

## *The Croatian Contribution to Constitutional Historiography in the Period of 2000–2015*

### Abstract

Croatian constitutional historiography in the period of 2000–2015 had various focuses of interest. The author offers a systematisation of the produced works under headings reflecting the most important topics covered. The majority of works are related to research on the modernisation of Croatian institutions in the so-called “other 19<sup>th</sup> century”. A second heading collects the contributions that Croatian academics made to general and European constitutional history. The third part of the discussion is devoted to the synthesis of Croatian legal and constitutional history, and to some other contributions to Croatian constitutional history of different periods.

**Key words:** Croatian legal historiography, history of Croatian constitutionality, constitutional law.

**Słowa kluczowe:** historia prawa w Chorwacji, historia chorwackiego konstytucjonalizmu, prawo konstytucyjne.

### 1. Introduction

The approach to the conceptualisation and designing of higher education curricula has been substantially changed as a result of the Bologna Process, effected in Croatia in the context of the Europeanisation of its higher education system. This Process strongly affected the very paradigms of higher education and studying, which for many years before that were developed by Croatian academic institutions, primarily under the influence of Central European models. These trends involve law faculties as well, considerably altering the concept of studying law, which is a topic beyond the scope of this paper.

The mentioned trend affects the conceptualisation and organisation of teaching legal history courses, and achieved high-level teaching and academic expertise in Croatian law faculties prior to the changes, including in faculties others than in Zagreb. Due to the limited volume of this paper, the tradition in teaching legal history courses in Croatia

cannot be extensively analysed,<sup>1</sup> but it will suffice to say that law students in Croatia were typically obliged to take two integral legal history courses with predominantly propaedeutic purpose, along with development of their legal culture (General History of Law and the State, and Croatian History of Law and State, Croatian Legal History in the European Context), and one basic course in Roman law. There were also elective courses in specialised disciplines within legal history in the upper years of studies and in postgraduate study programmes. Put simply, the new legal study curriculum in Croatia reduced the mentioned courses, in relation to both the number of courses and to the hours taught, so that they were amalgamated into one and partially focusing on relevance to the existing system of law.<sup>2</sup>

The mentioned trends, however, have not adversely affected the level of academic research in legal history as a discipline. On the contrary, the period under scrutiny in this paper represents a period in which some of the cornerstone Croatian scholars and laureates of legal history have ended their careers, and in which a generation of new and younger academics has emerged which is devoted to researching the history of constitutionalism.

It needs to be added that Croatian historiography in its entirety, which refers to the period of the constituting and democratising of the independent Croatian state following 1990, was very much under the imperative of deideologisation and pluralisation. The phase of democratic changes and transition resulted in an increase in interest in certain historical and even prehistorical topics, which in the context of the Yugoslav ideological imperative were suppressed and completely inadequately interpreted. With the defence and liberation of Croatian independence by defeating the aggression which was perpetrated in the name of Greater Serbia, and the beginnings of the Europeanisation of different segments of Croatian society, Croatian historiography has stabilised and relaxed, although history as well as legal history continues to be a burdensome topic for wide circles of Croatian intellectual and social groups.

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<sup>1</sup> On the tradition of teaching and studying legal history courses at Croatian higher education institutions see for instance. D. Čepulo, *Hrvatska pravna povijest i nastava pravne povijesti na Pravnom fakultetu u Zagrebu od 1776. do danas* (Croatian Legal History and the Teaching of Legal History at the Faculty of Law in Zagreb from 1776 to the Present), "Zbornik Pravnog fakulteta u Zagrebu" 2013, Vol. 65, No. 5–6, p. 885–921.

