQC) on Ferenc Mádl's doctoral application (without date), MTAL 429 d. 699/429 dossier.

77 Preliminary decision of the SQC Subcommittee on Ferenc Mádl's doctoral application (without date), MTAL 429 d. 699/429 dossier.

78 Endre Nizsalovszky's opponent's review on the doctoral dissertation of Ferenc Mádl, MTAL 429 d. 699/429 dossier.



opponents<sup>79</sup> that it was considered a bold choice for a research topic. Indeed, although the studies were formally conducted in order to interpret trends in the system of relations and development of the Soviet Economic Zone (CMEA), the work made it clear (and convincingly demonstrated with reference to the jurisprudence) that on the other side of the Iron Curtain a specific form of integration evolved, that is beyond capitalist legal systems, driven by economic interests, but also accompanied by active legal development. In his response to the opponents' opinions, Mádl, intentionally or unintentionally, called both formations *equally important* for Hungary. He might have referred to his own insights when he, already a member of the Antall government (the first democratic government after the transition in 1989), said that Western legal systems were "recognized" by more and more people, and it "has been believed by others for a long time, that it is here where the mainstream of Hungarian legal culture continues."<sup>80</sup>

## 6. From Professor to Public Figure

Ferenc Mádl's scientific career rose even higher after obtaining his doctoral degree. Between 1985 and 1990, he was secretary<sup>81</sup> of the Scientific Qualification Committee of the HAS, which meant that all applications for scientific degrees in Hungary passed through his hands. In 1987, he was elected a corresponding member of the HAS, and in 1993, he became a full member.<sup>82</sup> Owing to his great talent, Ferenc Mádl, professor of law was already at the height of his scientific career at the time of the dictatorship. He loved teaching, was widely published, and his name and work were highly appreciated both at home and abroad.

However, thanks to his research topics and international relations, he saw the political and economic movements of the 1970s and 1980s, as well the changes in the country's situation on the international scene much earlier and in a much more complex way than others.

"Then came the obvious signs of crisis in the system: economic reforms [...], intensification of East-West cooperation (accession to GATT, the International Monetary Fund, the World Bank [...]), processes of political

79 On the proposal of Gyula Eörsi, chairman of Department No. 9 of MTA, the three opponents invited by the SQC were Endre Nizsalovszky, György Haraszti and Iván Meznerics MTAL 429. d. 699/429 dossier.

80 Ferenc Mádl, 'Európa és a magyar jogrendszer', in Mádl 1995, p. 24.

81 Cf. Decree 1038/1984. (VIII. 22.) MT on the composition of the SQC and Decree 1106/1990. (VI. 13.) MT on the dismissal of the Secretary of the SQC.

82 According to the 1986 recommendation, Ferenc Mádl "[...] conducts his scientific work at a high level even compared to international research, and with his personality, civic and moral behavior [...] deserves the respect of the world of science and Hungarian society." See Vilmos Peschka and Kálmán Kulcsár's recommendation of 2 October 1986 on the issue of corresponding membership, MTAL 429 d. 699/429 dossier. It is worth noting that Academicians Kulcsár and Peschka recommended Mádl as a corresponding member already in 1981. *Magyar Tudomány*, 1981/11-12, pp. 877-878.

liberalization, indebtedness, the desperate endeavor to get out of the vortex, stemming from a recognized alternative of closing up or falling behind. The spirit of '56 has resurrected, the forces of freedom have intensified into a social whirl.”<sup>83</sup>

– he summarized succinctly, already as minister; the direction processes were taking in the wake of the crisis signs palpable at the time of submitting his doctoral dissertation. By the second half of the 1980s, “a socio-economic revolution ‘broke out’ in Hungary unnoticed, a peaceful revolution was spreading everywhere” – he concluded.

Mádl did not take part in the political preparations before the regime change: “[I] remained within the framework of my profession.” However, that did not prevent him from talking about the need for change and engagement with the West in a fairly open way in his 1987 academic inaugural address. The speech also appeared in print a year later.<sup>84</sup> In 1989, he too was influenced by events that captivated both the lecturers and students of ELTE. “I watched the negotiations of the Opposition Round Table Talks [in] amazement. It was there that I discovered József Antall, and I immediately saw that he knew what he wanted.”<sup>85</sup> Mádl did not know the later prime minister in person, but when Antall called him over the phone,<sup>86</sup> he realized that he could not say no. “I felt it to be my moral duty [...] to assist the much-anticipated transformation with my legal expertise.”<sup>87</sup>

