

***The legal institution of praefectio until 1526,
with special attention to the home
policy of the Angevines in Hungary: a research in progress***

«*Piroska Rozgonyi, Pál Rozgonyi's daughter,
She will be a son in her father's estate,
The only heir, master of all his property,
The ornament, the maintainer of the name Rozgonyi.*»
(János Arany: Toldi's Love)

1. Introductory thoughts about an extraordinary and unusual legal institution. In János Arany's poem: Toldi's Love, Louis I put on a disguise and mingled in his folk, because he was wondering if the Hungarians live by the law, and if the law is good for them. Once he was wandering on the land of the Rozgonyi's, when the noble man Pál Rozgonyi invited the king – who was believed to be a poor noble – for dinner and shelter. The noble Rozgonyi complained about that he only has a beloved daughter, and according to the law, women are not able to inherit the noble estates, so according to discontinuance (*defectus seminis*), when he dies, all the estates will be reverted to the king. The king really liked Rozgonyi and his daughter Piroska for their hospitality, and he has already seen in his thoughts his favourite valiant soldier Toldi and Piroska as a couple. In secret, during the night the king wrote a certificate with the following words: «*Piroska Rozgonyi, Pál Rozgonyi's daughter;/ She will be a son in her father's estate;/ The only heir, master of all his property;/ The ornament, the maintainer of the name Rozgonyi*»¹. Then he stamped it with his ring. The next day, after the leaving of the mysterious guest, Piroska found the certificate and broke out in happiness with his father.

This is how probably the most famous *praefectio* of the Hungarian literature happened, which, in front of uninitiated eyes might be a romantic story, but for legal historians is a real confection.

We can find further *praefectios* in numerous Hungarian poems, novels and volumes:

Margit Kaffka: Az élet újtán: Temesvárról [On the road of life: About Temesvár]², Károly Eötvös: Balatoni utazás [Journey at Lake Balaton]³, Mór Jókai:

¹ Arany János, *Toldi Szerelme* [Toldi's Love] <http://mek.oszk.hu/00500/00597/html/tsz01.htm>.

² Kaffka Margit, *Az élet újtán: Temesvárról* [On the road of life: About Temesvár] <http://mek.oszk.hu/05400/05475/05475.htm>.

³ Eötvös Károly, *Balatoni utazás* [Journey at Lake Balaton] <http://mek.oszk.hu/04900/04924/html/balaton0006.html>.

Szegény Gazdagok⁴; Enyim, tied, övé⁵; A lőcsei fehérasszony⁶ [Poor Plutocrats; It's Mine, It's Yours, It's His; The White Woman from Lőcse], Kálmán Mikszáth: A fekete város [The black city (or The town in black)]⁷, and Sebestyén Tinódi Lantos: Az vég Temesvárbán Losonczi Istvánnak haláláról [About István Losonczy's death at Temesvár]⁸.

But let's see how this all happened, in reality, in the Hungarian legal history.

As most of the old legal systems, including the Hungarian system, guaranteed primarily men certain rights, women were ignored in many viewpoints, the efforts on the field of emancipation succeeded only from the XXth Century on. At least it is the public conception. In my essay I would like to prove, that the old Hungarian law did think of women, moreover it kept for them an individual legal situation besides their special rights thanks to the Angevin way of thinking, primarily Charles I, who only wanted to strengthen his power in the country nevertheless he brought a unique institution into being, the *praefectio*.

«From the XIIIth Century women had a comprehensive legal capacity concerning their properties, though they never had the same rights as men in the legal system based on the principle of aviticity; they could never claim their rights in property against men in the same community property, except things, ordered for their own use⁹, they did not have a full legal capacity, only in case they were made *praefecta* enforced by royal grace»¹⁰. Prior to this, only marriage provides equality of rights between women and men due to Christian principles.

If we want to classify the legal institution, we need to search in the act of becoming a nobleman. To become noble was only possible in an ancient and

⁴ Jókai Mór, *Szegény Gazdagok* [Poor Plutocrats] <http://mek.oszk.hu/00700/00786/html/jokai4.htm>

⁵ Jókai Mór, *Enyim, tied, övé* [It's Mine, It's Yours, It's His] <http://mek.oszk.hu/00700/00774/html/jokai32.htm>

⁶ Jókai Mór, *A lőcsei fehérasszony* [The White Woman from Lőcse] <http://mek.oszk.hu/00800/00837/html/jokai17.htm>.

⁷ Mikszáth Kálmán, *A fekete város* [The black city (or: The town in black)] <http://mek.oszk.hu/00900/00910/html/>.

⁸ Tinódi Lantos Sebestyén, *Az vég Temesvárbán Losonczi Istvánnak haláláról* [About István Losonczy's death at Temesvár] <http://mek.oszk.hu/01100/01100/01100.htm#3>; «Given every good for his majesty,/ For his noble valiant Losonczy,/ Every castles given to his daughters,/ Given them as noble men in their father's estates».