<sup>2</sup> In the midst of the discussion on the importance of the discipline of legal history in the education of a lawyer in Croatia, a number of polemic articles were written which in fact amount to scientific papers. For instance: A. Cvitanić, *Prilog dezideologizaciji pravne povijesti* (A contribution to the Disindoctrination of Legal History), "Zbornik radova Pravnog fakulteta u Splitu" 1991, Vol. 28, No. 1–2, p. 45–70; D. Čepulo, *Nacionalna pravna povijest, pravna kultura i pravni studij u Hrvatskoj – prethodno razmišljanje* (National legal history, legal culture and legal studies in Croatia – preliminary contemplation), "Vladavina prava" 1996, Vol. 5, No. 3–4, p. 141–173; L. Margetić, *Teaching of Legal-Historical Studies in the New Conditions in the Republic of Croatia*, "Zbornik Pravnog fakulteta u Zagrebu" 1997, Vol. 46, No. 6, p. 684–702; see all presentation B. Vukas Jr.: *Pravna povijest u kurikulumima hrvatskih pravnih studija – od imperativa dezideologiziranog i demokratskog pristupa ranih devedesetih do prvih „bolonjskih” iskustava* (Legal History in the Curricula of Croatian Legal Studies – from the Imperative of Deideologised and Democratic Approach in the Early 1990s to the First "Bologna" Experiences) – 21. Dani Frane Petrića – Glavna tema kongresa "Idea sveučilišta", Međunarodni znanstveni skup u organizaciji Hrvatskog filozofskog društva, Cres, 23–26 September 2012 (unpublished, but the main hypotheses are available in the Book of Abstracts at p. 128).

## 2. Academic contributions to croatian constitutionality, and development of its modern institutions in “the other 19<sup>th</sup> century”

The end of the feudal period in its historical development and the processes of the birth of the absolutist monarchy and its transformation guided by the imperatives of constitutionality and modernisation of the institutions of public law define the period of the so-called “other 19<sup>th</sup> century” (from 1780 to 1918). This is the time in European history when scholars start focussing on the content of the modern state with civil and democratic attributes, on the state governed by the rule of law, rule of law, separation of judiciary powers from executive powers, and protection of fundamental human and civil rights and freedoms. These major and multi-layered processes were not linked to some general direction of European development, but followed the individual experiences of European countries, from the leading ones (such as England, France, and later also Germany) to the countries in the so-called periphery (Scandinavian countries, Mediterranean countries, the eastern part of the Habsburg Empire, and the Balkans). The leading countries, with their economic, political, and other qualities contributed to the creation and genesis of the said legal institutions, which today are widely recognised and accepted, to the extent that no contemporary society or democratic state is imaginable in the absence of any of them. These modernisation processes primarily occur along with the transformation of the absolutist monarchy, when a newly formed governmental elite attached to the head of the state begins to advance in the direction of constitutional regulation of interrelations between elements and levers of the government. The influence of rationalistic and positivistic positions, alongside the associated philosophical and legal schools of thought (for instance, natural law theory), is very strong and inevitable in that period. Croatia is joining these processes mostly subsequent to the Croatian-Hungarian Compromise of 1868 in the framework of its very specific autonomy. Although it was on the periphery and immersed into a very unfavourable political environment due to both Josephinism and Greater Hungarian national liberalism, Croatia was able to follow the mentioned processes towards building its constitutional and public law institutions.

These and other topics occupied and still occupy the members of the Chair of the History of Croatian Law and State of the Faculty of Law in Zagreb, led by Professor Dalibor Čepulo. Among their discussions and papers, as well as other academic activities particularly worth noting here is Čepulo’s *Prava građana i moderne institucije – europska i hrvatska pravna tradicija* (Rights of the Citizen and Modern Institutions – European and Croatian Legal Tradition) which was published by the Faculty of Law in Zagreb in 2003. This is the pinnacle of a years-long superlative, fruitful, and above all methodical work by an important representative of the younger generation of the discipline of legal history and history in Croatia, who, in many of his published papers and in his doctoral dissertation, greatly contributed to the comparative analysis of European processes of law modernisation in countries of the European core and periphery, including the comparison of the processes for creating public law institutions in the then

Croatia.<sup>3</sup> Particularly interesting in the mentioned book, confirmed also by its reputable reviewer Professor Neda Engelsfeld, is the analysis of specific topics from the comparative perspective and underlining influence which the legal sources or legal reality of one European country had over other countries. These are particularly the influences which the European core countries had over the peripheral ones, and the book contains in-depth analysis of these influences over the Croatian legal and political reality at the time. The mentioned topic is within the focus of the academic interest of all members of this Chair, whose publications present pillars on which the Croatian historiography on the history of constitutionality in the period which this volume covers, rests. Such importance is due to the comprehensive, diligent, and systematic attributes of their academic opus as a whole.