By accepting the invitation, a new phase began in his life, lasting more than two decades, during which Ferenc Mádl, the highly respected professor and scientist, became a public figure. What may have motivated his transition into public life, setting his achievements in science aside? Later, Mádl, remembering Prime Minister Antall, clearly defined his own political creed, for the attainment of which he worked until his death:

“[n]ational liberal thinking, national-folk commitment, Christian-European values and the Atlantic thought, democracy, the rule of law, social market economy, the restoration of the country’s sovereignty and a clear commitment to the European heritage.”<sup>88</sup>

83 Ferenc Mádl, ‘Európa és a magyar jogrendszer’, in Mádl 1995, p. 31.

84 Mádl 1988, pp. 442-449.

85 Mádl said several times that he followed the events on television, but it is obvious that he could have exchanged ideas personally with some of the people influencing the events, his colleagues and students at the Faculty of Law. Cited from *Magyar Nemzet* 2000, p. 25.

86 Ferenc Mádl, “Bent vagyunk a fősodorban.” Emlékezés Antall Józseféről, in Mádl 1995, pp. 11-12. On the background of Antal’s request see e.g. György O’sváth, *Élettöredékek*, O’sváth Alapítvány, Csenger-Budapest, 2017, pp. 146-147.

87 *Magyar Nemzet* 2000, p. 25.

88 Ferenc Mádl, “Bent vagyunk a fősodorban.” Emlékezés Antall Józseféről, in Mádl 1995, p. 12.

Words that had been matured over long decades, some of which – however much he had lived in inner emigration,<sup>89</sup> like many of his fellow intellectuals in Hungary – had already been on his mind in his earlier research, and some of which had also appeared, as far as possible, already in his earlier works.<sup>90</sup>

Although he stressed all along that he was above partisan politics, in fact after 1990, whatever his position, he was also a politician, whose performance is well represented by the fact that for two decades he adhered strongly to the values set at the beginning of his political career, and for their representation, he was also able to create majority in the political arena. Furthermore, Mádl did not hide the fact that

“the rigid concepts of ‘right’ and ‘left’ are foreign to me; they of course help orientation in public life. But when it comes to the affairs of the family, the wider community, and the nation, our thoughts and actions must be guided by their interests.”

Thus, what may have attracted him to public life was the belief that in the years of transition, he could serve his homeland and the nation, fight for all the values he had witnessed and held dear in the parental home and at school.

## 7. Minister in the Antall-Government

When he entered public life, Ferenc Mádl first met József Antall, a politician who belonged to the same generation and, perhaps as a result of his Piarist upbringing and his legal studies conducted for four years,<sup>91</sup> was a very like-minded. In a short time, there was a deep human and trusting relationship between him and the Prime Minister, which became even closer before his appointment as Minister of Culture and Education.<sup>92</sup>

89 *Magyar Nemzet* 2000, p. 25.

90 See e.g. ‘Magyarország első polgári törvénykönyve – az 1959. évi IV. törvény – a polgári jogi kodifikáció történetének tükrében’, *Az MTA Társadalmi-Történelmi Tudományok Osztályának Közleményei*, January-February 1960, pp. 3-88; *Az Európai Gazdasági Közösség joga*, Akadémiai, Budapest, 1974.

91 József Antall “was [n]ot only a historian. He also studied law for four years. He had great erudition and awareness regarding public law.” Ferenc Mádl, “Bent vagyunk a fősodorban.” *Emlékezés Antall Józseféről*, in Mádl 1995, p. 12.

92 “Of course, our [r]elationship has become very deep, not only in the context of cabinet meetings, but also in our personal conversations. [...] We talked a lot especially when it came to taking over the portfolio of culture.” Ferenc Mádl, ‘Felelősség a kultúráért. Érték és irány – konferencia az antalli örökségről’, *Magyar Szemle*, 1996/2, p. 171. It was also clear for the staff that there was a close relationship of trust between these two people: József Antall “found more and more support, a loyal friend and a serious intellectual partner in Ferenc Mádl, although they only got to know each other more closely during the shuffle of the government” – recalled Gyula Kodolányi decades later. Gyula Kodolányi, ‘Antall József kormányt alakít – A Hungarian Review interjúja (2. rész)’, *Magyar Szemle*, 2015/3-4, p. 9. See also György Granasztói, ‘Az ellenpéllda’, in *Mádl Ferenc 80* 2011, p. 36.

