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Initial considerations on the *Editto politico di navigazione mercantile* (1774), its criticism and reform attempts in Hungary*

INDEX: 1. The *Editto politico di navigazione mercantile* - 2. First critics to the edict - 3. First hopes to change - 4. The work of Ferenc Nagy - 5. Press pressure to change and scandals - 6. The well-deserved comprehensive change.

ABSTRACT: Maria Theresa's 1774 *Editto politico di navigazione mercantile* formed the basis of Hungarian maritime law for over 150 years. Initially praised for its comprehensive regulation of maritime authorities and sailors' rights, it became increasingly criticised as obsolete during the late nineteenth and early twentieth century. Despite repeated reform efforts by Nagy, Herich, and others the edict remained effective through the dual monarchy and to the interwar Horthy era. Only with Act XIX of 1934 was it finally replaced by modern legislation harmonised with international and ILO standards, ending the dominance of an eighteenth-century maritime code in Hungary's legal system.

KEYWORDS: Maria Theresa, Hungarian maritime law, Editto politico.

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1. *The Editto politico di navigazione mercantile*

According to Tibor Rónay (jurist and captain), the Editto politico di navigazione mercantile, Empress Maria Theresa's[1] 1774 decree regulating maritime law, laid the foundation[2] for Hungarian maritime law. The edict was in force for an exceptionally long period of time. In his work published in 1912, Zoltán Kohányi identified Maria Theresa's legal document[3] as the oldest piece of legislation on maritime administration still in force. Professor István Kajtár called the Editto politico di navigazione mercantile the Methuselah of Hungarian maritime law, not only because of its age but also because of its significance[4]. Ferenc Nagy went so far as to describe the edict as epoch-making[5]. The contemporary significance of the legislation was twofold: on the one hand, it comprehensively and in detail regulated the powers and responsibilities of the maritime authorities (captain's offices) and, on the other hand, the rights of seafarers. In this respect, the legislation was ahead of its time. Again, according to Ferenc Nagy, it surpassed even the 1681 French Ordonnance de la marine[6].

The royal edict entitled Editto politico di navigazione mercantile was issued by Maria Theresa on 25th April 1774, with preparatory work having begun as early as 1756[7]. It aimed to create uniform maritime law, maritime trade and maritime service regulations for Austrian interests in the Mediterranean Sea, its

[1] For such activity of Empress Maria Theresa see: Ch. Neschwara, *Uber das Schicksal der ältesten Materialien zur Gesetzgebungs-geschichte des Österreichischen ABGB*, in «Acta Universatis Brunensis Iuridica», 378 (2010), p. 1571; Ch. Neschwara, *Das ABGB in Ungarn*, in E. Berger (ed.), *Österreichs Allgemeines Bürgerliches Gesetzbuch (ABGB). Eine europäische Privatrechtskodifikation. Band III Das ABGB außerhalb Österreichs,* Berlin 2010, p. 35.; I. Képessy, *Az Országbírói Értekezlet története és öröksége*, Budapest 2023, pp. 87-88

[2] T. Rónay, *Tengeri magánjogunk az 1909-iki törvényjavaslat szerint*, in «Tenger», 4-5 (1916), pp. 194-195

[3] Z. Kohányi, *A tengerészeti közigazgatást szabályozó törvények és rendeletek gyűjteménye,* Budapest 1912, I

[4] I. Kajtár, *A magyar tengerjog „matuzsálemei". Az Editto politico di navigaziona mercantile (1774) és a Code de Commerce II. Du commerce maritime (1807)*, in B. Mezey-M. Révész T. (ed.), *Ünnepi tanulmányok Máthé Gábor 65. születésnapja tiszteletére,* Budapest 2006, pp. 225-241

[5] F. Nagy, *Magyar tengerjog. Értekezések a társadalmi tudományok köréből*, Budapest 1894, XIV, p. 5

[6] *Ibid.*

[7] J. Lengyel, *Beer könyve Mária Terézia és II. József kereskedelmi politikájáról*, in «Magyar Gazdaságtörténelmi Szemle» 6 (1899), p. 166

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ships and seafaring personnel, all with the economic interests of the court in mind[8]. This goal «encouraged the empress to organize the merchant navy with the utmost precision and order, and to organize the maritime administration in a manner that fully met the maritime needs of the time»[9]. In Hungary, it came into force on 31st July 1804, by order of the Royal Locumtenential Council, authorized by the court decree of 29th July 1803[10]. In view of this, a Hungarian translation of the original Italian version was also published, in which the Hungarian title of the legislation is: Politicum Edictum az az közjóra tzélozó rendelések az ausztriai kereskedő hajókázás iránt, mellyek kiadattattak Bétsben, aprilis hólnapnak 25dik napján 1774dik esztendőben (Politicum Edictum on regulations for the public good concerning Austrian merchant shipping, issued in Vienna on the 25th day of April in the year 1774)[11]».