⁹ Béli Gábor, *Women's Acquisition of Property during the Era of the Arpad Dynasty in Hungary = Jogtörténeti Tanulmányok 10.*, szerk. Béli Gábor, Herger Csabáné, Peres Zsuzsanna, Pécs 2010. 29.

¹⁰ Béli Gábor, *Magyar jogtörténet. A tradicionális jog*, Budapest-Pécs 1999, 53.

blood-line way; one can gain nobility in an original and general way, the person who acquires this title from the king as royal donation, who gets adopted, who becomes legalized of royal grace or who becomes accepted as a person of Hungarian origin in a ceremony or through the act of *praefectio*¹¹.

«The act, when the man in an almost extinct family makes the female person from his own family, on noble properties, which belong to only male family branches, with the approval of royal privileges, to his own heir»¹². *Praefectio* means that if a nobleman does not have an own male descendant, he appoints a female relative of his family, most often his daughter, to his heir, in the same way as if she was a man.

To enforce this act royal approval was needed because the ancestral¹³, noble estates would have been otherwise reverted to the king according to discontinuance (*defectus seminis*) who, with his approval of the act, would lose estates *donatarius* but gain new followers, mostly in the person of the *praefectio*'s husband or any other blood-line family members. The ruler thus dispensed with the revertive holdings, the ancient noble holdings survived, so we can make the statement that *praefectio* is a real donation (*donatio regis*) and a legal institution of inheritance at the same time. When the nobleman who requested the institution of *praefectio* subsequently had a male heir from a legal marriage, *praefectio* lost its validity¹⁴.

In the following, the study intends to find an answer how the *sedes mater* of the legal institution manifests itself, what kind of antecedents can be detected, furthermore the actuating motive of the king's favour or rather what was the desired goal with the implementation of the institution, who wanted to achieve it and when.

2. The essence of *praefectio*. *Praefectio* had more aims. From the king's point of view to acquire followers with the extraordinary and unique act of grace, to strengthen them, in fact to confirm his own power. The nobleman as father saw the survival of his blood-line in this institution. His holdings were not reverted to the Holy Crown but to his own daughter, through her to his grandsons. When *praefectio* was not asked by the noble lady's father but by her daughter's fiancé or husband we could conclude that the husband as one of the king's followers benefited from the donation through his wife in an indirect way or the king expected fidelity in return for his favour.

¹¹ Béli, *Magyar jogtörténet*, cit. 36-38.

¹² Czövek István, *Magyar hazai polgári magános törvényről írt tanítások – Első könyv: A' Személyekről*, Pest 1822, 145-148.

¹³ The ancestral estates can not be alienated, because it is in the possession of the whole kin, so only the kin can dispose over it.

¹⁴ Czövek, *Magyar hazai polgári cit.* 145-148.

Therefore, the significant element of this institution from the viewpoint of the family and the successors is, that the *praefecta*'s children, because of their mother being a nobleman according to the law, become noble, inherit nobility after their mother¹⁵. So, the holdings remain in the ownership of the family thanks to the king's grace. It is obvious, that at that time in Hungary the properties meant everything, the basis of nobility and power. Not only prestige and existence but also an essential criteria for the survival of the family. With the help of *praefectio* they could avoid the situation of not having a heir in the family and presumably it might have come to discontinuance. In this way, the *praefecta*'s children become noble anyway, especially if she gives birth to a male heir, in this case most probably the future of the family and the continuance of the blood-line are ensured, they do not have to be afraid of discontinuance.

Since *praefectio* is acquired nobility in an original and common way, it is granted by the king, there is no other act which makes the lady's descendants noble. Although if we consider the descent, the argumentation is legitimate, though the noble lady acquires her title in first place from the king and not from her father, from the point of view of her descendants it is based on the he blood-line principle: the child born from a *praefecta* and a nobleman has two fathers in legal terms; the child of a *praefecta* born in a marriage between a noble lady but not a nobleman inherits nobility after its mother because the noble lady is a nobleman according to the law¹⁶.

In terms of *praefectio* there is an interesting and logical statement, that the *praefectionalia*, namely the *praefecta*'s inheritance is considered as the inherited part of the male relatives according to a *fictio juris*, probably because the woman's – now legally a man –, inheritance will be a part of the male descent's ancient estate thus her sons as male relatives inherit after her¹⁷.

As the summary of our statements connecting to this institution we can say that by the *praefecta* all rights, concerning Hungarian noblemen rights are relevant, without any restrictions to gender, namely as I have already mentioned, the *praefecta* is to be considered a man.