But before this, Professor *Mádl* was first entrusted by *Antall* to serve as Minister for European Affairs.<sup>93</sup> At the same time, as a minister without portfolio, he also dealt with science policy,<sup>94</sup> privatization and banking supervision.<sup>95</sup> His portfolio further included

“relations with European and international organizations. I was a researcher of the field, I gained no small amount of international experience, I consented to the task that I should try to put all this into practice.”<sup>96</sup>

From among the different cases he was responsible for, only one example is the diplomatic negotiations over the Danube Dam *Gabčíkovo-Nagymaros* in the administration of which he actively participated as a government commissioner<sup>97</sup> from 1991 to 1993.<sup>98</sup>

In February 1993 Professor *Mádl* was appointed minister of Culture and Public Education. The appointment came as a surprise, yet the Prime Minister had a good eye to assess that *Mádl* was extremely suitable for the position not only because of his law degree (the preparation of several important laws was taking place at the portfolio at the time), but also thanks to his personal qualities. As expected, *Mádl* managed the legislative activity of the ministry with appropriate expertise. “As a minister of culture, I was supposed to introduce a new legal basis for the fundamental issues of Hungarian culture and education.”<sup>99</sup> As a result, based on the work of the ministry, the Parliament passed the Public Education Act, the Higher Education Act, the Act on the HAS, and the laws on the National Cultural Fund and the National Scientific Research Fund, which formed the basis for the national support of culture and science. *Mádl* made significant efforts not only to have the draft laws adopted but participated in the preparation of legislation belonging to the ministry in general. Developing the concept of the National Core Curriculum can be considered one of his greatest successes. This concept

“was not only sharply criticized by the opposition at the time, but there was no consensus among the senior staff of the ministry. When I realized that the

93 Government Decree 1023/1992. (IV. 23.) on establishing an inter-ministerial committee for the coordination of governmental tasks related to European integration.

94 Government Decree 1015/1993. (III. 3.) on certain organizational and supervisory measures related to the reshuffling of the Government; Government Decree 1020/1990. (VII. 17.) on the establishment of the Science Policy Committee and the Science Policy Council. *See more* on his tasks and thoughts related to science policy: ‘A tudomány feladatait a tudománynak kell megoldania. Beszélgetés Mádl Ferencsel’, *Magyar Tudomány*, 1990/11, pp. 1328-1336.

95 Ferenc Mádl, “Bent vagyunk a fősodorban.” Emlékezés Antall Józsefről, *in* Mádl 1995, p. 12. *See also* Decree 71/1990. (V. 24.) KE.

96 ‘A tudomány feladatait a tudománynak kell megoldania. Beszélgetés Mádl Ferencsel’, *Magyar Tudomány*, 1990/11, p. 1336.

97 ‘Új miniszterünk: Mádl Ferenc’, *Köznevelés*, 1993/9, p. 2.

98 Later, he reviewed the history of the negotiations related to the dam and the annals history of the litigation in a large-scale study. Ferenc Mádl, ‘Bős-Nagymaros tegnap és ma’, *Magyar Szemle*, 1998/1-2, pp. 7-41.

99 *Magyar Nemzet* 2000, p. 25.

Endre Domaniczky

contradictions were irreconcilable, I accomplished the task of writing the Common Core Curriculum (*Nemzeti Alaptanterv*) myself, which was approved by various conciliation forums.”

Upon the proposal of Ferenc Mádl, the government also made a decision about the creation of the Eötvös Scholarship of the Hungarian State, which (by state decision, unlike the scientific scholarships based primarily on exchange programs at the time) was aimed at supporting the long-term research of the best Hungarian scientists and candidates abroad.

However, Mádl also *used the position of Minister of Culture to rethink his own opinion on European integration*, based on his decades of scientific work. As early as 1974, during the debate of his doctoral dissertation, it was noticeable that Professor Mádl was speaking about two different phenomena of European integration: (i) on the one hand, *unification beginning in an economic field, which is expected to increase*; and (ii) on the other hand *the common European traditions* that here in Hungary date back to the first king of the country, St. Stephen. Already during his ministry without a portfolio, he was actively preoccupied with connecting these two lines of thought. At that time, he mentioned several times that the common European heritage<sup>100</sup> and the Hungarian legal culture were determined by European models.<sup>101</sup> As Minister of Culture, he also paid particular attention to building and deepening European relations, from university research and exchange programs to developments in higher education.<sup>102</sup> Following his practical experience as a minister participating in public life, he approached his previous topic from a completely new angle. He summarized his views on the future of European integration in his academic inaugural address titled “The future of culture in European integration” (*A kultúra jövője az európai integrációban*) a few months after having accomplished his ministerial work.<sup>103</sup> In this address, Mádl discussed European integration, starting with economic integration and extending to cultural areas, as not only a possible direction of development, but the only possible way forward of further unification and, indeed, survival.

