

Unification of Criminal Law in the Interwar Yugoslav State (1918–1941)

Abstract

The paper examines the process of the unification of substantive and procedural criminal law in the Yugoslav state during the interwar period. Despite its unitary and centralistic administrative organization, the Yugoslav state at the time was characterized by legal particularism. Among the territories that encompassed the Kingdom of Serbs, Croats, and Slovenes there were substantially different legal systems, and hence, considerably diverse sources of law, since they had been parts of different political and territorial units prior to the unification. After the unification, there were six criminal codes and equally as many codes of criminal procedure in force in the territory of the Kingdom. Reformation and unification of substantive and procedural criminal law became an inevitable task, which was regarded as being urgent because achieving the standardization of the legal system was considered as a step forward, which would facilitate and solidify the unity and the proclaimed centralism that the state sought. Despite the initial efforts towards unification of criminal law that were begun by the beginning of 1919, the process was nevertheless turbulent, slow-going, and inefficient. Such circumstances were deeply conditioned by the permanent political instability, which emerged from continuous changes in the person of the Minister of Justice that always occurred in very short periods. The unification of criminal law was finally achieved only after the proclamation of the Dictatorship in 1929.

Keywords: unitarism, legal particularism, criminal law, criminal procedure, unification of criminal law, interwar Yugoslav state

Słowa kluczowe: unitaryzm, partykularyzm prawny, prawo karne, procedura karna, unifikacja prawa karnego, Jugosławia w okresie międzywojennym

1. Introduction

After 1918 and dissolution of the Austro-Hungarian Monarchy, the Kingdom of Serbs, Croats and Slovenes was founded. The former official name of the State was changed to the Kingdom Yugoslavia by the king Alexander himself, who thereby proclaimed

Dictatorship on 6th January 1929. In short period of its existence the newly formed State underwent two periods of constitutional government (the Constitution of 1921 and the Constitution of 1931) and one Dictatorship period (1929–1931). These were all direct consequences of the continuous political crisis which the State was permanently going through in the course of its existence. The new Yugoslav State was a complex territorial-political entity with considerable political and legal diversities, which necessarily emerged from specific historical, political and cultural developments in its different areas. The same claim and rationale could be put forth with particular reference to newly formed states of Central and Eastern Europe of that time. Though, unlike Poland, for example, the new Yugoslav state was not a result of restoration, but rather completely new state with no continuity in the previous period. It represented a territorial-political composite that consisted of large and substantially diverse territorial and political units which under Austro-Hungarian, Serbian and Montenegrin rule existed until 1918. Thereby, in such circumstances, despite of its unitary and centralistic administrative organization, the interwar Yugoslav state was characterized by huge inconsistencies and tensions in the organization and administration of justice, which was – of course – nothing new, because it was in its concept inherited from the previous legislation.¹

2. Legal particularism and sources of substantive and procedural criminal law in the Kingdom of Serbs, Croats and Slovenes

Territories that encompassed the Kingdom of Serbs, Croats and Slovenes had among themselves substantially different legal systems and thereby considerably diverse sources of law, because before the unification they were parts of different political and territorial units. Existence of six different legal areas (the Croatian-Slavonian, the Dalmatian-Slovenian, the former Hungarian territory, the Bosnian-Herzegovinian, and the Serbian and Montenegrin) resulted with the essential differences in regulation of substantive and procedural criminal law.²

In the Croatian-Slavonian legal area the former Austrian *Criminal Code on crimes, misdemeanors and petty offences of 27th May 1852* was in force, which in 1861, after the abolition of absolutism and when parliamentary life was reestablished, became a part of the Croatian autonomous legislation. From 1861 onwards, the Criminal Code of 1852 in Croatia had its own legal life: it developed separately from the Austrian jurisdiction and it was in several occasions substantially changed by the decision of the Croatian Parliament. The criminal procedure was regulated by the *Code of criminal procedure*

¹ J. Rothschild, *East Central Europe between the Two World Wars*, A History of East Central Europe, vol. IX, Seattle–London 1998, pp. 201–280.

² For more information on the legal particularism and trends toward the unification in the Kingdom of Serbs, Croats and Slovenes see: F. Čulinović, *Državnopravni razvitak Jugoslavije*, Osijek 1978, pp. 209–229; Politeo, I., *Unifikacija zakona u Jugoslaviji*, “Pravny Obzor: Teoreticky Casopis Pre Otazky Statu a Prava” 1931, vol. 14, pp. 426–432.

of 17th May 1875, which was enacted in the Croatian Parliament following the model of the Austrian Code of 1873.³ However, its most important distinction to Austrian model was in the concept to the jurisdiction of jury. While in Austria jury trial was an indivisible part of the general criminal procedure regulations and thereby covered rather large scope, in the Croatian legal system it was exclusively constrained to those matters that involved criminal prosecutions of the press offences. Croatian government explained that the broader competence of jury was not preferable for Croatia and Slavonia for objective reasons. The jury trial in Croatia and Slavonia was introduced by two *leges speciales*: the *Law on Criminal Procedure in Printed Matters of 17th May 1875* and the *Law on establishing a List of Jurors* of the same date.⁴

In the Dalmatian-Slovenian legal area, which was a part of the Austrian legal system until 1918, the Austrian *Criminal Code on crimes, misdemeanors and petty offences of 27th May 1852* and *Code of criminal procedure of 23rd May 1873* were in force. The Austrian Code of 1873 received unanimous approbation by the criminalists. In its concept it did not incorporate jury trial in a narrow sense – exclusively for the press matters – but rather in much broader sense, for all serious crimes which were punishable by more than five years' imprisonment, and in addition specifically for the political crimes. In the former Hungarian territory, the Hungarian *Criminal Code on crimes and misdemeanors of 29th May 1878* (Act V of 1878) and the *Code of criminal procedure of 4th December 1896* (Act XXXIV of 1896) were in force. The special (separate) *Code on Petty Offences of 14th June 1879* (Act XL of 1879) was enacted as well. In the Bosnian-Herzegovinian legal area the *Criminal Code on crimes and misdemeanors for Bosnia and Herzegovina of 26th June 1879* was in force, which was modeled on the basis of the Austrian Criminal Code of 1852, with addition of certain improvements, which did not to a larger extent affect its nature and structure. The *Code of criminal procedure for Bosnia and Herzegovina of 30th January 1891* regulated criminal procedure.⁵

In the Serbian legal area, the *Serbian Criminal Code of 29th March 1860* was in force, which was shaped after the Prussian Criminal Code of 1851. In 1908 considerable efforts were made to compile a modern draft of the Criminal Code for the Kingdom of Serbia, which were guided by the concepts and institutional scheme of the Norwegian and partially the Russian criminal codes of the time. These efforts resulted with the *Draft of the Criminal Code for the Kingdom of Serbia*, which was published in 1910 together with an extensive commentary. Because of the Serbian involvement in the Balkan wars and the occurrence of the First World War, efforts directed to reformation of the criminal legislation were stopped and subsequently the Draft itself never came into force. The criminal procedure in Serbia was regulated by the *Code of criminal procedure of 10th April 1865*. In the Montenegrin legal area, the *Criminal Code of 23rd February 1906* was in force, which essentially represented a reception of the Serbian Criminal Code

³ D. Čepulo, *Hrvatska pravna povijest u europskom kontekstu. Od srednjeg vijeka do suvremenog doba*, Zagreb 2012, pp. 158–159, 164, 193–196.