The research in which Čepulo participated, along with Ivan Kosnica, and partially also Mirela Krešić and Dunja Pastović, may only be summarily analysed by issues. The first segment of research and resulting papers on the mentioned issues concerns a comparative analysis of the process of forming modern legal institutions in Europe in the said period. There are comparative overviews and discussions in which authors examine enactment of new constitutions, experiences with application of those constitutions in practice, or defining the main public law institutions specific to a civil democratic state, with reference to particular historical settings and circumstances in which core and periphery countries found themselves at the time. Particular emphasis is put on the practises in France, England, and Germany.<sup>4</sup> The papers devoted to Hungarian constitutionality should be added to this list, which is contributed to by discourses written by those already mentioned, as well as several other Croatian academicians. In this context it is warranted to mention the historical and comparative study resulting from a collective effort of Croatian and Hungarian authors *Kroatisch-ungarische öffentlich-rechtliche Verhältnisse zur Zeit der Doppelmonarchie* (Croatian-Hungarian Public Law Conditions at the Time of Double Monarchy), written in the German language, edited by Gábor Máthé and Barna Mezey, and published by Eötvös University Press in Budapest in 2015.

Another category of researched issues include basic features and origins of modern constitutional and political systems. These are the rule of law, the state based on the rule of law, and independence of the judiciary. The mentioned fundamental pillars of a modern state are discussed as concepts and in the light of their historical development. Authors typically begin from the same hypothesis – that the elements of the rule of law, and the state based on that rule, are foundations of the legal order of modern states – but diverge in defining them. Not only are the terms “rule of law” and “state governed by the rule of law” regularly used in public speech, they are often imprecisely defined, and sometimes even equated, but also their understood meaning in academic circles is not the same (for instance, there is a difference in understanding of the English term “rule of law” and the German term “*Rechtsstaat*”). The difference in their definitions is also reflected in differing experiences and influences of the most prominent theories in political philosophy or constitutional reality in particular countries, such as the German

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<sup>3</sup> Čepulo’s early papers related to these issues are mentioned in the cited monograph. See D. Čepulo, *Prava građana i moderne institucije – Europska i hrvatska pravna tradicija* (Rights of the Citizen and Modern Institutions – European and Croatian Legal Tradition), Pravni fakultet Sveučilišta u Zagrebu, Zagreb 2003, p. 199.

<sup>4</sup> D. Čepulo, *Prava građana...*, p. 5–36.

political philosophy of the 19<sup>th</sup> century which has generated its own understanding of the state governed by the rule of law – *Rechtsstaat*. On these generally accepted foundations, the idea of a new civil-democratic state is created, in the sense of an institutional structure and a legal culture. In this context, particularly accentuated are the processes concerned with building a modern independent judiciary, which Čepulo ordinarily calls “one of the most important defining elements of modern legal systems”, while a further consequence of these processes is the separation of the judiciary from the administration. Here we need to mention several of Čepulo’s studies on the history of the Croatian judiciary,<sup>5</sup> as well as research and papers which touch upon constitutional law as linked to criminal procedural law by Dunja Pastović, who mainly analyses the development of jury trials in Istria in the mentioned period.<sup>6</sup> Mirela Krešić warrants being mentioned for her writings on the history of selected legal institutes of the Austrian *Allgemeine bürgerliche Gesetzbuch* (ABGB) as applied in the territories which today are part of Croatia. Although her papers are focused on the civil law institutes, she is also examining the development and modernisation of judicial institutions.<sup>7</sup>

The approach that the authors applied in the cited studies and papers seems rather interesting: They start from the basic definitions in the context of the historical reality and reflexions from the angle of legal theory, to arrive ultimately at the comparative law overviews describing the impact which these principles have had over legislation in the European core and periphery countries, while the third regular ingredient consists in the analysis of the Croatian experiences in receiving dominant European experiences related to the genesis of the public law institutions. The analysis of the Croatian legal tradition in the processes oriented towards construction of modern institutions is especially interesting and detailed for the period in which Croatia was headed by the *ban* Ivan Mažuranić (1870s *et seq.*). The most extensive research of his reforms to date has been conducted by Dalibor Čepulo.