“We must realize that Europe is first and foremost a cultural community that has grown out of the past and cannot exist without the cohesive values of its culture [...] the desired and more complete European unity cannot evolve without the cohesive forces of culture [...]”<sup>104</sup>

100 Ferenc Mádl, ‘Az európai értékeknek elkötelezve’, in Mádl 1995, p. 16.

101 Ferenc Mádl, ‘Európa és a magyar jogrendszer’, in Mádl 1995, p. 24.

102 Ferenc Mádl, ‘EU (EK) és más külső erőforrások a magyar felsőoktatásban’, in Mádl 1995, pp. 75-81.

103 Ferenc Mádl, ‘A kultúra jövője az európai integrációban’, in Mádl 1995, pp. 82-105. The material was later published, revised and expanded, see Ferenc Mádl, ‘A kultúra jövője az európai integrációban’, *Magyar Szemle*, 1995/5, pp. 479-500.

104 Ferenc Mádl, ‘A kultúra jövője az európai integrációban’, in Mádl 1995, pp. 82-105.

Professor Mádl, examining the provisions of the founding Treaties and the practice of Community institutions, concluded that *cultural goals and values are present in the everyday life of the EU*. One of the findings of his dissertation is that cultural cooperation should be built along a clear strategy; for which he also provides various examples from his ministerial practice. However, his most important finding is that

“[i]n addition to the national sense of identity [...] what is necessary to make the great European dream come true is the European sense of identity, whose resources are to be found in culture.”

## 8. One of the Creators of Unity Among Hungarian Conservatives

By that time, Mádl had already realized that the idea of a common European heritage was the most important concept and objective not only for Hungary, from which, as a fundamental concept, all elements of his political creed also emanated. He also recognized that all of the moments of his career were connected to it: from the parental home through grammar school and his doctoral dissertation analyzing European integration to the ministerial chair representing the height of his career by that point. Probably, this is why the volume collecting the most important speeches and writings of the period spent in the Antall government was given the title “On the roads of European heritage” (*Az európai örökség útjain*). The book itself was supposed to be a synopsis and a conclusion, but in fact it can be considered a summary of his thoughts, serving as sources for the most important concepts of the next period.

The support of the first freely elected government was completely devoured by the launch of reforms and the death of its charismatic leader. The two most important tasks, therefore, were to bring the disintegrated camp together and to create a new, joint program. Ferenc Mádl, “[o]ne of the most respected members of the government that fell in ’94”,<sup>105</sup> played a prominent role in both.

He took part in the organization tasks, because he believed that “without a [c]ivil alternative, the whole regime change is worthless [...]”.<sup>106</sup> As a part of this effort and as a candidate of the three opposition parties at the time, MDF, FIDESZ and KDNP, he ran for president. In 1995, “[t]here was no risk in presidential candidacy [...]”, he recalled later.<sup>107</sup> What was an even more complex task was to form the Association for Hungarian Civic Cooperation, “which involved an awfully lot of work and responsibility.”<sup>108</sup> The association was registered in 1996, and its president was Ferenc Mádl between 1996 and 2000.<sup>109</sup>

105 Viktor Orbán, ‘Köszöntő Mádl Ferenc 80. születésnapján’, *Magyar Szemle*, 2011/3-4, pp. 4-5.

106 *Magyar Nemzet* 2000, p. 25.

107 Id.

108 Id.

109 See at <https://mpee.hu>.



“I am convinced [...] that the importance of non-governmental organizations is growing worldwide, the role of parties in addressing people is diminishing. [...] There is a need for self-organizing civil groups.”<sup>110</sup>

– he later observed, referring to the circumstances of the founding, as already President of the Republic. Not only did he consider non-governmental organizations the framework of organizational work, but thus also the platform for intellectuals’ activities, their common thinking. During the operation of the National Circle (*Nemzeti Kör*),<sup>111</sup> founded in 1994-1995, on György O’sváth’s and Ferenc Mádl’s initiative,<sup>112</sup> (at least in the 1990s) Mádl undertook both tasks: on the one hand he “tried to bring the fragmented opposition parties closer to each other” and on the other hand, as an early forerunner of today’s political think tanks, he was involved in the development of concepts and action plans. Mádl found grassroots organizations and common thinking so important that he also joined another intellectual group<sup>113</sup> after his presidency term, since “[b]oth the harmonizing driving force of our cooperative responsibility is required, and [...] intellectual action is necessary as well.”<sup>114</sup>