⁴ D. Čepulo, *Trial by Jury in Croatia 1849–1918: Transfer and the Context* [in]: *Rechtsprechung in Osteuropa. Studien zum 19. und frühen 20. Jahrhundert*, ed. Z. Pokrovac, Frankfurt am Main 2012, pp. 27–37.

⁵ M. Dolenc, *Ausländische Rundschau, B. Stand der Strafgesetzgebung im Königreiche der Serben, Kroaten und Slowenen*, “Zeitschrift für die gesamte Strafrechtswissenschaft” 1924, vol. 44, p. 196; Ž. Perić, *Unifizierung der Strafgesetzgebung im Königreiche der Serben, Kroaten und Slovenen (Jugoslavien)*, Sonderabdruck aus “Monatsschrift für Kriminalpsychologie und Strafrechtsreform”, Heidelberg 1926, pp. 258–260.

with certain minor changes that were of no significant relevance. The *Code of criminal procedure of 20th January 1910* modeled after the Serbian Code was in force as well.⁶

This brief overview indicates that after the State unification six criminal codes and just as many codes of the criminal procedure were in force on the territory of the Kingdom of Serbs, Croats and Slovenes. For this reason, unification of laws was a major political goal and a priority task for the government. Reformation and unification of substantive and procedural criminal law became an ultimate task, which was regarded as urgent, because achieving the legal unity was considered as a step forward which would facilitate and afford the State unity and the proclaimed centralism. Because of the principle of the state unity, it was perceived as strongly unacceptable that in the territory of the same state there were different legal areas in which a certain human act was qualified as a criminal offence and thereby punished, while at the same time, in another legal area of that particular State, the substantially identical human act received a considerably different legal qualification because it was not prescribed as crime and thereby punished. The same rationale referred to the punishments, which for the identical criminal offence might considerably differ from one legal area to the other.⁷

3. First efforts at unification of substantive criminal law

In the period of provisional State organization, which chronologically stretched from the unification of Yugoslav state in 1918 until the adoption of the *Constitution of 1921*, unification of laws was intended to be achieved through enactment of legally binding decrees. When the Provisional National Assembly came into session on 1st March 1919, it set a particular task of preparing the elections for the Constitutional Assembly. At that time the State's everyday functioning largely depended on the government's decrees, which was unanimously perceived as unsustainable in long term relations. Such circumstances of the State's functioning did not change in the period of 20 months that followed, in course of which a pre-parliament was established. It was an *interim* National Assembly which enacted 12 laws while at the same time the Government issued 800 decrees with binding force, regulations and other general acts which were widely applied. This particular reference to the structure and numbers of legal acts (and to the State authorities who enacted them) reveals a lot about the relation between Government and the Parliament. Decrees covered matters pertinent to those fields of law which would in ordinary occasions be regulated by laws or by the State's constitution. Prevalence of the government's decrees with binding force neglected the basic idea of parliament and its fundamental role as a legislation body. The political authorities' intention was to

⁶ M.P. Čubinski, *Projekat srpskog kaznenog zakonika i problem izjednačenja jugoslovenskog prava*, "Arhiv za pravne i društvene nauke" 1920, book I (XVIII), no. 3, pp. 170–187; M. Dolenc, *Ausländische...*, p. 196; Ž. Perić, *Unifizierung...*, p. 258.

⁷ M.P. Čubinski, *Problem izjednačenja prava u ujedinjenom Kraljevstvu S.-H.-S. i osnovne odredbe projekta srpskog kaznenog zakonika*, Beograd 1921, pp. 18–19.

bring such situation to an end by constituting the Constitutional Assembly.⁸ If a special reference is made to the position and amount of criminal law rules which were enacted through the Government's decrees, we may say that only a small number of the decrees addressed the matters pertinent to criminal law. This occurred exclusively when the normative intervention in the field of criminal law was urgent for introducing certain adjustments or corrections to prevent (or eliminate) the most evident dysfunctions which emerged because criminal legislation in the State's territory was excessively diverse and heterogeneous.⁹

In February 1919 the first step towards unification of substantive criminal law was taken through the government's decree of 25th February 1919 (No 2092) which extended the force of the chapters IX and X of the *Serbian Criminal Code of 1860*. These chapters specifically regulated crimes and misdemeanors against state, ruler, constitution, laws, government and public order, and were extended by the aforementioned government's act to the whole territory of the newly formed state. Such a government's act was justified and legitimized with an urgent need to protect the new state by means of legal unification. The decree was in fact only a brief reference with no necessary provisions which were pertinent to the Serbian Code, i.e. from which they were taken. The only provision was that the term *Serbian* in all the norms was substituted with *citizen* and that term *Serbia* was substituted with the *Kingdom of Serbs, Croats and Slovenes*.¹⁰ Because the government's decree was issued just three days before the constitution of the Provisional National Assembly, complaints were put forth that by this act the Government intentionally bypassed the Assembly. Publication of the decree occurred on 10th April 1919 and thereby came into force at the day of its publication. However, it resulted with many uncertainties and collision of laws in legal practice, which inevitably led to the criticism in media and legal literature. Criticism was directed to the uncertainties emerging from the fact that no one knew which general principles were to be applied in separate parts of the state for the aforementioned crimes, which created an overall chaos because the principles of all the six legal areas were simultaneously applied.¹¹ Such chaotic situation lasted until March of 1921. The Sovereign's decree of 16th March 1921 (No 12710) proclaimed that for crimes of the chapters IX and X of the *Serbian Criminal Code of 1860* general provisions (§§ 1–82) of that particular code should be principally applied. However, a judge was allowed to depart from them in case if general provisions of any other criminal code in force provided regulation, which was favorable for the defendant.¹²

⁸ M. Pavlović, *Problem izjednačenja zakona u Kraljevini Srba, Hrvata i Slovenaca / Jugoslaviji*, "Zbornik Pravnog fakulteta u Zagrebu" 2018, vol. 68, no. 3–4, pp. 495–496.