The Hungarian text of the edict contains provisions on port captain's offices, the duties of merchant ship captains, clerks, helmsmen and ship's masters, deckhands and stewards, sailors, apprentices, and others belonging to the ship's crew, as well as the salaries and rewards of ship captains, officers, sailors, apprentices, and other members of the ship's crew. This 1804 edition was bound together and included amendments and additions made in the meantime as appendices.

2. *First critics to the edict*

Following the Austro-Hungarian compromise of 1867[12], it became possible to at least critically examine this fundamental source of maritime law, raising

[8] J. Barta, *„Országainak közös anyja." – Gazdaság és társadalom Mária Terézia politikájában*, in A. Bódvai (ed.), *Mária Terézia emlékkönyv*, Budapest 2023, pp. 24-51

[9] J. Katzer, *Tengeri kereskedelmünk fejlődése*, in E. Cseh (ed.) *A homonnai m. kir. állami felsőkereskedelmi iskola értesítője az 1907–1908. tanévről*, Sátoraljaújhely 1908. p. 24

[10] E. Récsi, *Közigazgatási törvénytudomány kézikönyve az ausztriai birodalmi törvényhozás jelen állása szerint különös tekintettel Magyarországra. IV. Földmívelési, ipar-, kereskedelmi és közlekedési ügyek*, Pest 1855, p. 161

[11] *Politicum Edictum az az közjóra tzélozó rendelések az ausztriai kereskedő hajókázás iránt, mellyek kiadattattak Bétsben, aprilis hólnapnak 25dik napján 1774dik esztendőben*, Buda 1804

[12] B. Rigó, *Alkotmányos változások az 1860-as évek második felében*, in «Forum: Publicationes Doctorandorum Juridicorum» 7 (2017), pp. 193-222; B. Rigó, *1867 as the Year of Constitutional Changes Around the World*, in «ELTE Law Journal» 2 (2019), pp. 39-63; I. Képessy, *Föderalizmus, centralizmus, dualizmus - avagy a kiegyezéshez vezető út*, in Z. Megyeri-Pálffi (ed.), *Szuverenitáskutatás*, Budapest 2020, pp. 93-112; I. Képessy, *1848 alkotmányos forradalma - előzmények és kontextus*, in M. Fazekas (ed.), *Jogi tanulmányok, jogtudományi előadások az Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Kar doktori iskoláinak konferenciáján*, Budapest 2016, pp. 242-253

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the possibility that the rules of the edict could even be changed. «The same private maritime law shall apply to the coasts and merchant fleets of both parties, and its modernisation shall be carried out as soon as possible»[13], stated the law on the customs and trade union. The customs and trade union established between Austria and Hungary included maritime issues, maritime law, maritime trade, maritime administration, and maritime private law among the subjects to be determined by mutual agreement[14]. However, the quoted sentence not only set the goal of establishing regulations by mutual agreement, but also that maritime private law should be modernised as soon as possible.

Professor Béni Grosschmid referred to the edict as his main source and also noted an important fact[15], namely that the laws, customs, and regulations relating to maritime affairs would continue to apply, as stated in Section 11 of the joint decree issued in 1871 by the royal Hungarian prime minister, minister of justice, and the Croatian ban, which stipulated that the court in Fiume (Rijeka) must continue to apply these laws in maritime matters[16]. Other rules in force beyond the edict relating to the sea, private maritime law and maritime administration were later summarized in a comprehensive work by the maritime authorities of Trieste and Fiume[17].

The rules governing maritime authorities, laid down in the edict, later served as a basis for the maritime administrative rules of the dualist era[18], such as Act 16 of 1871 on the tonnage measurement of merchant ships, Act 16 of 1879 on the registration of merchant ships, Act 32 of 1883 on port dues, Act 22 of 1893 on state aid and concessions for Hungarian merchant ships engaged in free maritime navigation, and Act 34 of 1895 on state aid for the construction of sea-going vessels. However, it cannot be ignored that the edict is very

[13] *1878. évi XX. törvénycikk a magyar korona országai és Ő Felsége többi királyságai és országai közt kötött vám- és kereskedelmi szövetségről VI. cikk.*

[14] „Port and maritime health administration, maritime shipping operations, and maritime health shall be administered by the governments of both states in accordance with equal rules and, as far as possible, in a harmonized manner".

