

CODIFICATION IN THE COMMUNIST WORLD

edited by
F.J.M. FELDBRUGGE

No.19

LAW IN EASTERN EUROPE

*A series of publications issued by the
Documentation Office for East European Law
University of Leyden*

General editor: F.J.M. Feldbrugge

CODIFICATION IN THE COMMUNIST WORLD

Symposium in memory of

ZSOLT SZIRMAI

(1903-1973)

organised by

DONALD D. BARRY, F. J. M. FELDBRUGGE and DOMINIK LASOK

A. W. SIJTHOFF - LEIDEN
1975

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PREFACE

Zsolt Szirmai who founded the Documentation Office for East European Law in 1953 and occupied the chair of East European Law in the University of Leiden since its establishment in 1961 would have reached his seventieth birthday and retirement age on the 25th of July, 1973. In order to mark this occasion Professor Donald Barry of Lehigh University launched the idea of a symposium to which a relatively small number of scholars would be invited from among the wide circle of friends of Professor Szirmai. An organizing committee was formed consisting of Professor Barry, Professor Dominik Lasok (University of Exeter) and the undersigned. As the central theme of the conference the committee adopted Professor Barry's suggestion of "Codification in the Communist World". The committee further decided, in order to keep the number of papers and the format of the discussion within manageable proportions, to restrict the number of participants to about fifteen persons, all of them with long-standing relations with Professor Szirmai and his Office. Participation was almost evenly divided between the United States and Europe. At the American end Professor Barry took charge of the organization and the collection of papers.

When Professor Szirmai died on the 24th of February, 1973, the organizing committee and indeed everybody concerned felt that the conference should go on, the more so since we knew of the deceased's interest in, and enthusiasm for, our plans.

Draft papers were circulated amongst the participants well in advance of the meeting and a rapporteur was appointed for each paper.

The symposium took place in Leiden from 15-17 August, 1973, in the "Gravensteen", a former castle of the counts of Holland which now houses a part of the Leiden law faculty. The proceedings were opened by the Rector Magnificus of Leiden University, Professor A. E. Cohen, in the presence of Mrs. Szirmai and other members of the Szirmai family. Professor Leon Lipson and Dr. Bernard Rudden spoke in memory of the person in whose honour the symposium had been organized.

During the three days of the meeting the chair was taken alternately by the three members of the organizing committee. Mr. E. H. de Jong of the Documentation Office for East European Law served as secretary. The symposium was closed on Friday the 17th of August, 1973, by Dean Haardt of the Leiden Law Faculty.

This volume consists of the final version of papers presented by the

participants, following the comments of the rapporteurs and the discussion during the symposium.

May it be a fitting tribute to the memory of the man in whose honour we met.

F. J. M. Feldbrugge

IN TRIBUTE TO THE MEMORY OF ZSOLT SZIRMAI

The plans that we had made to render homage to Zsolt Szirmai have been, not frustrated, but darkened by his death. We met in the conference out of which this volume grew, to talk about topics in which he was closely interested and to enjoy the welcome of an institution which he founded. The vigor and flavor of our discussion lost by his absence.

Though the chances of time pay no respect to decades or periods, we do seem to have suffered with particular severity recently in the departure of a group of illustrious scholars and public men who had helped our understanding of the culture, history, and the politics of Russia, the Soviet Union, and Eastern Europe. A partial honor roll, perhaps parochially selected, would include at least the names of George Vernadsky, Llewellyn Thompson, Merle Fainsod, Philip Mosely, George Lichtheim, Henry Roberts. It would be pleasant to believe that they could engage in celestial symposium on current Soviet affairs, though the price of overhearing their conversation might be fatally high. To that shadowy discussion Zsolt Szirmai must be making a special and welcome contribution.

For those of us who came to know Dr. Szirmai only after he had settled in the Netherlands, recollection is dominated by the thought of the cheerful persistence of a man who, no longer in his first youth, set about to make a new career in what was for him a new land, to conceive and found the Documentation Office for East European Law, to train a modest number of exceptionally capable younger workers, and to build, with a patience that may often have been taxed, the materials and resources and reputation that the Documentation Office now enjoys. We knew something of his gratitude toward the people of the Netherlands and his appreciation of the sturdy courage with which, once persuaded, they stood by him.

Now is not the time and this is not the forum for an appraisal of Zsolt Szirmai's scholarly legacy. What we can recall is the spirit with which he reached out to his fellows, whether in print or in that animated and complex conversation in which he excelled. We remember the easy shifts between irony and high earnestness, between current politics and ancient learning, between ardent passion and cool objectivity. The whole was sharpened by an unusual clarity of expression: clarity in the comparisons he liked to indulge in; clarity in setting out the ground on which he, the observer, took his stand. One recalls his comment on the State in his chapter on governmental liability in Tort, or his foreword to the monograph on insurance prepared by one of the contributors to this volume. He strove for that clarity partly because he abhorred

pomposity including that pomposity which is cloaked in lofty phrases, and partly because he wanted not so much to express himself as to move others.