⁹ M. Dolenc, *Strafrechtliches aus Jugoslawien*, "Zeitschrift für Osteuropäisches Recht" 1926, vol. 2, no. 4, p. 463.

¹⁰ "Službene novine Kraljevstva Srba, Hrvata i Slovenaca" 1919, vol. 1, no. 30, p. 1; J. Šilović, *Kazneno pravo*, Zagreb 1920, pp. 213–225; M.P. Čubinski, *Pravna politika, Reforma krivičnog zakonodavstva Kraljevine S.H.S.*, "Arhiv za pravne i društvene nauke" 1922, book IV (XXI), no. 2, p. 138.

¹¹ M. Dolenc, *K vprašanju izenačenja kazenskih zakonov za celo ozemlje kraljevine Srbov, Hrvatov in Slovencev*, "Slovenski pravnik" 1920, vol. 34, no. 9–12, pp. 264–279; F. Čulinović, *Jugoslavija između dva rata*, book I, Zagreb 1961, p. 211.

¹² "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1921, vol. 3, no. 75, pp. 1–4; J.M. Popović, *Pravna politika, O proširenju odredaba „Uvodnih pravila“ i „Časti prve“ Kriminalnog (Kaznenog) Zakonika Kraljevine Srbije na celo područje Kraljevine Srba, Hrvata i Slovenaca*, "Arhiv za pravne i društvene nauke" 1921, vol. 3, no. 75, pp. 1–4.

Among the other decrees it is worth of discussing the one that regulated the change in the monetary amounts which were provided in the substantive and procedural criminal law. The amounts were of greatest importance for accurate qualifications of the individual criminal act, for identifying the jurisdictions of the individual criminal court and for determination of punishment in individual cases on the territory of Dalmatia and Slovenia. The decree was issued on 22nd June 1921 (No 29298).¹³ The second decree which is of relevance for this text was also issued on 22th June 1921.¹⁴ It changed and amended the *Criminal Code on crimes and misdemeanors for Bosnia and Hercegovina*. The third relevant decree of the same date changed the rules of criminal code and criminal procedure in Croatia and Slavonia. Moreover, it changed the monetary amounts.¹⁵ Through the Sovereign's decree of 19th August 1919 validity and legal effects of the provisions of the *Serbian Military Criminal Law of 1901* were expanded to the whole territory of the Kingdom of the Serbs, Croats and Slovenes.¹⁶ The problem of banditry which escalated in the territories of Montenegro and Bosnia and Herzegovina gave rise to enactment of two decrees (of the 2nd December 1919 and 19th April 1921) which expanded validity and legal effects of the provisions of the *Serbian law on the public safety of 1905*. Main purpose of this law was to eliminate *hajduci* (the word literally means brigands, outlaws or highwaymen) in the mountainous regions on the borderline between Serbia and Albania.¹⁷

4. Elaboration of the first Draft of the Uniform Criminal Code of 1922

For facilitating a unitary legal system, the first Government created a special ministry whose main task was to prepare the Constitutional Assembly and to unify laws. Because the efforts of that ministry were exclusively directed to making the draft of the constitution and proposals of the necessary administrative acts, the task of unification of laws was transferred to the Ministry of Justice. In December of 1919 within the Ministry of Justice, the Permanent Legislative Advisory Office was established. Its main tasks were to make expert drafts of the laws, to promote harmonization and to continuously support introduction of improvements and amendments of the existing legislation. The task conferred to the Permanent Legislative Advisory Office consisted in making drafts of the

nauke" 1921, book III (XX), no. 4, pp. 313–315; M. Dolenc, A. Maklešov, *Sistem celokupnog krivičnog prava Kraljevine Jugoslavije*, Beograd 1935, pp. 19–20.

¹³ *Uredba o izmeni visine novčanih iznosa sadržanih u propisima materijalnog i formalnog kaznenog prava u Dalmaciji i u Sloveniji*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1921, vol. 3, no. 143, p. 3.

¹⁴ *Uredba o izmeni i dopuni Kaznenog zakona o zločinstvima i prestupcima za Bosnu i Hercegovinu*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1921, vol. 3, no. 147, p. 3.

¹⁵ *Uredba o izmeni kaznenog zakona i kaznenog postupnika u Hrvatskoj i Slavoniji*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1921, vol. 3, no. 146, p. 2.

¹⁶ M. Dolenc, *Ausländische...*, p. 201.

¹⁷ "Službene novine Kraljevstva Srba, Hrvata i Slovenaca" 1919, vol. 1, no. 160, p. 1; "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1921, vol. 3, no. 95, p. 1; M. Dolenc, *Strafrechtliches...*, pp. 463–464.

common legislation of the Kingdom, which primarily addressed laws and decrees pertinent to the jurisdiction of the Ministry of Justice. Though, the efforts of the Office were meant to be directed to the acts of other ministries too. In former sense, the Office controlled the drafts because each ministry was bound to present it to the Office for the control. The Permanent Legislative Advisory Office consisted of three departments: for private, criminal and public law. Constitution of the Permanent Legislative Advisory Office meant that the authorities wanted to promote the principle of equal representation of all the areas of the Kingdom in the process of unification of laws. The principle of equality was addressed to the universities in Belgrade, Zagreb and Ljubljana whose professors should participate in this process on equal footing.¹⁸

In the decision of 1st August 1920 the minister of justice constituted a committee whose main task was to prepare the Draft of the Criminal Code and the Code of the criminal procedure. The Committee consisted of a separate criminal department within the Permanent Legislative Advisory Office. The Committee members were compilers of the *Serbian Draft of Criminal Code of 1910* (Marko Đuričić, president of the Serbian Supreme Administrative Court, Božidar Marković, professor at Belgrade University, Milutin Miljković, professor at the Faculty of Law in Subotica, and Dušan Subotić, member of the Court of Cassation in Belgrade), as well as Mihailo Jovanović, president of the Court of Cassation in Belgrade, Stjepan Posilović, president of the Court of Cassation in Zagreb, Nikola Ogorelica, supreme supervisor of the penitentiary administration, Josip Šilović, professor at Zagreb University, Metod Dolenc, professor at Ljubljana University, and Toma Živanović, professor at Belgrade University. Professor at Belgrade University, Mihailo Čubinski, who was a former member of the Court of Cassation and simultaneously professor at Saint Petersburg University, was additionally appointed. Presidency over the committee was awarded to Marko Đuričić, who retained the position even after he was appointed to position of minister of justice in February 1921.¹⁹