[15] A magy. kir.ministerelnöknek, a magy. kir. igazságügyministernek és Horvát-, Szlavón-Dalmátországok bánjának, 1871. sept. 14-én kiadott rendelete a fiumei kir. törvényszék felállítása s hatóságának ideiglenes szabályozása tárgyában. *Rendeletek Tára*, Pest 1871, pp. 274-283

[16] B. Grosschmid, *Magánjogi tanulmányok tervezetek és kisebb dolgozatok*. Budapest 1901, p. 7

[17] *Sammlung der Gesetze und Verordnungen betreffend den See- und Hafendienst in der österreichisch-ungarischen Monarchie. hrsg. von den Seebehörden in Triest und Fiume. Raccolta delle leggi ed ordinanze concernenti il servizio marittimo e portual nella Monarchia Austro-Ungarica*, 1-3, Trieste 1883-1886

[18] V. Mutschenbacher, *A tengerjog fogalma, forrásai és jogi természete,* in N.N. (ed.), *A pécsi püspöki joglyceum évkönyve az 1907/8-iki tanévről*, Pécs 1908, pp. 23-24

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incomplete in terms of private maritime law. Nevertheless, generations of sailors sailed according to its rules for a century and a half, as it was not until the beginning of the 20th century that there was an opportunity for new, comprehensive, modern regulation. Knowing that the edict is a very product of its own time and was obviously designed for sailing ships, its long-term applicability demonstrates its significance. On the other hand, the regulation contains several general principles that can be applied across different eras, regardless of age, technical development, and sometimes even economic conditions and the current relations between maritime powers. However, there is no doubt that these principles have become outdated over time. For example, the head of the maritime authority (captain's office) must perform his duties with gentleness and humanity, the aim of which, as expressly stated in the decree, was to encourage as many people as possible to visit the coast under Habsburg rule. The edict was a Catholic maritime order that was appropriate for the Catholic ruler's Catholic empire. The Empress formulated not only general moral rules for seafarers, but also strict religious rules, such as the requirement to go to confession at Easter, which had to be confirmed in writing to the ship's captain[19] - excluding non-Catholics from working on Habsburg ships.

In the 1880s, the Hungarian press increasingly criticised the provisions of the Editto as outdated and a product of a bygone era, saying that they did not meet the economic and technical expectations of the late 19th century. The 1884 report of the maritime authority in Fiume also states that «The port police regulations were issued last year and set out in detail the rights and obligations of the captains and crews of ships arriving at Hungarian ports. These regulations, which fill a gap, represent significant progress in the field of maritime administration. Previously, the decisions of the Editto politico were partially applicable, but these were outdated and no longer appropriate for the changed circumstances»[20].

3. *First hopes to change*

In 1885, there was great anticipation throughout the empire regarding the work of the Ministry of Trade. Judge Hugó Beck's hopes that «the draft law on shipping regulations has been finalised and will become law this year; the codification of private maritime law is in progress and will be completed shortly»

[19] Editto politico Art II § 29 and Art VI § 18

[20] *Jelentés a fiumei m. kir. tengerészeti hatóság 1884. évi működéséről és a tengerészet s a tengeri forgalomterén előfordult fontosabb mozzanatokról*, in «Közgazdasági Értesítő», 19 (1885), p. 708

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did not come true[21]. The daily newspaper Pesti Hírlap also reported that the draft maritime shipping regulations were being developed by the Ministry of Trade. Representatives of the Austrian government also took part in the negotiations, as the customs and trade agreement stipulated that Austrian and Hungarian maritime laws should be based on the same principles as far as possible. According to the report, the committee had made such progress in its work that the bill in question was expected to be submitted to the legislature before the end of the year[22]. This process was unsuccessful; although the bill, which had been drafted in agreement with the Austrian government under the customs and trade agreement, was submitted to the House of Representatives in 1886[23] and 1887[24] by Pál Széchényi, minister of agriculture, industry and trade, it was not discussed by the committees, nor put on the agenda of the House.

In the same year, a debate arose in the pages of the professional journal 'A Jog' regarding the validity and applicability of the edict. In his study on marine insurance, judge Hugó Beck stated that Article 6 of Act 20 of 1878 was the governing provision on the applicable rules of maritime law. According to this article, the same private maritime law must be applied to the coastlines and merchant fleets of the Austro-Hungarian Monarchy. Thus, the main sources of maritime trade law in Hungary are the same as in Austria, namely the Editto politico di navigazione mercantile and Book II of the French Commercial Code[25]. According to lawyer and representative Gyula Rosenberg, judge Hugó Beck was mistaken about the applicability of the edict, as Hungarian maritime law did never exist. In his view, the edict never had any effect in Hungary, except for Fiume and the Hungarian coast. The aforementioned joint decree of the royal prime minister, minister of justice, and Croatian ban of 1871 also only upheld the laws, customs, and regulations in force in the area under the jurisdiction of the Royal Regional Court of Fiume. In all matters involving maritime law that do not fall under the jurisdiction of the Royal Regional Court of Fiume, we are not only without law, but also without justice, argued Rosenberg[26]. His argument was sound and straightforward, but subsequent legal practice showed that he was wrong.