3. The first *praefectio* and its historical background. 1332, the year when King Charles I brought the first *praefectio* in history to effect.

¹⁵ Alsóviszti Fogarasi János, *Magyarhoni magányos törvénytudomány elemei*, Pest 1838-1839, 22-24.

¹⁶ Béli, *Magyar jogtörténet* cit. 36-38.

¹⁷ Czövek István, *Magyar hazai polgári magányos törvényről irt tanítások – Második Könyv: A dolgokról*, Pest 1822, 203.

<p>„[...] <i>De prelatorum baronumque nostrorum consilio et consensu, provida deliberatione prehabita, prefatam dominam Margaretham...cui domine licet de iure naturali atque positivo hereditas debetur paterna, tamen quia huic iuri repugnat observata ab antiquo regni nostri Hungarie consuetudo, que nonnisi masculum heredem in patriam hereditatem succedi permittit, non obstantibus huiusmodi consuetudine statuto sive dispositiva ordinatione, de speciali maiestatis nostre gratia et plenitudine regie potestatis ac magnificentia principali in verum constituimus heredem et instituimus eam inter generationem suam Nadasd nuncupatam paterne hereditatis legitimum successorem, totam ipsorum Ladislai et Dyonisii paternam hereditatem, universas possessiones... dedimus, statuimus, donavimus et contulimus in perpetuam hereditatem</i>”¹⁸.</p>	<p>„[...]For the advice and with the consent of our pontiffs and barons, we came to the deliberate decision, above mentioned Lady Margaret, the daughter of Comes László, spouse of our protégé and follower Master Pál Magyar, would take hold of her father’s heritage according to the natural and written law, but as this law is contradictory to customary law of our country, Hungary, in which only a male heir can be made hereditary in his father’s heritage, not being hold up by such customary law, our royal highness ordered to make her hereditary in the possessions of László and Dénes with the wholeness of the royal grace and power”.</p>
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On 8 November of the year mentioned before, King Charles I made László Nádasd’s daughter, Margaret hereditary in her father’s estate a „real” or male heir, because in 1316 the Kőszegis had the entire noble Nádasd family massacred only Margaret remained alive. In 1332, then already as the wife of Pál Magyar, the king declared in his privilege about this noble lady that she can inherit all her father’s estates as if she was a man. It fully went against the customary law, but the king argued with all his power (*plenitudo potestatis*), which made it possible¹⁹. How did it come that the ruler acted in this way, totally contradictory to customary law? To find the answer to this question we need a brief historical review.

With the extinction of the House of Árpád in male blood-line, bigger and bigger territories got into the hands of some more influential barons, we can almost call them kings in the meaning that they were barons and had an extremely huge power over a certain territory. Their desire to acquire more power and land just grew and grew. It is the period of interregnum (although there were quite enough candidates to be kings, more than necessary after all).

¹⁸ Fejér Georgius, *Codex diplomaticus Hungariae ecclesiasticus ac civilis* I-IX, Budae, 1829-1844, CD. VIII.3.592.

¹⁹ Fügedi Erik, *Ispánok, bárók, kiskirályok*, Budapest 1986, 251.

The Kőszegi branch of the Héder family proved to be one of the mightiest, with the centre in Vas county. The roots of this branch originate in Béla IV's *Ban* Henrik. Andreas III tried to appease the Kőszegis from the Héder branch with posts like *palatinus*, *magister tavernicorum* and *Ban* of Slavonia, but he did not succeed, moreover with the appointments he gave an even bigger power to them.

Another baron, having a huge power over territories, Máté Csák, ruled Northern Hungary with the title of *palatinus*, Ugrin, another member of the Csák family ruled over territories of Dráva and Száva rivers. Amadé Aba ruled in the northeast part of the country, the Borsa family in the Trans Tisza region. *Ban* Henrik, the brother of János Kőszegi ruled over Somogy county, this fact will be relevant with the first act of *praeffectio*²⁰.

King Charles I tried to get hold of the throne in these circumstances: in the beginning he was only supported by the Croatian *Ban* and the *seigneur* of the Kingdom of Naples, Pope Boniface VIII. He was crowned to be King of Hungary in 1301, in Esztergom, but not with the Holy Crown and not even in Székesfehérvár, which are strict criterias of the coronation rules, so a lot of people did not recognize him as their king. Moreover the barons insisted on the fact that the king should be appointed through election. A part of the barons voted for the Czech Vencel. He was crowned, but with the assistance of the Archbishop of Kalocsa and not the Archbishop of Esztergom, which again did not follow the coronation rules, so King Charles I could reproach and retreated to one his few followers, Ugrin Csák.