First meeting of the Committee took place on 17th January 1921. In this occasion the *Draft of the Criminal Code for the Kingdom of Serbia of 1910* was defined as the basis for the incoming “unitary codification” of Criminal Code. However, a task was put before the committee to make all the necessary adjustments and changes of that Draft for purpose of its efficient use in the new enlarged Yugoslav state. Moreover, the committee was given a task to reform the outdated rules of the Serbian Draft of the Criminal Code following the new achievements of the science of the criminal law. Following the professor’s Šilović proposal the Committee decided that revision of the Serbian Draft and re-examination of the preliminary Draft was conferred to the members of the Committee who permanently resided in Belgrade because it was considered that it would be best suited, i.e. that it would be much easier for them to meet and communicate among them-

¹⁸ *Uredba o uređenju Ministarstva Pravde*, “Službene novine Kraljevstva Srba, Hrvata i Slovenaca” 1919, vol. 1, no. 168, pp. 2–3; E. Lovrić, *Rad oko izjednačenja zakona u našoj državi*, “Mjesečnik glasilo pravničkoga društva” 1921, vol. 47, no. 1, pp. 43–45; G. Drakić, *Formiranje pravnog sistema u međuratnoj jugoslovenskoj državi*, “Zbornik radova Pravnog fakulteta u Novom Sadu” 2008, vol. 42, no. 1–2, pp. 647–648; M. Pavlović, *Problem...*, p. 495.

¹⁹ M.P. Čubinski, *Pravna...*, p. 139; B. Marković, *Udžbenik srpskog krivičnog postupka s obzirom na projekat krivičnog postupka za Kraljevinu S.H.S.*, Beograd 1926, pp. 68–69; M.P. Čubinski, *Naučni i praktički komentar Krivičnog zakonika Kraljevine Jugoslavije od 27. januara 1929. god. Opšti deo*, Beograd 1930, p. 7.

selves. The task of making the preliminary Draft of the general provisions was conferred to Toma Živanović and Mihailo Čubinski, while drafting of special provisions to Marko Đuričić, Mihailo Jovanović and Dušan Subotić. The intention was that after they performed their duties, the Draft would be profoundly analyzed and re-examined in the plenary sessions of the Committee. Plenary sessions took place in May 1921 in Zagreb and in October and December of the same year in Belgrade.

The Committee worked intensively, for which already at the end of May of 1921 the preliminary Draft of the general part was finalized and submitted to minister of justice. Contents of the Draft reveal it was a combination of the provisions of the Serbian Code of 1910 with certain changes and amendments that were proposed by Toma Živanović and Mihailo Čubinski and some other Committee members in the course of the plenary sessions. Fewer changes and amendments were made in the special provisions of the Draft. The final text of the Draft was presented to the minister of justice on 17th December 1921 by which the Committee accomplished its goal. At this point the Draft was fully finalized.²⁰

The first Draft of the Criminal Code for Kingdom of Serb, Croats and Slovenes was made public by the decision of the minister of justice Lazar Marković of 12th April 1922 together with only “short explanation” provided by the certain members of the committee: by Toma Živanović in general provisions, and by Marko Đuričić, Mihailo Jovanović i Dušan Subotić in special provisions of the Draft of the Criminal Code. Contents of the “short explanation” were not left to the public debate, neither were members of the Committee allowed to express their opinions and criticism to it. All the views and opinions which were a part of the “short explanation” were therefore exclusively belonging to the individual members of the Committee who compiled it. The 38-page “short explanation” should have been treated in forthcoming procedure as the introduction (or foreword) of the Criminal Code, i.e. a non-normative content whose insertion was made to provide short and precise explanation of the principles and concepts on which the new Criminal Code would rely. It should have provided reference to the new institutes of criminal law which were to be introduced and which, therefore, represented a novelty in the state’s criminal system. Additionally, the non-normative content of “short explanation” should have referred to describing trends in criminal law from perspective of the criminal law doctrine.

Publication of the Draft of the Criminal Code in 1922 provided to the public “a code in progress” for purpose of public debate before its final version was defined.²¹ The goal of the publication was fully achieved because the Ministry of Justice received a large number of comments and references that were substantial because of its contents and explanations.²² An exhaustive elaboration was made on the grounds of the comments and

²⁰ M.P. Čubinski, *Pravna...*, pp. 139–140; Ž. Perić, *Unifizierung...*, pp. 261–262; M.P. Čubinski, *Naučni...*, pp. 7–8.

²¹ The draft of the general provisions of the Criminal code was published at the end of 1922 in the professional law journal which was published in Zagreb: *Projekat kaznenog zakonika za kraljevinu Srba, Hrvata i Slovenaca*, “Mjesečnik glasilo pravničkoga društva u Zagrebu” 1922, vol. 48, no. 11, pp. 456–467.

²² For comments and references that were principally put forth by the Croatian legal experts see more: E. Miler, *Osnova kaznenoga zakona za kraljevinu Srba, Hrvata i Slovenaca od godine 1921.*, “Mjesečnik glasilo pravničkoga društva u Zagrebu” 1923, vol. 49, no. 1, pp. 1–14; S. Frank, *Neke primjedbe projektu kaznenoga zakona*, “Mjesečnik glasilo pravničkoga društva u Zagrebu” 1923, vol. 49, no. 2, pp. 82–87;

references following the instruction of the minister of justice. It was prepared by Mihailo Čubinski who emphasized the importance of the Draft's immediate publication by which means, in his opinion, jurists and the citizens could just in time read about the extensive reform of the criminal legislation which was at the time progress.

Finalization of the Draft was interconnected with considerable difficulties. Because of the urgent need of its enactment, the Draft of the Criminal Code had no motives and reasons attached, i.e. by this it did not conform to the standard requirements of the preliminary procedure of its enactment. Moreover, in such circumstances stenographic records of the plenary sessions of the committee were not made, which leaves us today quite a narrow space for the further and deeper analysis of the draft-work in progress. Due to its shortness, the "short explanation" did not put forth the motives which were in legislation procedures regularly attached to the Draft and printed simultaneously with it. Publication of motives for enacting the Serbian Criminal Code of 1910 was made to partially compensate this, though, as it was expected it did not achieve a satisfactory result because the Draft of a new code in its norms and motives substantially deferred from the Serbian Code of 1910. The lacking materials were considered to be essential for the scientific studies of criminal law and legal practice, because in the future only their specific contents could provide an accurate interpretation ground of the legal provisions and a practical guideline for those who would apply the Code.