The result of the development of modern public law institutions is certainly an improved protection of citizens’ rights. This predominantly refers to the protection of citizens’ right before administrative courts and the transformation of the totality of state and administrative institutions aimed at better protection of individual rights. These are the origins of personal, civil, and political rights, but in the 19<sup>th</sup> century these rights primarily concerned a correlation between citizens and the state, and the defining of citizens’ rights against possible violations by the state. This constitutes the main difference from the way human rights are perceived today, or rather in the 20<sup>th</sup> century, when the dominant concept was that of more complete subjectivity and protection of an individual through national and international mechanisms. These topics were mostly addressed by Dalibor Čepulo and Ivan Kosnica in their scholarly writings. Understandably, the institution of citizenship is of paramount importance in such a conception of human rights because it

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<sup>5</sup> See, for instance, D. Čepulo, *The Press and Jury Trial Legislation of the Croatian Diet 1875–1907; Liberalism, Fear of Democracy and Croatian Autonomy* [in:] *Parliaments, Estate and Representation*, ed. H.J. Cohen, Ashgate 2002, p. 169–192.

<sup>6</sup> D. Pastović, *Normativni okvir porotnog sudovanja u Istri od 1873. do 1918. (The Legislative Framework for Jury Trial in Istria in the Period from 1873–1918)*, “Pravni vjesnik” 2105, Vol. 31, No. 2, p. 77–110.

<sup>7</sup> See for instance, M. Krešić, *Javno bilježništvo na hrvatsko-slavonskom pravnom području 1859–1941 (Public Notary in the Croatian-Slavonian Legal Area 1859–1941)*, “Časopis za suvremenu povijest” 2010, No. 1, p. 91–126.

is the precondition for any protection of a human individual appearing before state bodies. Citizenship and the history of administrative law institutions is especially dealt with by Ivan Kosnica. He analyses Austrian legislation on citizenship, presenting in several of his academic papers the existence of the special homeland affiliation in Croatia.<sup>8</sup> This right of homelandness, which for hundreds of years was the competence of the Croatian Parliament (*Sabor*), the co-called *indigenatum*, may be relied on as an argument in favour of Croatian statehood in the period of its autonomy *sui generis* in the quite complex scheme of the Austro-Hungarian state.<sup>9</sup>

The right to vote is one of the fundamental political rights which crucially affects the way in which the entire legal and political system of a state is defined. Its development against the background of the particular circumstances of the 19<sup>th</sup> century, being what was yet to become the parliamentary democratic system, and conflicts among strong ideologies, has different features in the experiences of different European countries. These are some of the topics which also occupied Croatian legal historians in the period from 2000 to 2015. Croatian experiences were different and subject to the Austrian models of the so-called curial system, on the one hand, and Hungarian models, which are mostly representative-based but very limited by means of the legislative policies of the authoritarian Hungarian governments. Authors typically present Croatian practises in chronological order in Austrian and Austro-Hungarian constitutional history. Interestingly, some papers analyse the specificity of the election order of 1918, i.e. at the very end of the Austro-Hungarian Empire, as well as women's rights to vote, which in Croatian territories existed in between 1881 and 1886. Mirela Krešić has systematically studied the legal history and constitutional issues regarding the legal position of women in Croatia.

In the historical context of social and political changes, authors have also shown interest in other, mostly citizens' rights, focusing on Croatian practices. The rights analysed include the right to public assembly, the right of association and petition, freedom of the press, the already mentioned jury trials, and equality of religions.

As a result of the international cooperation between the Zagreb Chair and colleagues from Middle European countries, the study entitled "Croatian, Slovenian, and Czech Constitutional Documents 1848–1849" edited by Milan Hlovačka, Ilsa Reiter, Dalibor Čepulo, and Mirela Krešić, was published by De Gruyter in 2010 as part of the series "Constitutions of the World from the late 18<sup>th</sup> Century to the Middle of the 19<sup>th</sup> Century".

This period was interesting also in general historical research, as well as excellent studies in political science, which are complementary tools for understanding constitutional and state institutions. Among them, mention should be made of the opus of Tihomir Cipek, Professor at the Faculty of Political Science in Zagreb, who dealt with the beginnings of modern political groups and parties in Croatia in several of his studies

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<sup>8</sup> I. Kosnica, *Utvrdjivanje državljanstva u Hrvatskoj i Slavoniji 1848.–1880.* (Determining Citizenship in Croatia and Slavonia 1848–1880), "Zbornik radova Pravnog fakulteta u Splitu" 2014, Vol. 51, No. 3, p. 667–713; *idem*, *Državljanstvo i Opći građanski zakonik u Kraljevini Hrvatskoj i Slavoniji od 1853 do 1879* (Citizenship and the *Allgemeine bürgerliche Gesetzbuch* in the Kingdom of Croatia and Slavonia from 1853 to 1879), "Zbornik Pravnog fakulteta u Zagrebu" 2013, Vol. 63, No. 5–6, p. 1163–1164.