With the reign of the two kings a war between their followers started. The Kőszegis took the side of Vencel and in a short time they invaded the whole Transdanubia. Máté Csák, on the side of King Charles I, conquered huge territories in the northern region. Finally, after long and fierce battles King Charles I and his followers turned out to be the winners, namely with the help of Pope Boniface VIII: the Hungarian bishops stood by King Charles I side, furthermore, finally most of the barons joined them, on the pressure of Charles' uncles King Albert and Austrian Prince Rudolf on maternal side.

In response, the Czech king, rightly fearful for his son Vencel, quickly arranged for him to get home together with the Holy Crown, but Otto of Bavaria came soon into possession of it, he was only supported by the Kőszegis and it did not prove to be enough. He was crowned, too by two bishops and but not by the Archbishop of Esztergom, so the ceremony did not take place in the appropriate way. In 1307, he was captured and sent home by László Kán in Transyl-

²⁰ Engel Pál, *Szent István Birodalma*, Budapest 2001, 108-109.

vania, and he kept the Crown Jewels. Only Charles remained in the country with his half legitimate title of king. In 1307 his main followers, Amadé Aba, Kopasz Borsa, Ugrin Csák and some more barons proclaimed him their king.

To persuade the rest of the resistant barons, in 1308 support came from the Church again, the Pope sent one of his cardinals, who persuaded Máté Csák and the Kőszegis to submit, moreover also crowned King Charles I, though not according to the rules. Unfortunately it was not enough either, and Charles had to wait two more long years to acquire his long desired, legitimate title of king. The Customary Law of the Holy Crown was very strong in the country, in this way, to be legitimate, they had to keep the formality. It was very hard for the bishop to persuade László Kán to give the Crown Jewels back and then on 27 August 1310 Charles I was crowned up to all expectations, as it was supposed to be: in Székesfehérvár, by the Archbishop of Esztergom, with the Holy Crown²¹. With this act the interregnum finished and fightings started again.

Charles I tried to keep balance among his barons, but he demanded to give back the royal and Church goods, furthermore the barons should not force noblemen, living on their territory, to serve them.

This conflict ended up in permanent interior wars. First the King fought with Máté Csák, then the battles were going on in the Northeast, where Charles I unfortunately could not count on Amadé Aba because of his death. Máté Csák sent troops too, so the first major battle took place at Rozgony in 1312, where King Charles I and his brave army triumphed.

To defeat Máté Csák further means were needed, so the King turned for help to his western relatives and the Czech king, but at the same time the barons of the country denied their support (1314) and the King reacted with stating them disloyal and withdrew their titles. Charles I started his disappointing fight for his kingdom. Relying on his knights, the lands of the departed Ugrin Csák and his connections to the west and the Church, he miraculously regained his country territory by territory, what is more, with each success more and more people joined him.

Charles I was fighting against the Kőszegis, when the Borsas quit the agreement of peace and allied against him. He suppressed the revolt quickly together with Amadé Aba's sons. While the fight against Máté Csák was going on again, András Kőszegi submitted, but János Kőszegi still resisted and András joined his relatives again.

²¹ The Ideology of the Holy Crown comes from King Charles I, he was the one, who firmly insist on, that he must be crowned by the rules customary law: at Székesfehérvár, by the Archbishop of Esztergom, with the Holy Crown. This was the way, which truly legitimated his power over the country. After that, he always referred to his power which originated from the Holy Crown, from the Church.

The woiwode Tamás Széchenyi determined the faith of Transylvania, when he forced the sons of László Kun to bow to the King. There was only Máté Csák left. Although before Charles wanted to start an act, Máté Csák died, having no heir, his reign broke down. By 1323 the hard-achieved peace broke out²².

The history of King Charles' getting into power determined his circle of followers, from which later the new circle of barons emerged. While the former members of the circle of barons relied on their fortune and origin, the new ones obtained their power from Charles I, so they remained faithful to the King. Tamás Széchenyi who became the second mightiest lord of the country, and about whom there will be some more words later, acted in the same way²³.

If we examine the events more exactly, we can see that the noblemen Sándor Köcski and his brother-in-law, László Gersei from the Nádasd family in Vas County, in the neighbourhood of the Kőszegis, considered themselves as Charles' followers. In response to which the Kőszegis massacred the entire Gersei family and it was only Margaret who stayed alive, her nanny saved her life. After that Margaret was taken care of by her uncle, Sándor Köcski, *judex curiae reagiae* and taken to the royal court, where she got acquainted with one of the king's followers, Pál Magyar. Köcski lost only some of his estates, but as a revenge, 3 years later he destroyed the entire army of the Kőszegis as the commander-in-chief of the king's army²⁴.