Mádl participated in establishing the new joint program in two ways: (i) in the different circles of common thinking, as we could see above; and (ii) as an internationally recognized and respected scientist, an expert on EU integration, continuously developing his topic. The latter line gained more momentum with the aforementioned 1994 keynote speech at the HAS and in the 1995 volume summarizing the ministerial period. By that time the topic had broken out of the narrow scientific framework, since EU accession and framing the country’s place and opportunities within the EU was also considered a priority in public debates. That is why it was an important decision that Mádl published his writings on integration in a political periodical called *Magyar Szemle*.<sup>115</sup>

110 *Magyar Nemzet* 2000, p. 25.

111 O’sváth 2017, pp. 167-169. The National Circle was terminated in 2006. ‘Megerszűnt a Nemzeti Kör’, *Heti Válasz*, 28 September 2006, p. 6; ‘Közlemény’, *Magyar Nemzet*, 17 June 2006, p. 6; ‘Nyilatkozat’, *Magyar Nemzet*, 26 September 2006, p. 2.

112 O’sváth and Mádl both stated that they founded the National Circle together. See O’sváth 2017, p. 167; *Magyar Nemzet* 2000, p. 25.

113 György Granasztói started organizing the National Circle in 2004, Ferenc Mádl only came here at the end of his term of presidency, but the idea originated from him. György Granasztói, ‘Előszó’, in György Granasztói & Ilona Sebestyén (eds.), *Magyarország fordulóban*, Magyar Szemle Alapítvány, Budapest, 2011, p. 5. The National Circle published several volumes of essays over the years (in 2007, and 2011) and after the death of Ferenc Mádl it adopted his name. See at <https://hirado.hu/2016/08/11/kiemelkedo-es-kiveteles-szemelyisegkent-emlekezeik-meg-a-madl-ferenc-kor-granasztoi-gyorgyrol/#>.

114 Ferenc Mádl, ‘Előszó’, in György Granasztói & Gyula Kodolányi (eds.), *Magyarország ma és holnap*, Magyar Szemle Alapítvány, Budapest, 2007, p. 7.

115 See e.g. ‘Magyarország útja az Európai Unióba’, *Magyar Szemle*, 1997/1-2, pp. 7-19; ‘Magyarország EU-tagsága: érvek és ellenérvek’, *Magyar Szemle*, 1997/5-6, pp. 49-56; Zoltán Csáky, ‘Beszélgetés az integrációról Mádl Ferencsel’, *Magyar Szemle*, 1998/3-4, pp. 69-74; ‘Erkölcsi értékek az európai integrációban’, *Magyar Szemle*, 2001/3-4, pp. 7-11.

## 9. The Second President of the Third Republic

After the second term of Árpád Göncz, the first President of the Republic after the transition ended,<sup>116</sup> the former opposition parties now in government since 1998 repeatedly nominated Ferenc Mádl for the position. There were strong arguments in favor of his appointment since

“Ferenc Mádl is the epitome of the political ideals of the coalition ruling today, an emblematic figure due to the role he played in the politics of the past decade. He was a member of the Antall government, at the beginning of the FIDESZ-MDF coalition, in 1995, he was a joint nominee for President of the Republic, the chairman of the Civil Cooperation, and thus, he has an outstanding role in creating the social coalition behind the present coalition.”<sup>117</sup>

It was difficult to convince Professor Mádl of his new candidacy.<sup>118</sup>

“I had been resisting for a long time, and then [...] I came to the conclusion that maybe it was the task which was not expected and was not desired [...] that gave me more human strength to maintain my integrity in life. I did not think of political bargaining, just to serve where I could offer my help.”<sup>119</sup>

One could discuss at length the aims and history of Professor Mádl’s presidency from 2000 to 2005, but only the most important aspirations shall be mentioned here. At the heart of Ferenc Mádl’s activities were, as it was manifested already at an earlier stage in his political career, the forthcoming accession to the EU and the mapping of the opportunities that would open up for the country and the nation. When he took office, he had been studying the law of European integration for almost four decades. Thanks to his deep knowledge of integration, he was aware not only of the existing rules, but also of the possible directions for the further development, and *he could also foresee the problems which the growing EU was going to face as a result of enlargement*. As a scholar of European law, he also

116 Árpád Göncz (1922-2015) was the President of the Republic of Hungary for two cycles, between 1990-2000. *See more* on his career and presidency: Dae Soon Kim, *Göncz Árpád*, Scolar, Budapest, 2011.