<sup>9</sup> D. Čepulo, *Pravo hrvatske zavičajnosti i pitanje hrvatskog i ugarskog državljanstva 1868.–1918.* – *pravni i politički vidovi i poredbena motrišta* (The Right of Croatian Homelandness and the Question of Croatian and Hungarian Citizenship 1868–1918 – Legal and Political Views and Comparative Perspectives), "Zbornik Pravnog fakulteta u Zagrebu" 1999, Vol. 49, p. 795–825.

and papers, as well as with some very interesting political platforms and discussions by the great Croatian politician Stjepan Radić.<sup>10</sup>

### 3. Research and papers on general and European constitutional history

Other than the research related to the development of constitutionality in Croatia in the modernisation period, Croatian scholarship on legal history contains a segment devoted to other selected issues in general, and to European constitutional history of various periods. The period at issue in this paper is the period when important academic careers of exceptional members in the discipline of Croatian legal history were concluded. Their presence strongly marked the previous decades. When it comes to constitutional history, the scholar of the foremost importance is Professor Šefko Kurtović from the Faculty of Law in Zagreb. In 2002, he published three volumes of selected papers and discussions titled *Studije i članci iz Opće povijesti prava i države od 1969. do 2002.* (Studies and Papers in the general History of Law and the State from 1969 to 2002) in which one may acquaint oneself with the significant production of this renowned Zagreb scholar.<sup>11</sup> Constitutional history, especially the history of political doctrines, is an inescapable part of Kurtović's academic interest. The discussion in English on "dissolution in the modern English constitution" is particularly noteworthy, as are the discussions in Croatian on the development of French constitutionality during the period of the Third Republic, and the studies on the American constitutional system. These were important contributions by Kurtović to the Croatian academic efforts in examining the mentioned processes characteristic of "the other 19<sup>th</sup> century". Kurtović's meticulous works related to legal sources are also valuable, along with their translations and commentaries, which resulted in the publication of the two substantial volumes of *Hrestomatija iz Opće povijesti prava i države* (Chrestomathy on General History of Law and State) that are dominated by topics in constitutional history.<sup>12</sup>

Some other Croatian scholars have managed to capture distinct segments of constitutional history. Professor Zrinka Erent Sunko from the Faculty of Law in Zagreb wrote on the development of democratic institutions in ancient Athens.<sup>13</sup> Professor Budislav Vukas, Jr. analysed selected constitutional issues, particularly in the context of his inter-

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<sup>10</sup> T. Čipek, *Ideja hrvatske države u političkoj misli Stjepana Radića* (The Idea of the Croatian State in the Political Thinking of Stjepan Radić), Alinea, Zagreb 2001.

<sup>11</sup> Š. Kurtović, *Studije i članci iz opće povijesti prava i države od 1969. do 2002.* (Studies and Papers in general History of Law and the State from 1969 to 2002), 3 volumes, Pravni fakultet Sveučilišta u Zagrebu, Zagreb 2002.

<sup>12</sup> Š. Kurtović, *Hrestomatija opće povijesti prava i države – II. knjiga, Novi vijek* (Chrestomathy on General History of Law and the State – Volume II, Modern Era), Pravni fakultet Sveučilišta u Zagrebu, Zagreb 2000.

<sup>13</sup> Z.E. Sunko, *Obitelj u demokratskoj Ateni – institucija i polis u malom* (Family in the Democratic Athens – Institution and Polis in Miniature), "Zbornik Pravnog fakulteta u Zagrebu" 2007, Vol. 57, No. 3, p. 60–627.

est in Croatian-Italian relations, examining other matters of constitutional law within the realm of his research on the history of international law as well.<sup>14</sup>

#### 4. Syntheses in the history of Croatian constitutionality and other works and contributions

In addition to Šefko Kurtović, the period which is at issue in this paper is the period in which the lecturing career of Professor Neda Engelsfeld came to an end. She was the first head of the Chair of History of Croatian History Law and the State at the Faculty of Law in Zagreb, as well as an external lecturer at the Faculty of Law in Rijeka, and the Faculty of Law in Osijek during the period of Croatian independence. In her synthesis of Croatian history of law and the state – the period of the 18<sup>th</sup>–20<sup>th</sup> century, Engelsfeld pays great attention to constitutional history. This synthesis is aimed at identifying trends in the development of the Croatian territories, through their individual analysis, devoted to imperatives of the former Yugoslav state and its ideology.<sup>15</sup>