In 1332 the historical moment arrived, when Charles I announced Margaret as *praefecta* of her father, László Gersei's and her uncle, Dénes' estates. This act apparently served, for several reasons, King Charles' policy to strengthen his power. Firstly, because he made the only living relative of his massacred followers a heir in their estates, not a stranger, in this way making the favoured one, but rather her husband commit to him. Secondly, because the husband was Pál Magyar, one of the King's followers, who asked the King for László and Dénes Gersei's estates, which were reverted to the Holy Crown, earlier after the massacre in 1324. He indeed got them, but because of arguments he considered it, with good sense, to be necessary to have them confirmed, and the best mean for this was to marry Margaret.

The fact, that King Charles I gave male rights to a female, and with this measure he went against customary law, namely according to the law of ancestors only male family members can inherit in direct line, on blood-line basis, lacking it male side line relatives within the family, caused enormous outrage. Especial-

²² Engel, *Szent István* cit. 112-115.

²³ Fügedi, *Ispánok, bárók* cit. 195.

²⁴ Fügedi, *Ispánok, bárók* cit. 238-239.

ly in the Nádasd family, where the collateral relatives reclaimed the estates given to Margaret, because the customary law of inheritance, those estates would entitle them, the Nádasd family, and not Margaret, so they asked the King not to allow the *praefecta* to be able to dispose over the estates²⁵. At the end, Margaret's husband, Pál Magyar paid them out and kept the estates with Margaret.

In this case, becoming a *praefecta* was only a symbol from the King, no more repeated, but later rediscovered by Louis I who realized the possibilities of this institution and turned it into practice.

4. The flourishing era of *praefectio*: an institution serving the internal affairs of Louis I. After the death of King Charles I, his son, Louis I (also known as Louis the Great) succeeded the Hungarian throne, who discovered the possibilities in this institution and made a system of its application. Because of the King's constant wars, a lot of valiant noblemen died in the battles, sometimes whole families, or their last male members never returned home. The same happened at the siege of Zára. Louis I started off to succour Zára, which was sieged by the Venetians from 1 May 1346. Two months later, on 1 July it became clear, that he would not be able to win, so he surrendered. Zára remained without any support and by the end of the year it ceded to the Venetians.

The King's follower, Ulving Harsendorfer had fought to the last drop of his blood valiantly on the side of the Hungarian king and then was killed, so Louis I made the last member of the family, the only sister, Elizabeth, who remained at home, a *praefecta*, as a „true heir” of her brother's estate as an extraordinary and special royal favour in 1347 and at the request of Elizabeth, he confirmed it in 1353.

«[...] The noble lady named Elizabeth, the wife of our true follower and favoured noblemen's Master Konya, the son of the noble Tamás, former woiwode of Transylvania, iudex curiae regiae, deceased Master Ulving Harsendorfer's sister visiting our royal majesty showed us our decree of her brother, deceased Ulving Harsendorfer about all estates and properties of his castle Ecseg [...] asking our royal majesty, [...] to accept and confirm all grants and properties we offered her and keep them in legal status»²⁶.

However, the introduction of the decree shows that it was not only the glorious act that motivated the King to make Elizabeth a *praefecta*. The noble lady was namely the wife of Master Konya, the son of Tamás Széchenyi, one of the

²⁵ Nagy Imre, Véghely Dezső, Nagy Gyula, *Zala vármegye története. Oklevéltár 1-2*, Budapest 1886, ZO 1, 543.

²⁶ Fejér Georgius, *Codex diplomaticus* cit. CD. IX.2.206.

most powerful barons of Louis I and a protégé of the King, too. The Angevins' internal political aspirations emerge here too, which served to strengthen their power through their barons.

To create the traditional form of the decree *praefectio*, Louis the Great justified with listing the merits of Ulving Harsendorfer. He describes the life of the nobleman, who fought and died for him quite colourfully and this fact can not remain without proper acknowledgement and reward:

«[...] deceased Master Ulving Harsendorfer, often bearing witness to his loyalty and obedience, even so, he died a violent death for the glory of our royal majesty in struggles, armoured with a lion's bravery which took place in front of the siege of Zára. [...] fighting to the last drop of his blood as a hero, having several dangerous wounds, collapsing in his own blood in front of our majesty, thus becoming worth our amazement,»²⁷

However it shows, that the ruler awards the support of his followers with grants, it means a kind of favour, for which he expects further support and fidelity. If the king gives all these without favour, he does it to award and possibly to have more followers²⁸. In case of Ulving Harsendorfer and his sister, Elizabeth the situation is mixed: Louis I gives grants on the basis of *praefectio* in return for support, and in honour because the only living relative of his deceased follower can not be left without award, and his follower, Master Konya would be more committed, too. Louis I, practising his grace, confirmed the decree of *praefectio* given to Elizabeth Harsendorfer and ordered its registration.