Since the preparatory work carried out in the mid-1880s was unsuccessful, in 1890 lawyer, representative and ministry officer Károly Herich was able to

[21] H. Beck, *Magyar tengerbiztosítási jogkérdések*, in «A Jog», 6 (1885), p. 70

[22] N. N., *A tengeri hajózási rendtartás*, in «Pesti Hírlap», 16 (1885) p. 7

[23] *Képviselőházi irományok [Documents of the House of Representatives]*, 1884, XVI. pp. 75-103

[24] *Képviselőházi irományok [Documents of the House of Representatives]*, 1887, I. pp. 152-180

[25] H. Beck, *Magyar tengerbiztosítási jogkérdések,* cit. p. 70

[26] Gy. Rosenberg, *Magyar tengerbiztosítási jogkérdések*, in «A Jog», 15 (1885) p. 153

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say that «our maritime law will only be created after this, since, with the exception of the law on the registration of sea-going vessels, maritime law, both in terms of personal and material aspects, is still awaiting regulation. and material aspects still await regulation, for the time being the Maria Theresa-style 'editio politico'[27] and French maritime law, which has remained in force since the Napoleonic occupation of 1810, and the legal customs prevailing in the Mediterranean Sea are filling the gap left by the absence of a systematic code of law»[28]. Two years later, the following report, which was probably greatly exaggerated in terms of judicial application, was published on the subject of private maritime law: «The ministers of commerce and justice have begun work on drafting a bill on private maritime law. The sources of our private maritime law are currently the Editto politico di navigazione, issued in 1774, and the French commercial code, which has remained in force since the French occupation at the beginning of this century. However, these are completely outdated and based on principles that are no longer relevant to today's circumstances, so that the courts have repeatedly been forced to base their judgments on German and other foreign laws. The modernization of private maritime law is therefore essential, if only because it is truly absurd that foreign laws should govern domestic legal relationships»[29].

4. *The work of Ferenc Nagy*

The Hungarian legal system came closest to comprehensive regulation of maritime law and the repeal of the edict in 1892, when minister of justice Dezső Szilágyi asked Ferenc Nagy, an internationally renowned Hungarian professor of maritime law, to draft maritime law regulations appropriate to Hungarian conditions. Nagy had already participated in this capacity in the 1892 International Maritime Law Congress in Geneva[30]. The professor was responsible for drafting the bill[31], while decisions on the basic principles were made by a three-member committee, which also included Emil Monojlovics, president of the Commercial Council of the Royal Curia, and count Tivadar Batthyány, member of the National Assembly from Fiume and sea captain[32]. The text of the bill was

[27] Misspelling of editto politico

[28] K. Herich, *A kereskedelmi és váltójog szelleme*, in «Nemzet», 2799 (1890) p. 5

[29] N. N., *Tengeri magánjog,* in «Pesti Hírlap», 319 (1892) p. 2

[30] N. N., *Tengerjogi kongresszus*, in «Ellenzék», 216 (1892) p. 1

[31] F. Nagy, *Tengeri jogunk reformja*, in «Jogtudományi Közlöny», 50 (1893) pp. 397-399

[32] N. N., *A tengeri magánjog*, in «Pesti Napló esti kiadás», 369 (1892) p. 1

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completed in 1894 and was also published in print[33], but it was never submitted to the House of Representatives.

Subsequently, on 3rd September 1896, minister of trade Ernő Dániel submitted a bill on commercial shipping to the House of Representatives[34]. The bill consisted of 143 paragraphs and would have comprehensively and thoroughly regulated all matters relating to merchant shipping[35]. The bill was supported, with minor amendments, by the Justice[36] and Economics Committees[37] and the House of Representatives[38]. However, the law was never enacted.

The explanatory memorandum to the draft law on maritime regulations referred to the fact that the codification of private maritime law was also underway. The proposal, published in print in 1894, and its explanatory memorandum[39] were discussed in 1897 by a committee consisting of representatives of the Royal Ministry of Commerce, the Hungarian Royal Maritime Authority, the Chambers of Commerce and Industry of Fiume and Zengg (Senj), and a committee of representatives of the Fiume shipping companies and shipowners[40], and was accepted as meeting the requirements of modern maritime trade[41]. Subsequently, in accordance with the principles of the customs and trade union, namely that private maritime law must be regulated in a harmonized manner, it was sent to Austria. No approval was received[42].

According to the above, the situation remained unchanged in 1895. The Jogtudományi Közlöny (Journal of Legal Science) published a short review of Thomas Edward Scruton's work entitled 'The merchant shipping act, 1894[43], published during the previous year, which could have served as an example. «Since we too will eventually have to see the outdated editto politico maritimo repealed, last year's English shipping act provides us with a great deal of

[33] F. Nagy, *Törvényjavaslat a tengeri magánjogról. Ennek általános és különös indokolása*, Budapest 1894

[34] *Képviselőházi napló [Protocols of the House of Representatives]*, 1892, XXXIV, p. 5

[35] *Képviselőházi irományok [Documents of the House of Representatives]*, 1892, XXXVI, pp. 1-44

[36] *Képviselőházi irományok [Documents of the House of Representatives]*, 1896, V, pp. 31-32

[37] *Képviselőházi irományok [Documents of the House of Representatives]*, 1896, V, pp. 33-36

[38] *Képviselőházi irományok [Documents of the House of Representatives]*, 1896, V, pp. 325-348