The aggression against Croatia in the name of Greater Serbia, and the Homeland War (1991–1995) have significantly interrupted and nearly fully ended Croatian-Serbian discourse in many fields of the social sciences and humanities, which was particularly evident in the field of history. Only after the War, were some contacts slowly re-established, and over the course of a couple of years there have even been some joint collections of papers by Croatian and Serbian historians. In this spirit two professors of legal history from Croatia and Serbia, Željko Bartulović from the Faculty of Law in Rijeka, and Nebojša Randelović from the Faculty of Law in Niš, have crowned their cooperation with a book in which they present a legal history of Croatia, Serbia, and Montenegro. Their synthesis, published in Niš in 2009, bears the Serbian title *Osnovi ustavne istorije jugoslovenskih naroda* (Basis of Constitutional History of the Yugoslav Nations), while the Croatian edition is anticipated with interest.<sup>16</sup>

It is only appropriate to add that the first synthesis of the entire Croatian legal history in the European context, with many notes on the development of Croatian constitutionality, was written by the previously mentioned Dalibor Čepulo.<sup>17</sup>

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<sup>14</sup> See for instance B. Vukas, Jr. *Pravnopovijesne reference u ustavnim preambulama država srednje i jugoistočne Europe u postkomunističkm razdoblju* (Legal and Historical References in the Constitutional Preambles of Central and South Eastern European States in the Post-Communist era), “Zbornik pravnog fakulteta u Zagrebu” 2013, Vol. 63, No. 5–6, p. 1233–1257; *idem*, *The process of the establishment of the independence of the Republic of Croatia from the perspective of International Law*, “Review of Croatian History” 2012, No. 1, p. 11–35.

<sup>15</sup> N. Engelsfeld, *Povijest hrvatske države i prava – razdoblje od 18. do 20. stoljeća* (History of Law and the State – The Period from the 18<sup>th</sup> to 20<sup>th</sup> Century), Pravni fakultet u Zagrebu, Zagreb 2006.

<sup>16</sup> Ž. Bartulović, N. Randelović, *Osnovi ustavne istorije jugoslovenskih naroda* (Basis of the Constitutional History of Yugoslav Nations), Pravni fakultet Sveučilišta u Nišu, Niš 2009.

<sup>17</sup> D. Čepulo, *Hrvatska pravna povijest u europskom kontekstu – od srednjeg vijeka do suvremenog doba* (Croatian Legal History in the European Context – from the Middle Ages to the Modern Age), Pravni fakultet Sveučilišta u Zagrebu, Zagreb 2012. Interestingly, several chapters are translated into English.



Other papers on various aspects of Croatian constitutional history also warrant being mentioned here. The historical development of the Croatian administration was dealt with by Professor Josip Vrbošić from the Faculty of Law in Osijek. If we were to accept Neda Engelsfeld's hypothesis that the Croatian statutes of the Middle-Ages, especially those of coastal and Dalmatian towns, may be considered sorts of "miniature constitutions"<sup>18</sup> of these urban communities, papers dealing with the *materia constitutionalis* about these communes were written also by Željko Radić, Marija Šunjić Štambuk, and Vilma Pezelj, professors from the Faculty of Law in Split, and the academic production by Professor Nella Lonza from the Dubrovnik Centre of National Academy of Sciences is particularly voluminous.<sup>19</sup>

Those authors whose primary interest lies with constitutional law have sometimes shown interest in the issues of the history of Croatian constitutionality, however, their papers did not often refer exclusively to constitutional history (such as in the case of Assistant Professor Anita Blagojević from Osijek).<sup>20</sup> A typical approach by Croatian constitutional scholars involves a chapter on historical perspective in the analysis of any monograph devoted to a certain constitutional institution or issue. Often in presentations or arguments related to some existing constitutional rule, the rule is compared to historical models from national or comparative history. Cases in point include the papers by Branko Smerdel,<sup>21</sup> Robert Podolnjak,<sup>22</sup> Arsen Bačić,<sup>23</sup> Petar Bačića,<sup>24</sup> Sanja Barić,<sup>25</sup> and others.