117 János G. Gáspár, ‘A magától értetődő meglepetés’, *Magyar Szemle*, 2000/7-8.

118 *See e.g.* Viktor Orbán’s birthday greeting: “I always thought that it was somehow easier for you to run for president against the odds than for a shoo-in president.”. Orbán 2011, p. 6. A decade later, one of his close colleagues, Gáspár Gróh, recalled Mádl’s reluctance in a similar way: “There are different stories in political folklore about how he had to be persuaded to run for president in 2000. Only a few remember that he had easily accepted this role five years earlier, that is, he had undertaken a parliamentary contest where an opposition candidate could not succeed against a two-thirds pro-government majority. It was easy to say yes then, as he could be sure he would not be president.” Gáspár Gróh, ‘Elnök úr kilencven éves lenne... – Mádl Ferenc emlékezete’, *Magyar Szemle*, 2020/11-12.

119 *Magyar Nemzet* 2000, p. 25.

wanted to express his own opinion on certain issues.<sup>120</sup> Due to the above, his statements about the EU carried much weight both at home and abroad.

It could also be said that Mádl, as President of the Republic, participated in politics on two levels. (i) On the one hand, *demonstrating the unity of the nation*, he performed all the duties prescribed for him by the Hungarian constitution and legislation. But he went even further, and here it is worth recalling his speeches analyzing environmental questions or the situation of the Roma among the minorities. (ii) On the other hand, *he regularly expressed his views, orally and in writing, on matters relating to the EU*. At such times, however, he spoke not only as president, but also as one of the internationally recognized experts on the subject. His instructions formulated with the usual simplicity were aimed at a wider audience in Hungary: ordinary citizens, as well as Hungarian intellectuals and the political elite. During his long teaching, research and already a decade-long political career, however, Mádl developed a wide network of international contacts. He also expressed his views on the EU in various international fora. At such times, showing an excellent diplomatic sense, he regularly emphasized the historical and cultural parallels between Hungary and (Western) Europe.

Professor Mádl, who ten years earlier argued in favor of the creation of a European community based on a cultural basis instead of pursuing integration based on economic relations, once again, as President of the Republic, took stock of the challenges facing integration. He already summarized these in one of his first speeches<sup>121</sup> as President. One of his main ideas was that in the face of “more distant common perspectives,” such as a “federal state, a true European Parliament, a true European president, who is elected, an executive power in true European sense,” expectations must also be set in “the other pan of the scale”.

“[This] community shall face its destiny together for better or for worse, in the spirit of mutual trust and shared values. The second is that even the smallest federal state can only be born out of a treaty derived from the power of the people of the member states, we cannot abandon the source of national sovereignty. [...] The third is that as we achieve a higher degree of integration, national cultures shall become richer, we shall make the most of our freedoms [...]”<sup>122</sup>

It is worth specifically mentioning here what he meant as a Hungarian by freedoms and shared values. Mádl understood *the Charter of Fundamental Rights*

120 In this regard, see the speeches and writings published in the 2004 volume. Miklós Király (ed.), *Quo vadis Europa? A magyar államfő Európában*, KJK-Kerszöv, Budapest, 2004, pp. 157-163.

121 'Az európai integráció a történelem sodrában: európai és nemzeti perspektívák tegnaptól holnapig. Beszéd az ELTE ÁJK-n tiszteletbeli doktorrá avatásakor', 1 September 2000. Pál Becker (ed.), *A Köztársasági Elnöki Hivatal évkönyve 2000/2001*, KEH, Budapest, 2002, pp. 81-85. It is worth noting here that both *alma maters* conferred the degree of doctor on his former student: he received his diploma in Pécs in 1998 and in Budapest in 2000. On the Pécs proposal, see PTE EL VIII.201.b. 274. d. 11-7/1998. Proposal to the meeting of the Senate of JPTE on 14 May 1998, Pécs, 30 April 1998.