[39] F. Nagy, *Magyar tengerjog*. in «Akadémiai Értesítő» 4 (1894), p. 212

[40] F. Nagy, *A magyar kereskedelmi jog kézikönyve különös tekintettel a birói gyakorlatra és a külföldi törvényhozásokra*, Budapest 1904, p. 40

[41] N. N., *A magyar tengerészeti jog*, in «Budapesti Hírlap», 92 (1897) p. 15

[42] Ö. Kemény, *Tengeri magánjogunk fejlődése*, in «Pesti Hírlap», 255 (1907) pp. 37-39; N. N., *A tengerészeti rendtartás kodifikácziója*, in «Vasúti és Közlekedési Közlöny», 92 (1907) p. 710

[43] T. E. Scruton, *The merchant shipping act, 1894*, London 1895

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guidance, because we can find no other and better model for maritime law than the laws of mighty England»[44]. Professor Károly Kmety also mentions the harsh situation of the edict in his timeless work, Handbook of Hungarian Administrative Law. Just as the Editto politico di navigazione is the main source of private maritime law, so too, according to Kmety, is it the main source of maritime administrative law. Thus, the edict is indispensable in this regard as well. However, Kmety also acknowledges that «due to changing circumstances, it has been significantly amended and supplemented by laws and regulations»[45].

Lawyer Miklós Král's important summary work on maritime administration[46] also includes a description of the legal background of Hungarian maritime law. The presentation of the book highlighted Král's basic thesis that even at the time of the book's publication, the main source of maritime law was still the Editto politico di navigazione mercantile issued during the reign of Maria Theresa, «which has since been patched up with imperial patents and various decrees issued by more or less competent authorities; the same has been happening in Hungary since 1867 through Hungarian laws and ministerial decrees. One can imagine how difficult it is even for an expert to navigate this maze, let alone a layman»[47]! In fact, of course, the use of the edict in judicial proceedings does not cause any problems, as demonstrated by – for instance – a court case in February 1905 tried at the Hungarian Royal Curia[48].

In 1906, the Hungarian Association for International Maritime Law (chaired by Albert Apponyi and vice-chaired by Sándor Nákó, the then governor of Fiume) submitted a petition to the House of Representatives requesting that it should establish independent Hungarian private maritime law. The House of Representatives' Petitions Committee, aware that the Ministry of Trade was discussing the issue of independent Hungarian maritime private law, expressed its support and forwarded the petition to the ministers of trade and justice[49]. This initiative also proved fruitless. «Unfortunately, we have not made any progress in this area; in fact, compared to the past, we are now experiencing a decline»[50], Lajos Benyovits reported resignedly on the state of Hungarian maritime law in

[44] a. a., *Jogirodalom*, in «Jogtudományi Közlöny», 1895. 1895. április 5. 107. p.

[45] K. Kmety, *A magyar közigazgatási jog kézikönyve*, Budapest 1897, p. 610

[46] M. Král, *Magyar tengerészeti igazgatás*, Budapest 1905

[47] N. N., *Irodalom*, in «A Jog», 22 (1905) pp. 175-176

[48] Decision of the Hungarian Royal Curia No. 1101/v. 905.; N. N., *Kereskedelmi-, váltó- és csődügyek*, in «Ügyvédek Lapja», 10 (1905) pp. 2-3

[49] N. N., *Hajózási közlemények*, in «Vasúti és Közlekedési Közlöny», 141 (1906) p. 1272

[50] L. Benyovits, *Nemzetközi tengerjogi kongresszus Velenczében*, in «Magyarország», 231 (1907) pp. 3-4

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his report on the 1907 Venice Maritime Law Congress in Hungary. Ödön Kemény published a summary in the daily newspaper Pesti Hírlap, which was long for a daily newspaper, on the history and current situation of Hungarian maritime law – and its failures to date[51].

5. *Press pressure to change and scandals*

By the middle of World War I, opinions regarding the edict had intensified to such an extent that a journalistic article on commercial shipping stated the following: «First and foremost, we must break with the notion that our modern navy, which is expected to develop rapidly after the war, should be managed according to 140-year-old ideas. It is unbelievable but true that, for example, the relationship between sailors and shipowners is still mainly regulated by the Editto Politico from the time of Maria Theresa»[52]. The article called the edict a rotten law and recommended that it be brought before the court of history. In more than 140 years, it has not been possible to develop regulations that meet the expectations of the age.

The lack of modern regulations easily led to the exploitation of sailors, and we can see a large number of legal cases related to this in the court practice of the interwar Horthy era. However, it was widely known that, due to the harsh conditions resulting from inadequate regulations, many sailors left their jobs and sought 'land-based' work that would provide them and their families with a predictable and secure livelihood. There were frequent complaints that the number of crew members on individual ships was insufficient, that those who were there were untrained, and that sailors from 10-12 different countries often gathered on a single ship[53].