There is another considerable drawback related to the aforementioned Draft. When a legal code was drafted, there was a universal trend that the initial drafts were compiled by specialized commissions or committees while the final Draft was compiled by broader groups of experts. The interwar Yugoslav State did not follow such universal guidelines; it went in opposite direction. The preliminary Draft was compiled by a committee consisting of 10 experts while the final Draft was on the instruction of minister of justice compiled only by three persons (Nikola Ogorelica, Dušan Subotić i Božidar Marković). They were instructed to eliminate inconsistencies, mistakes and to fill the legal gaps. Though, the three members' committee went beyond their powers and changed the Draft considerably by their own discretion. They adopted some new solutions that were contrary to the majority opinion of the members of the criminal department of Permanent Legislative Advisory Office. Also, they did not refer to the ongoing criticism emerging from criminal law experts and scientist.²³

The Draft of the Uniform Criminal Code of 1922 never reached the legislative stage of parliamentary debate. Most probably this was affected by an overall political instability that Yugoslav state went through at this time. In the December of 1922 the Government resigned and a new one was appointed. In March of 1923 elections for the

L. Hönigsberg, *K projektu kaznenoga zakona za kraljevinu Srba, Hrvata i Slovenaca*, "Mjesečnik glasilo pravnčkoga društva u Zagrebu" 1923, vol. 49, no. 3, pp. 100–111; J. Gogolja, *Primjedbe k projektu kaznenoga zakonika za kraljevinu Srba, Hrvata i Slovenaca*, "Mjesečnik glasilo pravnčkoga društva u Zagrebu" 1923, vol. 49, no. 4–5, pp. 190–209; *Mnijenje vijećnika stola sedmorice Josipa Pobora o projektu kaznenoga zakona za kraljevinu Srba, Hrvata i Slovenaca*, "Mjesečnik glasilo pravnčkoga društva u Zagrebu" 1923, vol. 49, no. 6, pp. 243–253; Č. Marković, *Pravna politika, Nekoliko primedaba na projekat Kaznenog zakonika*, "Arhiv za pravne i društvene nauke" 1923, book V (XXII), no. 6, pp. 448–450; D.J. Danić, *Pravna politika, Umišljaj s pogledom na projekat kaznenog zakonika za Kraljevinu Srba, Hrvata i Slovenaca*, "Arhiv za pravne i društvene nauke" 1923, book VI (XXIII), no. 5–6, pp. 422–431.

²³ M.P. Čubinski, *Naučni...*, pp. 8–10.

National Assembly were called. After these events there was nothing ever published with reference to the Draft of the Criminal Code of 1922.²⁴

Now we will make a brief overview of the contents of the Draft of the Criminal Code of 1922. Initially it must be emphasized that one of the most evident intentions of its compilers was to improve its formal structure. The same efforts were made with reference to terminology and language which needed to be consistently used, in a precise and simple way to afford its accurate understanding and interpretation. Nevertheless, the draft did not succeed to overcome the language problems and the issue of terminology. The Croatian legal experts objected the extensive use of the Turkish, Russian and other terms which evidently came from the impertinent legal traditions. The same drawbacks became apparent also because of the use of foreign words and many terminological inconsistencies which could not be easily applied. To overcome this problem there was even a suggestion that a philologist should be employed to control that consistency in the use of language and legal terminology use was followed.²⁵

Many efforts were made to depart from the case to case approach and to abandon inconsistencies, antinomies, legal gaps etc. in the institutes definitions and use of legal terms. Their contents were intended to be correspondent with the requirements of legal practice of the time and to adequately reflect of what was going on in the practice of the courts. The Draft was amended with definitions of the criminal law phenomena which at the time seemed to be a matter of disputes (e.g. intention, negligence, attempt, right of self-defense, incitement etc.).

The Draft was modeled following the Norwegian Criminal Code of 1902 and its motives, the Swiss Criminal Code and the Draft of the German Criminal Code. The Yugoslav Draft of 1922 consisted of general provisions divided into 13 chapters (I–XIII, §§ 1–85) and special provisions which consisted of 18 chapters (XIV–XXXI, §§ 86–398). Criminal offences are divided into two categories: crimes and misdemeanors. In the discussions about the Draft of the Criminal Code it was emphasized that all punishable acts which do not violate or endanger legally protected interests (and which represent only abstract endangerment of maintenance of the social order) should be taken out of the jurisdiction of the criminal courts and transferred to police courts. Subsequently the intention was that petty offences were regulated in a separate (special) act – law. The Draft of 1922 appreciated universally adopted results achieved in the science of criminal law of that time. This is attested by the explicit mention of the perpetrator together with criminal offence and penalty in the chapter's II title, as well in the fact that security measures were introduced. The purpose of these measures was either improvement or cure of the offender.²⁶ The Draft retained the death penalty, which reflects the attitudes of its compilers that if differently, i.e. if its abolition was allowed, that this would most certainly result with increasing criminality. Death penalty was considered as an adequate means of the criminal policy as long as it was necessary for preservation of legally pro-

²⁴ M. Dolenc, *Strafrechtliches...*, p. 465; M. Dolenc, *Tumač Krivičnog zakonika Kraljevine Jugoslavije*, Zagreb 1930, pp. 10–11; F. Čulinović, *Jugoslavija...*, pp. 403–404.

²⁵ M.P. Čubinski, *Pravna...*, pp. 140–141; E. Miler, *Osnova...*, pp. 11–14; J. Gogolja, *Primjedbe...*, p. 209; N.D. Pahorukov, *Pravna politika, O jeziku zakonskih projekata*, "Arhiv za pravne i društvene nauke" 1924, book VIII (XXV), no. 3, pp. 209–213.