122 Becker (ed.) 2002, p. 85.

“as the most important part [...] of the future European constitution.” This charter will be an epitome of European identity”, he emphasized, as “[p]olitical union requires a constitution. Every constitution is based on fundamental principles and moral values.” However, such constitution must include the protection of minorities, therefore, as he said as head of state of a country still only a candidate for member status: “[I] think that the Charter should be supplemented first and foremost by a list of minority rights.”<sup>123</sup> The *protection of minorities*, which he had already championed as Minister for European Affairs,<sup>124</sup> was another key idea driving Mádl’s presidency. The topic, which had been continuously emphasized both at home and abroad since his appointment, was given special emphasis by the 2004 Hungarian citizenship referendum.

It shows Mádl’s scientific gravitas that he uniformly approached both topics: *integration and minority rights*. With this research method, he shifted minority rights from the level of politics into the realm of science where his proposals received a special weight due to his decades-long professional standing as an expert on international and European law. For this reason, the influence of his speeches delivered at the Permanent Hungarian Conference (*MÁÉRT*) in 2003 and 2004 extended beyond his presidential period, and as a result, had a significant influence on the creation of contemporary citizenship rules.

## 10. The European Statesman

The success of Mádl’s attitude and work is also indicated by the fact that although he acquired the presidential seat as a candidate for the political right, throughout his term he was considered one of the most popular politicians of Hungary.<sup>125</sup> Upon his resignation, his activities were recognized and appreciated by all parliamentary parties and public dignitaries.<sup>126</sup> The campaign launched for his

123 Ferenc Mádl, ‘Erkölcsei értékek az európai integrációban’, *Magyar Szemle*, 2001/3-4, pp. 7-11.

124 “[E]urope today in our region shall also mean guaranteeing the minority rights of national, ethnic, religious and other minorities. The common Europe, accession to such a Europe, also requires a comprehensive resolution and settlement of national and minority conflicts.” Ferenc Mádl, ‘Az európai értékeknek elkötelezve’, in Mádl 1995, pp. 17-18.

125 “[...] Ferenc Mádl was added to the list of politicians in the summer of 2000, and [...] he soon became one of the most popular personalities. He received exceptionally high scores of 63-65 from the public, and to this day he is considered to be among the three most engaging politicians. Mádl remained popular in the following years. Opinions about him were relatively stable between 2001 and 2003: with scores between 60 and 67; he was the first or second most popular public figure. In 2004, his prestige as a politician was also badly affected: his index fell below 60 points. Nevertheless, for the most part, Mádl was at the top of the ranking, as this year [2005 – E.D.] he also led the approval ranking.” See ‘A köztársaság élén’, *168 óra*, 26 May 2005, pp. 26-29.

126 It is worth recalling two leftist opinions here. According to Socialist Speaker of the House, Katalin Szili, Mádl’s “example also showed that a personage with clear political values and ties can also be a prestigious president enjoying public confidence.” See ‘Bekezdések az elnökről’, *Heti Válasz*, 4 August 2005, p. 14. Gábor Kuncze, the president of the Alliance of Free Democrats (SZDSZ), one of the governing parties at the time, said that Mádl had “acted responsibly, respecting the word and spirit of the constitution all the time. [...] He was a worthy head of state of Hungary.” See ‘Tisztességgel tette a dolgát az államfő’, *Magyar Hírlap*, 4 August 2005, p. 5.

new candidacy also showed his popularity. Professor Mádl, however, had indicated at the beginning that he would undertake only one term, and he stuck to his decision. “[H]e is really fond of his profession, teaching, jurisprudence. I would like him to spend his time doing what he really wants” – his wife explained why his husband returned to university as professor emeritus.<sup>127</sup>

However, the next half-decade was not spent in retirement either. Although at that time Mádl was dealing primarily as a scholar with EU law<sup>128</sup> and then public law<sup>129</sup> issues, and, occasionally, voiced his opinion on public issues,<sup>130</sup> his prestige of the erstwhile public dignitary made his words especially significant. His ideas continued to receive attention abroad, which is well illustrated by the fact that he was awarded the Wartburg Price in 2007. Having received several distinguished awards from the 1990s onwards,<sup>131</sup> he obtained this prize in recognition of his commitment toward the issues of German-Hungarian relations, the European idea and its implementation. The prize was presented in the Castle of Wartburg where once one of the most popular saints of Europe, St. Elizabeth of the House of Árpád, lived.