Coming back to the internal politics serving the King's favour, it is worth examining the family background a little more. Elizabeth Harsendorfer's husband was Master Konya²⁹, who operated as the King's chief servitor between 1330 and 1342, then in 1346 as comes of Sáros and Nógrád. In 1354 he was comes of Gömör, from 1360 to 1362 comes of Bratislava³⁰. It emerges from his functions, that he was one of Louis the Great's protégés, thus it is already understandable, when the claim for *praefectio* was handed to the King, he did not hesitate to fulfil it. Moreover, Master Konya is one of the sons of Tamás Széchenyi, the country's second mightiest landholder. Széchenyi also belonged to the followers of the Angevins; In 1301 he joined, unlike his relatives, King Charles I in

²⁷ Fejér Georgius, *Codex diplomaticus* cit. CD. IX.2.206.

²⁸ Béli Gábor, *Érdemek és adományok, Jura* 1, 1996, 19.

²⁹ Two of Master Konya's sons were *iudex curiae regiae*, moreover Simon served as the King's *ianitorum regalium magister*. Bertényi Iván, *Az országbírói intézmény története a XIV. században*, Budapest 1976, 188.

³⁰ Bertényi, *Az országbírói intézmény* cit. 110.

the battles, he took part in the Battle of Rozgony too. It is no wonder, that he appears as the confidant of the King, and he is the one, who goes to propose the king's future wife. In 1330 he comes of Arad, Csongrád, in 1340 comes of Nógrád. He followed Dömötör Nekcsei in the position of *magister tavernicorum*³¹. Charles I gave him most of the regained castles, in this way Széchenyi became the country's second biggest holder of private properties³², (only Louise's favourite followers, the Lackfis got similar quantity of land)³³. He became baron, later woiwode of Transylvania, comes and finally *iudex curiae regiae* until his death in 1354³⁴. It confirms the popularity of the Széchenyi family, that his other son, Miklós ascended ecclesiastical field, first he was a provost, then twice a bishop. The Széchenyis belonged at the end of the century to the group around young Miklós Garai's circle of aristocrats³⁵.

To go further into the convergence of power, the case can be made even more exciting with a wedding, Lőrinc, the younger brother of Pál Nagymártoni married one of the daughters of Ulving Harsendorfer, (Master Kónya married his sister Elizabeth), so there was a direct connection between King Charles' most powerful baron, Tamás Széchenyi and the country's *iudex curiae regiae* being in duty for the longest period ever³⁶.

In fine line, the *praefectios* followed each other at the time of Louis I, partly because the estates were rarely reverted to the King, thus this legal institution proved to be a tried and tested tool to overcome a certain deficit³⁷. The King used the political advantage of *praefectio* perfectly and he gave Angevin aristocracy more and more land, thus forming the circles of the court. Young noble men, knights and valiant soldiers served in the royal court, the barons and pontiffs of the ruler found their place here, too.

The Angevins made effective attempts to strengthen and enforce their new leading class and also make them loyal. The act became a standard reward method for the inner circle and served to create close royal bonds³⁸.

At the same time, the aristocracy of the Árpád-era does not disappear either, this may point to the fact, that there were noblemen in their circles, who were able to keep their lands and they also had good organisation skills. The families, which

³¹ Bertényi, *Az országbírói intézmény* cit. 108.

³² Tamás Széchenyi has enormous estates, especially in Northern Hungary and in Transylvania.

³³ Fügedi, *Ispánok, bárók* cit. 195.

³⁴ Engel, *Szent István* cit. 124-125.

³⁵ Bertényi, *Az országbírói intézmény* cit. 188.

³⁶ Fügedi, *Ispánok, bárók* cit. 262.

³⁷ Fügedi, *Ispánok, bárók* cit. 255.

³⁸ Fügedi, *Ispánok, bárók* cit. 252.

get out of the inner circle of the aristocracy at that time, will probably not have such a career in history they actually could have. The new upper class of King Charles I shows a mixed form, old noble families and also families he gave higher social status are to be found there too. However he expected fidelity from everyone. The benefits of King Charles' efforts paid off for his son, Louis the Great. It shows that *praefectio* is a highly elite institution and it is in fact not a women's right, but the privilege of noble families, the right of the extinct father, husband and male child. The Angevin kings introduced a series of new actions in the interest of their appreciate circle of followers, *praefectio* is the best example of it³⁹.

Perhaps one of the most widespread *praefectios* occurred in the case of the Cudars. Louis I made firstly the daughter of Péter Szikszói (from the Aba family) in her father's estate a *praefecta* on 25 July 1353. She was the fiancée of Péter Cudar's brother, Simon.

«Simon, the squire of our Court, [...] Master Péter Cudar, comes of Sáros, our true follower, this Simon's brother (of the same family) [...] for his fidelity, [...]»⁴⁰.