He wanted to move others, in turn, because he cared for justice. The law was not a structure to be admired, however grand the edifice and however sublime the contemplation, but a reflection of human purposes and a means for accomplishing social ends. His personal style was such that his love of justice often took the form of indignation at injustice; that indignation, however, was disciplined by trained habit and terseness of expression, as one can see for instance in the concise and trenchant observations he made on the institution of the extraordinary protest in his article on *Res Judicata*.

What I had read and heard of Zsolt Szirmai did not quite prepare me for acquaintance with him. My impressions are framed by the first and the last conversations we had over several months in winter of 1962-63. At our first meeting, which took place in his office, he set me down in a chair so that the light fell on me rather than him, placed the customary cup of delicious Dutch coffee in my hands, and with a twinkle in his eye opened fire by saying, "We have been waiting eagerly for your arrival in order that we might proceed to tear you to pieces." And indeed it fell out that he and a couple of junior colleagues had prepared for my visit by a highly critical reading of some little things I had written. They questioned the facts and objected to the interpretation. As it happened, I was lucky enough to persuade them that at least some of my facts were right, whereupon they persuaded themselves generously to recede from some of their objections to the interpretation; but one knew one had been carefully harrowed, even if not yet quite ploughed.

Equally characteristic of Zsolt Szirmai's temper was a comment he made some time after that on the eve of a visit I was about to make to the Soviet Union. "Even the Russians," Dr. Szirmai said, "will not be able to postpone indefinitely the advent of the age of affluence; and *then* what will they do for an ideology?"

Opinions differ on the traces left by a man on the life of those who survive him. I am inclined to think that what Zsolt Szirmai wrote, and what he did, and what he was, were all of a piece. The little that I saw of his private life and thought fitted his public views and style. One recalls his hospitality, both to the foreign visitor and to alien opinions; the humor with which he relieved his tragic sense; and the harmonious union of courage and humility. I do not know whether Zsolt Szirmai was a religious man in formal observance; but he bore himself like a man who feared God and nothing else.

Leon Lipson

It is a privilege and a pleasure—although a sad one—to be invited to speak to the memory of Professor Zsolt Szirmai. All of us here know of his intellectual greatness; others can describe better than I his contribution to the life of this great University; and the monument to his scholarly achievement fills a shelf of all our libraries. So I hope you will understand if I speak this morning in a more personal way and try to recall briefly the experience of spending a year working under (and occasionally alongside) him.

It was Zsolt Szirmai—though then known to me only through the printed page—who first aroused my interest in the law of Eastern Europe; and then, ten years ago, I received a letter from him suggesting that the Curators might kindly invite me to spend a year at Leiden University. And so my wife and I, with four very young children, arrived to spend here, not the easiest, but certainly the most rewarding year of our lives.

On the family side this was made possible by the help, the interest and the warm friendship shown to us by Zsolt himself; by his wife Marta; and by the other members of his family. On the intellectual side he transformed me. Firstly by his unselfconscious devotion to his work—a dedication never arid or burdensome but full of gaiety and delight; and a sense of purpose which informed and inspired his staff at the Documentation Office for East European Law. Secondly by his unique blend of diligence and patience. He would arrive early each morning to a desk piled high with manuscripts and proofs—and those of us who have had the good fortune to publish a volume under his editorship know in their hearts that the credit is his—and yet, when I ventured to tap at his door with my problem, his own tasks would be set aside, he would listen at leisure, and would provide correction, encouragement and laughter. And finally, his serenity. During that time his office was in the process of reconstruction and bricks, dust, sand and scaffolding lay everywhere; yet the work was done, tea and coffee drunk at the appointed times, and, in December, verses on each of us were prepared and distributed by the Rapenburg *samizdat*.

During those rewarding months I began to sense his greatness and to see that being a learned man was not merely a question of having a skull full of information to be paraded from time to time. Above all it was a matter of a flexibility of response, a developed instinct, a feel for things which enabled him to move so deftly and so profoundly in so great a diversity of knowledge. I was surprised at first that one whose life had known such adversity could begin each day refreshed, ready and eager; but later on I came to see that his strength was drawn from, and a part of, his home; and that there, with his wife, his sister, and his disputatious sons, he found that enthusiasm, understanding and encouragement which he, in turn, bestowed on others.

Every youngster has his heroes—the men who influence, who educate, who inspire him. At the head of my own private Pantheon was Zsolt Szirmai; but what is extraordinary is that most of its other members are in this room today—from other countries, other continents, another hemisphere you have

gathered to pay honour and homage to the memory of Zsolt Szirmai. In one sense your presence is a tribute; in another sense it is simply testimony: of our debt to Zsolt Szirmai; of our esteem and admiration; and of our love.

B. Rudden

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