²⁶ M.P. Čubinski, *Pravna...*, pp. 142–143; Ž. Perić, *Unifizierung...*, pp. 262–271.

tected goods and interests. During the debate on methods of execution of death penalty that took place within the criminal committee a division among its members became apparent to those who belonged to the former Serbian legal ambient and the others who favored approaches of the former Austro-Hungarian legal system. Legal experts from the former Austro-Hungarian territories openly expressed their complaints and dissatisfactions because they deeply disagreed with the Serbian model of execution of death penalties by shooting. Namely, the Austro-Hungarian model relied on hanging. The final result was acceptance of hanging as the method of execution of death penalties. It is worth at this point to make reference to the legislative explanation of such approaches: “it is the easiest and most human method of executing the death penalty”.²⁷

5. Unification efforts after the adoption of the *Constitution of 1921*

Meanwhile, the Constitutional Assembly adopted the new Constitution on 28th June 1921, on St. Vitus' Day, an important holiday in the Serbian Orthodox Church, from which it gained the name of the *St. Vitus' Day Constitution*. According to the *Constitution of 1921* there were two models in which unification of laws could be achieved: (1) either by legalizing former decrees (which were enacted after unification and before passing the constitution); or (2) by passing laws by the Legislative Committee of the National Assembly in a summary procedure. Summary legislative procedure meant that all proposals whose purpose was unification of law needed to be directed to the Legislative Committee of the National Assembly, regardless of that who made them, i.e. it was irrelevant whether they were made by government or members of the parliament. Legislative Committee would then decide whether to accept it or not, and if the proposal passed, the Committee would send it to the National Assembly together with a report on it. The National Assembly voted on such proposals individually or *en block*. Proposal might be accepted in whole or rejected in whole, not just partially.²⁸

Unification was one of the main tasks of the Ministry for the Harmonization of Laws and the Ministry of Justice that were constituted solely to perform the unification of laws. However, the process of unification went slowly and met considerable difficulties on its way because of the technical legal issues, substantial cultural differences and the constant political crisis which resulted with instabilities. Ministry for the Harmonization of Laws did not work intensively in the field of unification of laws and neither did the Permanent Legislative Advisory Office within the Ministry of Justice. The former political body was not dedicated to this goal in full time, continuously or with the full personal capacities that it possessed. Reasons for this may be traced in the fact that minister of justice insisted that the debates and work on legislative drafts went solely through committees which he head previously personally established. Unification of laws was impeded

²⁷ J. Šilović, *Ocjene i prikazi, Dr. Mih. Čubinski: Problem izjednačenja prava u ujedinjenom kraljevstvu S.H.S. i osnovne odredbe projekta srpskoga kaznenoga zakonik. Beograd. 1921*, “Mjesečnik glasilo pravnika društva u Zagrebu” 1922, vol. 48, no. 4–5, pp. 193–194; Ž. Perić, *Unifizierung...*, pp. 266–267; M. Pavlović, *Problem...*, pp. 510–511.

²⁸ G. Drakić, *Formiranje...*, pp. 648–650; M. Pavlović, *Problem...*, pp. 495–499.

by frequent changes in persons who were appointed for ministers of justice – every new person in the office was well aware of his responsibilities and liabilities and, moreover such persons had their own attitudes towards the reform of criminal justice (which were often different in their concepts). For this each new minister insisted on a new report on the Draft and new explanations that would provide him with information whether some additional changes or amendments were required. In such circumstances it was almost impossible to provide continuity in the legislative work. Until 1926 eight persons assumed the function of minister of justice. The other impediments referred to the extent and complexity of the unification, insufficient financial resources which were available for this project at the Ministry of Justice. For the former reason the Ministry was not able to simultaneously convoke all the committees that worked on the Draft. Due to financial restrictions the Ministry could provide finances to pay only a few experts for which they were exclusively occupied with unification of rules, rather than with their adequate compilation.²⁹

The *Constitution of 1921* contained the usual provisions on the fundamental rights and obligations of citizens, many of which were also concerned with substantive and procedural criminal law. It established principles of protection of personal freedom, inviolability of home, secrecy of correspondence and freedom of conscience and religion. The Constitution prohibited the use of the death penalty for “purely political” offenses, except in the case of committed or attempted assassination of the sovereign and members of his court. The freedom of the press was guaranteed by the Constitution, nevertheless the transitional provisions laid down some fundamental constraints. The criminal legislation which was previously enacted by means of passing the decrees remained in force and was not substantially changed. Some of important decrees that were enacted before the Constitution were revised by the Legislative Committee of the National Assembly and turned into supplementary criminal laws, for example, the *Law on emigration of 30th December 1921*, the *Law on suppression of high prices of food products and unscrupulous speculation of 30th December 1921*, the *Law on the protection of industrial property of 17th February 1922*, the *Law on possessing and carrying weapons of 18th February 1922*, and the *Law on extension of validity of the chapters IX and X of the Serbian Criminal Code of 1860 on the entire country of 21st April 1922*.³⁰

A failed attempt of assassination of Prince Regent Alexander and the successful assassination of minister of Internal Affairs in summer of 1921 stimulated the National Assembly to enact the *Law on protection of public security and legal order of the state* on the 2nd August 1921. Although it was initially meant to be an anti-communist and anti-anarchist measure, this law in short terms was awarded with much broader role and function because it provided legal grounds and justification for different kinds of citizens’ surveillance. Criticism over it in the Assembly was directed to the fact that it strongly opposed to the basic principles of the *Constitution of 1921*.³¹ The law qualified a crime in the following wording: “writing, publishing, and distribution of books, periodicals,

²⁹ M. Čubinski, *Izjednačenje i reforma zakona u Kraljevini SHS*, “Letopis Matice srpske” 1926, book 307, no. 1–2, pp. 253–255.

³⁰ M. Dolenc, *Ausländische...*, pp. 200–201; M. Dolenc, A. Maklešov, *Sistem...*, pp. 20, 23–24.

³¹ *Zakon Kraljevine Srba, Hrvata i Slovenaca o zaštiti javne bezbednosti i poretka u državi*, “Službene novine Kraljevine Srba, Hrvata i Slovenaca” 1921, vol. 3, no. 170A, pp. 1–2; M. Dolenc, *Ausländische...*,

posters or leaflets which would instigate violence against the constitutional state authorities or would jeopardize public safety and order” (art. 1, § 1); “organization, giving assistance to, or being a member of, an association which has for its aim the propagation of communism, anarchism or terrorism” (art. 1, § 2); “making or collecting of arms” (art. 1, § 6); “preparation, attempt or execution of the assassination of state organs or political personalities” (art. 1, § 7). The prescribed penalties for these crimes were death or imprisonment up to 20 years.³² Another important supplementary criminal law enacted by the National Assembly was the *Press Law of 6th August 1925* by which the unification of press law was performed.³³