From the facts mentioned above it is clear, that Péter is the most important one of all Cudar brothers, because the King makes the act of *praefectio* concerning his fidelity. In the second case, it is Péter Cudar himself, that is to say, his wife. On August 4, 1356 Louis the Great made Balázs Fónyi's daughter, the wife of Master Péter Cudar castellan of Diósgyőr, (later Ban and *iudex curiae regiae*) a *praefecta*, saying that this grant had already been given to Balázs Fónyi's daughter by King Charles I⁴¹. Here, as in most cases, the King explains why he overcomes the limits of the customary law, he lists the merits of the descendent. A part of the decree is the following sentence too, which reveals some interesting facts: „[...] *he asked King Charles I for it and kept it validly, [...]*” According to all these there are two possibilities: Louis the Great mentions his father only as necessary basis for reference and justification, or King Charles I did not perform the act of *praefectio* only once, however only the first and most significant case was written down. Pro forma, the clause of the decree does not even refer to *praefectio*, but to a simple modification of the line of succession, that is again an enormous grace from the King's side.

«[...] When Master Peter, leaves this world for the wish of the judge of heaven, his wife, the noble lady, daughter of Balázs Fónyi owns his estates till the end of her life and in the case of her death, Balázs Fónyi's estates are to be passed

³⁹ Fügedi, *Ispánok, bárók* cit. 251.

⁴⁰ Nagy Imre, *Anjou-kori okmánytár I-VI.*, Budapest 1878-1891. AO.VI.100.

⁴¹ Holub József, *Középkori fiúsitások*, in *Turul*, 41, 1927, 84-88.

into the full right and ownership of Peter's brothers in the order of our grant for owning and possessing them for ever [...]»⁴².

The Fónyi estates may be inherited by Péter Cudar's brothers, instead of being reverted to the King because of discontinuity. With this action Louis I gave a double chance to the Cudars to keep their estates. Actually, the truth is, that it was the husband who asked for *praefectio* for his wife, in this way his name got into the decree too, as grant holder; in case of discontinuity on his wife's side, thus the estates would be inherited by him and his relatives⁴³.

Also in 1356 Simon Cudar married the daughter of Péter Szikszói (from the Aba family), who, as mentioned before, was made *praefecta* in 1353. In 1360, again somebody of the Aba family, Dezső Rédei's son, Jakab wedded his two daughters Anna and Margit to István Cudar and Miklós Cudar⁴⁴. Of course, both girls were made *praefecta* on 8 October 1360⁴⁵.

Within seven years, all the four Cudar brothers got married and all the four wives were made *praefectas*. Louis I had already difficulties with concealing his purpose, to redistribute the estates of the old aristocracy among his own followers. At the same time, presumably due to its nature contradictory to the customary law, and because of the fact that not everybody was in such a favour, the institution provoked outrage, especially when Louis I started to make it use of in the ranks of the gentry too. Although the King can not have been particularly disturbed by this, it was only from the 1360s⁴⁶, that the application of this legal institution became really common in practice until 1526. József Holub collected about 100-120 cases of *praefectio* until the Battle of Mohács (1526)⁴⁷.

5. The exceeding of the Governor's authority in the XVth century. We must mention Governor János Hunyadi as well. Although Hunyadi had a broad governor's power, but in principle the act of *praefectio* could only have been done with royal consent. However, the Governor was not disturbed by this restriction and he issued decrees of *praefectio* for his followers generously. Taking the governor's power into consideration, it was possible for him to grant estates of

⁴² Nagy Imre, *Anjou-kori okmánytár* cit., AO.VI.495.

⁴³ Holub József, *A fiúsításról = Különlenyomat a Dr Klebersberg Kuno-Emlékkönyvből*, 1925, 318; Louis the Great's act can be considered as *consensus regius*, that meant resignation from the law of reverting. In this case, in favour of somebody who is otherwise not entitled to be a heir. – Béli, *Érdemek és adományok* cit. 34.

⁴⁴ They were *aulae iuvenes*, that is to say: young noble men, belong to the King's inner court.

⁴⁵ Holub, *Középkori fiúsítások* cit. 84-88.

⁴⁶ Holub, *A fiúsításról* cit. 312.

⁴⁷ Holub, *Középkori fiúsítások* cit. 84-88.

the size of maximum 32 socages only, but according to his interests he exceeded it, of course. This legal institution was used by Hunyadi just like the Angevins with the intention to build power, primarily in order to collect followers with the help of *praefectio* for his battles against the Turks.

«Us, János Hunyadi the Governor of Hungary note in the order of the decree here [...], that the noble lady Dorottya, Bertalan Petóházi's daughter [...], who was engaged by Péter Kerseni according to Roman liturgy; this maiden Dorottya, Bertalan's daughter in Petóháza, Sopron County, and in all Bertalan's rights and estates anywhere in the he country [...] by the power of the Governor we wield, we made her a real legal heir and descendant, as the male heir of Bertalan [...]. (10 July 1449)⁴⁸.