In 2010, at the subsequent government shuffle of his former student, Viktor Orbán, it seemed that again he would have to give up the “unengaged peace and quiet”<sup>132</sup> he desired. This is what his excursus written in March 2010 suggested, in which he dealt with, among other things, the structure and content of the new constitution.<sup>133</sup> A year later, at the celebration to mark his 80th birthday the Prime Minister expressly invited him to return to public life: “It is a really difficult one-and-a-half year period we have to face, we need you.”<sup>134</sup> However, due to the professor’s unexpected death on 29 May 2011 there was no return any more.

127 Dalma Mádl, ‘A szeretet diplomatája’, *Heti Válasz*, 4 August 2005, p. 16.

128 Here we can only refer to his writings for the general public, published in the columns of *Magyar Szemle*, and his writings and speeches published in the volume titled *Quo vadis Europa?*

129 See e.g. one of his last works: Ferenc Mádl, ‘A törvények szelleme’, in Granasztói & Sebestyén (eds.) 2011, pp. 21-25.

130 Mention should be made here of the open letter published during the 2006 government crisis, signed together with several others. See ‘Gyurcsány Ferenc úrnak, a Magyar Köztársaság miniszterelnökének!’, *Magyar Nemzet*, 26 September 2006, p. 1. Otherwise, “he was wary of commenting on daily political events. At the beginning of April, I invited him to a conference on the new constitution, but [...] he rejected its evaluation in front of the media.” Péter Farkas Zárug, ‘Mádl Ferenc, a státuszférfi’, *Demokrata*, 1 June 2011, p. 39.

131 Mention should be made here of the Order of the Legion of Honor of the French Republic (1999), the Jean Monnet Foundation for Europe Gold Medal (2002), the Order of Merit for Jerusalem (2006), MTAL 576/6 dossier, at <https://magyarnemzet.hu/archivum/archivum-archivum/jeruzsalemert-erdemrend-madl-ferencnek-es-szili-katalinnak-5749685>; [https://hvg.hu/kultura/20071017\\_wartburg\\_madl\\_ferenc](https://hvg.hu/kultura/20071017_wartburg_madl_ferenc).

132 The quote comes from the poem *Epilógus*, by one of Mádl’s favorite poets, János Arany (1817-1882).

133 Ferenc Mádl, ‘A törvények szelleme’, in Granasztói & Sebestyén (eds.) 2011, pp. 21-25. The study was published only after his death.

134 Orbán 2011, pp. 7-8.

## 11. Summary: “The Story Is Also About Us”

*The story is also about us* – Ferenc Mádl repeatedly emphasized speaking about European integration. His ideas hold a message not only for his contemporaries and peers but also for later generations. On the one hand, the message lies in his personal fate and life experiences, the way he made value-based decisions from an early age as the ancient heroes he was so familiar with, taking no heed of the possible unpleasant consequences for himself. His moral values were based primarily on his faith; for him, faith and religion were not only experiences on the personal level, but he also considered Christianity with its moral values to be a part of the European cultural heritage. He also regarded the entire era of antiquity, along with its legendary mythology and legal order, which came to an end with Christianity becoming state religion, to form part of this heritage.

While he was speaking about a unified Europe, a shared legal order, and a common European heritage, doing so as a Hungarian jurist, in his writings he referred to Hungarian and European cultural, literary and historical examples side by side. Mádl experienced his Europeanness and Hungarianness at the same time, but from a particular, Central-European perspective, with which not only Hungarians but also other peoples of Central-Europe could identify. Mádl himself was also aware of the uniqueness of this region at the meeting point of the East and the West. That is why he supported the idea of Central-European co-operation (Visegrad Four) even after the EU accession.

During the period of regime change, Professor Mádl was convinced that European integration was not only an old dream that came true, but that the potential for this model of progress was justified by the history of the second half of the 20th century. He made several statements about the way forward, the areas to be improved, but perhaps more importantly, he had important insights into the areas for action and the way to proceed. On the one hand, he believed that the incumbent EU decision-makers should follow the examples of the founding fathers, and on the other hand, regarding integration, he repeatedly quoted a line by the great Hungarian poet, Miklós Radnóti about the “earnestness of 2x2”<sup>135</sup> with which as if he tried to warn us that we should continuously insist on facts and reality. The often fruitless debates characterizing the decade since his death have demonstrated the importance of both ideas.

In light of the above, maybe it is no exaggeration to say that although Ferenc Mádl was a Hungarian professor of European law, his personality and legacy is important not only for Hungarians, but for the peoples of Europe in general, and his spiritual legacy offers noteworthy ideas both for the future of the EU and for Central-European co-operation.

135 Poem by Miklós Radnóti (1909-1944) *Levél a hitveshez* [Letter to my wife].