Post-war maritime law planning kept the issue of reforming the edict and creating new rules constantly on the agenda. Several important topics require re-regulation, and the journal Tenger (Sea) often calls for the modernization of maritime regulations as soon as possible. After all, «in this regard, the maritime law (Editto politico di navigazione) issued during the reign of Maria Theresa is still in force today, which was created at a time when steamboats were still an unknown concept; it is therefore natural that its outdated measures can only be applied to today's circumstances in the rarest of cases»[54]. In addition to the

[51] Ö. Kemény, *Tengeri magánjogunk fejlődése*, cit. pp. 37-39

[52] N. N., *Kereskedelmi tengerészetünk a háború után*, in «Pesti Hírlap», 182 (1916) p. 18

[53] See e.g.: N. N., *Kereskedelmi flottánk. Nincs tengerészlegénység!* in «Budapesti Hírlap», 28 (1917) p. 22

[54] Nemo kapitány, *Feladataink háború után a tengeren*, in «A Tenger», 5 (1917) p. 177

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necessary rewriting of 18th-century rules, the author found it terribly embarrassing that Romania, for example, had modern maritime administrative regulations. The author of the article brought to light most of the cardinal and, indeed, sensitive issues of Hungarian maritime affairs and maritime regulation, and accordingly wrote the article under a pseudonym. The magazine revealed only that the author was Captain Nemo, who was a distinguished merchant marine captain, but his identity remained a secret[55].

Discourse on the Editto politico reform quietened down by the end of the war, and this was by no means the primary task to be solved during the Horthy era between the two world wars. As consolidation progressed and the need to participate in maritime trade arose once again, the edict, its validity, and the reform came back into focus. Thus, in his decree No. 94.602/XII of 1926 on the legal regulations applicable to the service conditions of the crews of Hungarian merchant ships, the Hungarian royal minister of trade ordered the following: «In order to dispel any doubts that may have arisen, I hereby decree: Since regulations of the Editto politico di navigazione mercantile issued by Maria Theresa on 25th April 1774, concerning maritime trade, as well as the supplementary and amending shipping regulations [...] are still in force today, they shall continue to apply to the legal relationships regulated therein, in particular with regard to the service conditions of the crews of Hungarian merchant ships»[56].

In April 1926, the newspaper 8 Órai Ujság (Newspaper at 8 o'clock) reported on a case that it considered to be extremely interesting. I will refrain from giving a detailed account of the case, as the turning point in the story occurred during the court proceedings, when the Oceana shipping company, which was involved in a lawsuit concerning mutiny, insubordination, and related damages, cited the edict of Maria Theresa as legal justification for its exemption from damages. The editor asked a somewhat tabloid-style question in the article: «Can a decree that is a century and a half old apply to a radio officer?» They also fabricated an answer, stating that the edict «cannot be seriously invoked in today's circumstances, because, for example, radio officers were also employed on the seaship Alföld, but there was no radio in Maria Theresa's time, so the edict cannot apply to radio officers under any circumstances»[57]. Although the newspaper's line of reasoning is undoubtedly logical and could be acceptable, the above-mentioned decree of the minister of trade dispelled all doubts as

[55] Ivi, p. 179

[56] *Magyarországi rendeletek tára*, Budapest 1926, p. 679

[57] N. N., *Az Oceana hajóstársaság egy Mária Terézia korabeli rendeletre hivatkozással lázadással vádolta meg egy hajója személyzetét*, in «8 Órai Ujság», 82 (1926) p. 4

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to whether the edict should be applied. Incidentally, the daily newspapers also reported on the ministerial decree in turn[58]. Among them, Magyar Ujság (Hungarian Newspaper) believed it knew the reasons behind the decree, as it not only reported on the decree issued by minister of trade Miksa Hermann, but also took a stance in the title of the article: «The 18th century is being brought back for the benefit of Atlantica Trust». The article questioned the minister's responsibility for maintaining outdated provisions from 150 years ago, probably under pressure from some shipping companies. The paper emphasised, as I mentioned in this paper, that the edict not only took a stand in favour of Catholic values, but also required that one be Catholic in order to comply with some of its provisions (such as regular confession), so that, in theory, non-Catholics could not have served on Hungarian merchant ships while the decree remained in force. The newspaper also considered the edict outdated and dangerous in that the disciplinary powers granted to the captain allowed him to 'dip' sailors or drag them under the ship. Dragging under the ship would probably not have been fatal at the end of the 18th century, but in 1926, with ships being significantly larger, it would almost certainly have led to the sailor's death. «What was true in 1774 is not true in 1926, and no ministerial decree will be able to turn back the clock 150 years»[59].