The forthcoming work on the Draft of the Unitary Criminal Code was not performed by the whole criminal department of Permanent Legislative Advisory Office which existed within Ministry of Justice. It was performed by a narrower (three-member) committee whose main task was to compile the Draft and in addition two more drafts: of the law on the execution of prison sentences and of the law on petty offences. At the end of 1925 the last edition of the Draft of the Criminal Code for Kingdom of Serbs, Croats and Slovenes was finalized. On 18th February 1926 the minister of justice Marko Đuričić presented the National Assembly with the Draft Proposal of the Criminal Code which formally had a status of an act proposed by the Government itself. Though, the rationale and motives for the Code’s enactment were not attached to the Draft. It was solely the president of the Belgrade’s Court of Cassation, Dušan Subotić, who acted as the Government’s commissioner, and he was the only person who provided the parliament with explanatory remarks, which occurred during his introductory speech on 27th April 1926 on the first session of the Legislative Committee of the National Assembly. His speech was later printed in the form of a 13-page booklet that mostly referred to the reasoning of the Draft of the Serbian Criminal Code of 1910 and the “short explanation” of the Draft of Criminal Code of 1922. The Legislative Committee of the National Assembly made references to it. In this process the Draft was not exposed to substantial criticism or opposition. In addition to the Draft Proposal of the Criminal Code, which regulated only crimes and misdemeanors, on 10th June 1926 the Government also submitted to the National Assembly the Draft Proposal of law on petty offences, together with short 8-page reasoning and explanation. Following the role models of the Serbian codes, which were of pre-unification provenance, this proposal transferred the jurisdiction over petty offences to the police and administrative authorities, which resulted with strong dissatisfaction among the representatives of the areas which were formerly part of the Austro-Hungarian Monarchy. The parliamentary ratification of these draft proposals never happened because the National Assembly was dissolved and simultaneously the parliamentary elections were called in September 1927.³⁴

p. 202; F. Čulinović, *Jugoslavija...*, pp. 364–368; C.A. Nielsen, *Making Yugoslavs: Identity in King Aleksandar’s Yugoslavia*, Toronto 2014, pp. 170–171.

³² *Yugoslav Communism, A Critical Study*, Prepared for the subcommittee to investigate the administration of the internal security act and other internal security laws of the committee on the judiciary United States Senate, Eighty-seventh Congress, First session, Washington 1961, p. 39.

³³ M. Dolenc, *Strafrechtliches...*, pp. 466–468.

³⁴ D.M. Subotić, *Novi predlog Kaznenog zakona (1926.)*, “Arhiv za pravne i društvene nauke” 1926, book XII (XXIX), no. 5–6, pp. 333–350; M. Dolenc, *Der allgemeine Teil des jugoslavischen Strafgesetzent-*

On 3rd November 1927 the new minister of justice Dušan Subotić presented the newly elected National Assembly with four draft proposals: of the Uniform Criminal Code, of the Law on petty offences, of the Criminal procedure law and of the Law on the execution of prison sentences. They were presented to the Legislative Committee of the National Assembly in the summary legislative procedure. At the end of 1927 the big political turnover occurred by creating an anti-regime coalition called the Peasant-Democratic Coalition, which represented a serious threat to the existing distribution of power and to authoritarian rule of Serbian political elite. The atmosphere in the National Assembly was filled with conflicts, incidents and death threats, which enabled its normal and efficient work. Tensions culminated in June 1928 when the Croatian Peasant Party deputies were assassinated in the Belgrade's Assembly. Despite unfavorable political circumstances, the Government made every effort to facilitate the work of the Legislative Committee. Some legal experts had given their opinions on the Draft Proposal of the Criminal Code at the invitation of the minister of justice. When the National Assembly was dissolved on 6th January 1929, before the Legislation Committee a debate over the Proposal of the Criminal Code was in course. Work on the draft proposals on the other acts in the field of criminal justice have not even begun at that time.³⁵

6. The unification of substantive criminal law after the proclamation of the Dictatorship in 1929

Since the parliamentary system had failed to cultivate national unity through representative politics, the King Alexander decided to impose it upon Yugoslav state and its subjects by taking control of all state apparatus. In his manifest of 6th January 1929, the King declared that the Parliament had become a nuisance due to political abuse and that he, as the guardian of national unity, had to abolish the *Constitution of 1921* and dissolve the National Assembly. Thereafter he appointed a new government. Four decrees proclaimed during the first week of the new regime concentrated unlimited power in the hands of the King and his interior minister. They stipulated royal authority to appoint all ministers and decree legislation, to impose security measures against any opposition, and to create a special court for the State protection.³⁶

After the Dictatorship was proclaimed, harmonization of laws received its full effect because the parliamentary procedure was bypassed. Simultaneously with the political overturn of 1929, the *Law on protection of public security and legal order of the state of 1921* and the *Press Law of 1925* were amended which ought to prevent all the efforts directed to break the state's unity. These amendments were significant steps towards the

wurfes in seinen Grundzügen, "Zeitschrift für Ostrecht" 1927, vol. 1, no. 4, pp. 502–503; M.P. Čubinski, *Naučni...*, p. 6; M. Dolenc, A. Maklešov, *Sistem...*, p. 21; F. Čulinović, *Jugoslavija...*, pp. 497–503.

³⁵ M. Dolenc, *Tumač...*, p. 11; M. Dolenc, A. Maklešov, *Sistem...*, p. 21; F. Čulinović, *Jugoslavija...*, pp. 510–531; I. Goldstein, *Croatia: A History*, London 2004, pp. 120–121; D. Čepulo, *Hrvatska...*, pp. 271–272.

³⁶ J. Lampe, *Balkans into Southeastern Europe, 1914–2014: A Century of War and Transition*, London 2014, pp. 110–111; J.P. Newman, *Yugoslavia in the Shadow of War: Veterans and the Limits of State Building, 1903–1945*, Cambridge 2015, p. 213.

increased authoritarianism. The Government continued work on unification of criminal law as a gesture of goodwill. After the dissolution of the National Assembly, the criminal law drafts were sent back to the Ministry of Justice which created the three members' committee for that particular purpose. The three members' committee changed the last Government's draft of criminal code considerably, which was performed under strong influence of the German drafts of 1925 and 1927, and following the principles of the neo-classical school. The final result of the committee's work was presented as the *Criminal Code of the Kingdom of Serbs, Croats and Slovenes*, which was thereafter enacted on 27th January 1929 and came into force on 1st January 1930.³⁷ Furthermore, on 16th February 1929 the new *Law on the execution of prison sentences* was enacted (it came into force the same day as the Criminal Code).³⁸ Because the special law on petty offences was not enacted, prevention of legal gaps which might emerge was achieved through a special *Law on the temporary extension of validity of the legislation on punishment of petty offences*, which passed the legislative procedure on 31st December of 1929, though with an explicit wording that the rules of all six former laws on petty offences might nevertheless remain in force if such offences were not explicitly foreseen by the new Criminal code. For facilitating unification of justice in cases of petty offences it was additionally provided that imprisonment could last no more than 30 days, pecuniary penalties could reach a maximum of 1500 dinars, while the statutes of limitations were shortened.³⁹

7. A brief overview of unification of procedural criminal law

Simultaneously with efforts made on unification of substantive criminal law, there were the ongoing attempts to unify the criminal procedure, because prior to the State's political unification there were six codes of criminal procedures in force, each in a separate legal area. Croatian and Bosnian and Herzegovinian codes relied on the Austrian *Code of the criminal procedure of 1873*, the Hungarian Code differed of it, while the Serbian and Montenegrin codes were excessively outdated and thereby lost every sustainable justification and rationale. For these reasons, unification and modernization of the criminal procedure was regarded as an urgent necessity and, of course, a huge challenge at the same time.