6. The two parts of the institution of *praefectio*. The institution *praefectio* can be divided into two factors. *Praefectio* taken in the broad sense corresponds to the primary purpose of the institution, that is to say, appointing somebody heir, and to the factor taken in the narrow sense, which is nothing but donation. From the ruler's point of view, the act of donation can be considered to be more significant, the Latin name: *prefectionales et donationales* also refers to it. If the nobleman, not having another choice, left his estates and other properties to his daughter, had to fear of his collateral relatives, that is to say, underlying the principle of the legal heredity, they would claim their rights on his daughter, kinship back till seven generations was namely kept count of, which is probably based on the ecclesiastical law, according to which marriage to a relative back to seven generations was also prohibited. On the other hand, it could not be checked properly, so in 1215 it was lowered to the fourth generation⁴⁹. In this way the acknowledgement and the strengthening of legal heredity became necessary, but it could only be granted by the king, because of the law of reverting. We can get nearer to the *praefecta*'s acquiring estates from two perspectives of heredity. If the act of *praefectio* takes place after the nobleman's death, usually at the husband's request, in this case the estates were already held by the king and it was him that allocated them directly to the woman, so we can say that *praefectio* is original acquisition. Earlier, *praefectio* came close to the entire donation, because the king donates from his own hands in both cases, estates and the right of ownership too.

On the other hand, however, the daughters appointed heirs «*hereditarie successionis iure*» inherited the ancestral estates of their families, not as strange, new alienees but on the basis of bloodline inheritance. After that we can conclude that *praefectio* is a mixed legal institution of inheritance.

⁴⁸ Nagy Imre, *Sopron vármegye története. Oklevéltár 2*, Sopron 1891, SO 2, 339.

⁴⁹ Holub, *A fűsítésről* cit. 314.

As a matter of fact, *praefectio* can be considered both as a legal institution of donation, and inheritance as well. If we examine the actors of the decree one by one, we can come to the following conclusions. From the king's point of view, we can speak of the exercise of an extraordinary and special granting grace which, in turn, was exercised within the rules of inheritance law and the right of remainder, changing their legal order. The testator enjoys the benefits of inheritance law of this institution, his properties remain in the family. The *praefecta* benefits from both legal rights, she receives the estates donated by the king and she is the heir of the family's ancestral estates.

7. Conclusion: Looking at the history of the institution of *praefectio*, in my view, we can speak of an extraordinary and special institution of the right of inheritance, which covers an estate-donation on behalf of the king, otherwise it is the right of the extinct father, the husband, the male child; furthermore, it grants the *praefecta* the noble rights of a man.

While in the case of King Charles I the *praefectio* was a single act, the exercise of an extraordinary and special royal favour, communicating thus a political message to his barons, that is, that the king was the only and legitimate ruler in the country, *praefectio* had become an established institute of Louis the Great.

From the historical background it is apparent how the legal institution served as one of the powerful tools of the Angevins' domestic policy, and how King Charles I, Louis the Great ensured their power, or how János Hunyadi acquired his followers.

Examining this legal institution from the point of view of our protagonist, the *praefecta*, we can say that she is basically entitled to all special female property rights, besides that to male property and inheritance rights as well. If we contemplate about the details of this legal institution, we can find the real gemstones of *praefectio*: the *praefecta* is a nobleman, woman, moreover legally a man, and it also follows that her unborn children will have legally "two" fathers. In addition, she has the right to all existing male/female noble privileges theoretically. Above this person, in fact, there is only the ruler, and even more the Holy Crown, from which she got these rights. Only and exclusively it is the country's respective reigning ruler that enjoys a better legal position than the *praefectas*. But, unfortunately, due to the lack of emancipation efforts, according to the spirit of the age, *praefectas* had not endeavoured yet to exploit the male noble rights related to *praefectio*, given the existing family relationships. As a final conclusion of the investigation of this legal institution we can establish that it is difficult to find out who won most of the act. In my opinion, in terms of the legal development of the age and its directions, the *praefecta* had gained extra rights and benefits which she would never have been able to achieve without the insti-

tution of the *praefectio* ... at the same time, she did not live with them because of the lack of the above mentioned efforts.

After that we can ask the question: Who got the best of it? Perhaps the king? The noble father? The husband? Perhaps the *praefecta*? The answer is: perhaps none of them. In my opinion, the biggest winners of the *praefectio* were the *praefecta*'s and her husband's heirs, as because of the extraordinary and special royal favour, they inherited the ancestral estates from maternal side just like from paternal side. It is therefore certain that the *praefectio* is a unique institution of its own accord, which was an exceptional novelty in the Hungarian and European medieval systems of inheritance law.

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