A similar scandalous case involving several daily newspapers occurred in 1927-28. After fourteen years of service, a ship captain was given a job as an officer at the Budapest office of the same shipping company, but his employment was terminated by dismissal. Since, according to the Editto politico, the captain's service lasted from embarkation to disembarkation and was not subject to termination or severance pay, the Curia determined the remuneration for the notice period and the severance pay without taking into account the captain's length of service, but only the length of service as an officer[60]. The newspaper Ujság (Newspaper) was the first to pick up on the case, pointing out the inconsistencies and anachronisms of the edict[61]. In its very first[62] issue, Előörs

[58] N. N., *A kormány megerősített egy Mária Teréziakorabeli ediktumot*, in «Ujság», 255 (1926) p. 13; N. N., *Mária Terézia törvényeit alkalmazzák még ma is a magyar tengeri kereskedelmi hajókon*, in «Uj Nemzedék», 255 (1926) p. 7; N. N., *Vasúti ügyek*, in «Közgazdasági Értesítő», 16 (1926) p. 10; N. N., *A magyar tengeri kereskedelmi hajók hajós személyzetének szolgálati viszonyaiban érvényes jogszabályok*, in «Magyar Kereskedők Lapja», 94 (1926) p. 4

[59] N. N., *Az Atlantica Trust érdekében visszavarázsolják a XVIII. századot*, in «Magyar Ujság», 136 (1926) p. 3

[60] B. Gallia, *A végkielégítés*, in «Jogtudományi Közlöny», 24 (1927) p. 225

[61] J. Nádor, *Különösségek egy százötven éves rendeletből, amelyet törvénynek tekint most a bíróság*, in «Ujság», 59 (1928) pp. 5-6

[62] N. N., *Hermann kereskedelmi miniszter rendelete miatt Mária Terézia-kori törvények alapján*

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(Vanguard) reported on several cases in which sailors had been dismissed but were not entitled to severance pay under the provisions of the edict, and this was confirmed by the courts hearing the cases of those affected[63].

The Budapesti Hírlap (Journal of Budapest) newspaper confirmed in its report that the edict remained in force: «Most recently, in its judgment No. P. II. 7084/1927, based on ancient – but flawed – legislation, that the employment relationship between them and the shipping company was not governed by commercial and industrial law or Decree No. 1910/1920. M. E. of 1920, but rather to maritime law, which specifically regulates this type of employment relationship due to the special nature of maritime service»[64]. The newspaper warned that at a time when the government was championing the revival of commercial shipping, such an unjust legal situation could not be tolerated under any circumstances.

Előörs presented Editto politico in a truly scathing article, stating that «many people have contacted our editorial office asking for clarification on what this editto actually is and what we have to do with this antiquated, absolutist Austrian imperial decree, which our government has nevertheless prescribed as a standard for the independent Hungarian courts»[65]. The information was addressed directly to the minister of trade – with plenty of sarcasm.

In February 1931, the 8 Órai Ujság newspaper published a popular article on the functioning of the Hungarian maritime authority, mentioning that «the absurd situation still exists that Hungarian maritime shipping is based on the draconian editto politico issued by Maria Theresa in 1774, a 157-year-old anachronism». The article only mentions in passing that the Ministry of Commerce is in the process of preparing a modern maritime law, a maritime code[66]. Amidst the public outcry stirred up by the daily newspapers, the Curia continued to confirm that the provisions of the Editto Politico di navigazione mercantile

ítélkeznek a bíróságok a hajósvállalatok és hajóstisztek pereiben. in «Előörs», 1 (1928) p. 15

[63] N. N., *Miért ítél a bíróság még ma is Mária Terézia rendelete alapján. Egy miniszteri rendelet kulisszatitkai*, in «Előörs», 11 (1928) pp. 14-15; Egy Novigátor, *Mária Terézia rendelete és az államtitkár úr igazgatósági tagsága*, in «Előörs», 13 (1928) pp. 15-16

[64] N. N.: *Magyar tengerésztisztek kálváriája a bíróság előtt. Memento az újraszülető kereskedelmi tengerészetünk számára*, in «Budapesti Hírlap», 159 (1928) p. 4

[65] L. W. L., *Mi is az az Editto politico, amelyet a kereskedelmi kormány megfiatalított*, in «Előörs», 18 (1928) p. 16

[66] N. N., *Mária Terézia százötvenéves drákói rendelete helyett új, modern hajózási törvény készül a magyar tengerhajózás számára Érdekességek a magyar tengerészeti hivatal működéséből*, in «8 Órai Ujság» 26 (1931) p. 3; kr., *Magyar tengerész nem vetkőzhet le a hajón, cipőt lehúzni tilos; lázadókat a tengerbe mártogathat a kapitány, minden hajón legyen macska, aki rabszolgaságba jut, nem kap kárpótlást*, in «8 Órai Ujság», 32 (1931) p. 2

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relating to maritime law would continue to apply in maritime matters and, as such, to the service conditions of ship crews[67].