<sup>18</sup> This hypothesis was presented by Professor Engelsfeld in several of her presentations, among which the emphasis is here put on her presentation within the discussion at the international scientific conference *700 godina Lastovskog statute* (700 Hundred Years of the Lastovo Statute), organised by the Municipality of Lastovo and coordinated by the Chair of History of Law and State of the Faculty of Law in Rijeka, in Lastovo, on 25<sup>th</sup> September 2010.

<sup>19</sup> Although this information is not central to this research, it should be mentioned that the Dubrovnik Statute of 1272 was translated into English, under editorship of V. Rimac, N. Lonza and V. Bače, titled: *The Statute of Dubrovnik from 1272*, Državni arhiv u Dubrovniku, Dubrovnik 2012.

<sup>20</sup> A. Blagojević, B. Radonić, *O Ustavu Kraljevine Jugoslavije 1931* (On the Constitution of the Kingdom of Yugoslavia of 1931), "Pravni vjesnik" 2012, Vol. 28, No. 1, p. 123–142.

<sup>21</sup> B. Smerdel, *Ustavno uređenje europske Hrvatske* (Constitutional Organisation of the European Croatia), Narodne Novine, Zagreb 2012; *idem*, *Zadaće pravne znanosti i pravničke struke na dvadesetu obljetnicu "Božićnog ustava"* – Ustavni izbor i procesi ostvarivanja najviših ustavnih vrednota i strateških ciljeva Republike Hrvatske (The tasks of jurisprudence and legal profession on the occasion of the 20<sup>th</sup> anniversary of the "Christmas Constitution" – Constitutional choice and the processes of realization of the highest constitutional values and strategic goals of the Republic of Croatia), "Krčki zbornik" 2016, Vol. 74, p. 99–132.

<sup>22</sup> D. Albrecht, R. Podolnjak, *Razlika između američkog i europskom modela nadzora ustavnosti i zakonitosti* (Differences between an American and European model of constitutional review), "Pravnik", 2009, Vol. 43, p. 25–40.

<sup>23</sup> A. Bačić, *Ustavno pravo Republike Hrvatske – Praktikum* (Constitutional Law of the Republic of Croatia – Practicum), Pravni fakultet u Splitu, Split 2006. See the introduction chapters related to the selected topics on Croatian Constitutional History and the Sources with the comments

<sup>24</sup> R. Podolnjak, P. Bačić, *Od Zakona o parlamentu iz 1911. do Zakona o Europskoj Uniji iz 2011: Transformacija prikrivenog u obvezni referendum u britanskoj ustavnoj doktrini* (From the Parliament Act 1911 to the European Act 2011: Transformation from Informal to Mandatory Referendum in British Constitutional Doctrine), "Zbornik Pravnog fakulteta u Zagrebu", 2014, Vol. 64, No. 4, p. 587–611.

<sup>25</sup> S. Barić, *Zakonodavna delegacija i parlamentarizam u suvremenim europskim državama* (Legislative Delegation and Parliamentarism in Modern European States), Organizator Zagreb, Pravni fakultet Sveučilišta u Rijeci, Zagreb 2009, p. 7–50.

## 5. Concluding remarks

The historiographic period in the focus of this volume is relatively productive given in particular the size of the Croatian legal discipline. Historiographic research is above all characterised by new systematisation and deideologisation of topics in constitutional history. Its intention is to take the perspective of the wider Middle European or European context and to look at it through the glasses of democratic and pluralist values. The accession of Croatia to the European Union, and the opening of new academic and research potentials should certainly contribute to the preservation of the level of Croatian legal historiography, which was created through the efforts of Croatian authorities who enjoyed European-wide recognition: Lujo Margetić, Bogdan Krizman, Konstantin Bastajić, and Hodimir Sirotković, just to name a few.

### Streszczenie

#### Chorwackie badania nad historią ustroju w latach 2000–2015

W latach 2000–2015 w chorwackiej historiografii podejmowane były różnorodne aspekty historii ustroju. Autor zaproponował prezentację wyników badań przez pryzmat najważniejszych zagadnień. Większość opracowań poświęcona została modernizacji chorwackich instytucji ustrojowych w tzw. innym XIX wieku. W drugiej części artykułu zaprezentowany został wkład chorwackich uczonych w badania nad powszechną historią ustroju. Trzecia część poświęcona została syntezom chorwackiej historii państwa i prawa oraz wybranym zagadnieniom szczegółowym.

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