6. *The well-deserved comprehensive change*

The long-awaited end to Maria Theresa's edict came with Act 19 of 1934 on the service regulations for the crews of Hungarian merchant ships. The related bill first appeared at the council of ministers' meeting on 26th January 1934, as item 12 on the agenda for that day[68]. The bill was proposed by Tihamér Fabinyi, minister of trade. It was not customary to record debates in the minutes of the council of ministers, so only the terse government decision was recorded for this bill: 'The Council of Ministers agrees'. What is more unusual is that the minutes record the minister of trade's presentation of the bill over five pages. The minister said that the bill was necessary because the regulations governing maritime personnel and their service conditions were based on two old and necessarily outdated norms: the decree issued by Maria Theresa in 1774, known as the Editto Politico di navigazione mercantile, and the provisions of the French Code de Commerce relating to maritime trade, which had been in force as customary law since 1808. Given that these standards were optimized for maritime trade conducted by sailing ships, they were naturally difficult to update and apply. During the existence of the Austro-Hungarian Monarchy, as I have shown above, it was often necessary to make additions by decree, so it was more practical to have a new and uniform regulation. On the other hand, the European maritime powers, especially Germany, Italy, and France, re-regulated the service conditions of seafarers. It was in Hungary's interest to introduce similar regulations. Thirdly, Hungary accepted the recommendations of the International Labor Organization (ILO) regarding maritime work; and the inclusion of these in maritime regulations also justified the new regulations. The proposer considered it important to regulate the conditions of service of seafarers in line with 'higher social considerations' beyond international processes and legal obligations. Therefore, in order to gain the government's support for the bill, it was sufficient to refer to the obsolescence of the existing regulations, the need for international compliance, and fundamental social considerations.

The explanatory memorandum to the bill submitted to the House of Representatives further supports its necessity. The general justification for the

[67] H.D., *Szemelvények a felsőbíróságok gyakorlatából*, in «Jogtudományi Közlöny», 2 (1932) p. 15. The concerned decision of the Hungarian Royal Curia is No. P. II. 7284/1929 issued on 21st October 1931.

[68] MNL OL W12 K27 Protocols of the Council of Ministers 26th January 1934 pp. 25-30

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proposal provides a lengthy and scientifically detailed account of the history of Hungarian maritime law and regulations governing the service conditions of seafarers from the Editto Politico of Maria Theresa to 1934, listing all the waves of amendments and the reasons for their success or, more often, their failure[69]. The justification for the bill pays tribute to professor Ferenc Nagy, who twice prepared comprehensive maritime law regulatory plans, but circumstances prevented them from becoming law. The debate on the bill, which was thoroughly prepared from a historical, economic, and legal point of view, showed clear signs of sheer indifference in both the House of Representatives and the Senate. The presentation by the proposer, Ferenc Zsindely, later minister of trade and transport, at the House of Representatives meeting was exhaustive and exhaustingly long. He summarized everything that the minister of trade had previously said before the council of ministers, as well as what was included in the justification published in the documents accompanying the bill. The House of Representatives' Economic, Transport, and Social Policy Committee reviewed the bill, expressing its satisfaction and noting that it represented a major step forward due to its application of modern principles. The committees proposed a few minor amendments, which were in fact far from substantial and insignificant even from the point of view of linguistic accuracy[70]. The general debate on the bill took place without any comments – in fact, without a single word – similar to the detailed debate, although at least the text of the bill was read out there[71]. There were no comments in the House of Representatives during the third reading three weeks later[72]. Unsurprisingly, the debate in the upper house did not generate much heated discussion either[73]. The upper house did not change the text adopted by the House of Representatives, and the joint report of the upper house's economic and transport, welfare and labour committees is, to say the least, amusing: the committee «was pleased to note that the outdated provisions of the maritime code would be replaced by appropriate legislation that would be capable of representing, alongside foreign legislation in this regard, the higher social principles that had already been successfully implemented in the legal relationships of land-based employees»[74].

[69] *Képviselőházi irományok [Documents of the House of Representatives]*, 1931, IX, pp. 280-304

[70] *Képviselőházi irományok [Documents of the House of Representatives]*, 1931, X, pp. 277-278

[71] *Képviselőházi napló [Documents of the House of Representatives]*, 1931, XXIII, p. 455

[72] Ivi, p. 466

[73] *Felsőházi napló [Protocols of the Upper House]*, 1931, III, p. 431

[74] *Felsőházi irományok [Documents of the Upper House]*, 1931, V, p. 854

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The law was thus adopted by both houses of the Parliament in a version that was almost identical to the original draft[75]. Its impact, together with Act 4 of 1934 on concessions for Hungarian shipping companies, was extremely positive. This was the last essential element of the reform of Hungarian maritime law (most of which had already been completed in 1931). The modern and internationally compliant legal environment, as well as the explicit support for Hungarian maritime shipping, led to an increase in the number of Hungarian merchant ships. Although this was undoubtedly incomparable to the numbers before World War I, as a result of this growth, a total of eleven seagoing vessels sailed the seas under the Hungarian flag at the outbreak of World War II[76].

[75] S., *Az új tengerészrendtartás*, in «Budapest, Hírlap», 129 (1934) p. 12

[76] G. Zsigmond, *A magyar tengeri hajópark a második világháború kezdetén*, in «Hadtudományi Szemle», 2 (2010) pp. 26-33