We should now return once more to the 1st August 1920 – when minister of justice created a committee whose task was preparation of the Draft of the Code of criminal procedure. The Committee made a suggestion that the Croatian *Code on criminal procedure*

³⁷ *Krivični zakonik za Kraljevinu Srba, Hrvata i Slovenaca*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1929, vol. 11, no. 33-XVI, pp. 157–186; *Zakon kojim se stavljaju na snagu i uvode u život Krivični zakonik, Zakonik o sudskom krivičnom postupku i Zakon o izvršavanju kazni lišenja slobode*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1929, vol. 11, no. 47-XXI, p. 282–284.

³⁸ *Zakon o izvršavanju kazni lišenja slobode*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1929, vol. 11, no. 47-XXI, pp. 273–282.

³⁹ *Zakon o privremenom produženju važnosti zakonskih propisa o kažnjavanju istupa*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1929, vol. 11, no. 307-CXXXI, s. 2577; M. Dolenc, A. Maklecov, *Sistem...*, pp. 21–22.

of 1873 should be considered as a basis of their work. They provided an adequate explanation: “Because it is considered to be an optimal act of criminal procedure even within the European context, though, with certain modernization and improvement required”. The Ministry of Justice approved such views. The Committee defined the principles of the draft and appointed compilers (Nikola Ogorelica and Božidar Marković) who prepared a version of the draft which was on 16th April 1921 presented to the Committee. The draft was analyzed and profoundly discussed by the committee members during sessions held in Ljubljana (3rd to 12th July 1921). In this occasion the draft was approved with only slight interventions which did not substantially affect the normative frame. This was the First draft of the Code of criminal procedure. It consisted of 26 chapters with 499 paragraphs altogether.⁴⁰

The Ministry of Justice addressed the jurists’ association, law faculties, high courts, public prosecutors and some distinguished legal experts in the field of criminal procedure and listened to their remarks. Until 22nd April 1922 the Committee obtained only 17 comments and remarks, which mostly referred to some technical and non-substantial issues.⁴¹ By the decision of minister of justice of 15th May 1922 a narrower committee was created to inspect the comments and remarks in course of the Belgrade sessions (that took place from 15th to 26th June 1922). The narrower committee was awarded with a task to formulate the final version of the draft which thereafter should be forwarded to the Ministry of Justice. In such circumstances the Second draft of the Code of criminal procedure was finalized.

To enforce his principal intention of releasing the Draft of the Code of criminal procedure before the National Assembly, the minister of justice Marko Đuričić on 13th October 1925 created the second committee (Nikola Ogorelica, Dušan Subotić and Božidar Marković) with a task to explore all the existing drafts and to determine the final version. The task put before the committee was completed on 5th December 1925 with no substantial interventions. The only changes were made in quotations, style and consistency of the provisions. Moreover, they made a few additions and changes that were necessary for its harmonization with the Draft of the Criminal Code. On 16th February 1926 the draft was presented to the National Assembly that initiated the legislative procedure which in the first stage required an analysis that should be provided by the Legislative Committee. Though, because the National Assembly was dissolved in 1927 and parliamentary elections were called, the plenum of the National Assembly did not vote on it.

After the elections of September 1927, the newly appointed minister of justice (Dušan Subotić) repeated the procedural steps of his predecessor. He again presented the draft to the National Assembly (at the beginning of November 1927). The draft was reconsidered before the Legislative Committee in course of November and December of 1928.

⁴⁰ N. Ogorelica, *Pravna politika, Referat o pripremanim reformama u kriv. sudskom postupku*, “Arhiv za pravne i društvene nauke” 1921, book III (XX), no. 5, pp. 366–385; B. Marković, *Udžbenik sudskog krivičnog postupka Kraljevine Jugoslavije*, Beograd 1937, pp. 37–38.

⁴¹ L. Hönlingsberg, *Osnova zakona o krivičnom postupku*, “Mjesečnik glasilo pravničkoga društva u Zagrebu” 1922, vol. 48, no. 4–5, pp. 145–161; *K osnovi zakona o krivičnom postupku (Iz odbora Pravničkoga društva podneseno ministarstvu pravde)*, “Mjesečnik glasilo pravničkoga društva u Zagrebu” 1922, vol. 48, no. 6, 7–8, pp. 240–246; E. Miler, *Osnova zakona o sudskom postupku u krivičnim djelima od godine 1921. (Ministarstvu Pravde podnešeno mnijenje prof. dra. E. Milera)*, “Mjesečnik glasilo pravničkoga društva u Zagrebu” 1922, vol. 48, no. 12, pp. 473–489.

Introduction of Dictatorship and dissolution of the National Assembly on 6th January 1929 facilitated the legislative procedure.

The new minister of justice Milan Srškić appointed a new three members' committee (Nikola Ogorelica, Bertold Eisner and Božidar Marković) who were given a task to inspect the existing drafts and to formulate a final version. The committee expediently accomplished its goal in January 1929 and following that, the draft received the sovereign's sanction on 16th February 1929.⁴² The new Code came into force on 1st January 1930 in whole State with exception of Serbia and Montenegro which retained the pre-existing regulation. It was provided that a new Code should enter the force gradually: on 1st January of 1931 for the area of the Belgrade's appellate court and on the 1st January 1932 for the areas of Skopje's and Podgorica's appellate court. Until that dates the criminal procedure in these areas was governed by the preexisting Serbian and Montenegrin Code of criminal procedure. The aforementioned deadlines were later postponed for which the Uniform Yugoslav Code on criminal procedure universally entered into force on 1st November of 1934.⁴³

In course of unification of criminal procedure there were many debates whether jury trials should remain in the criminal procedure. The political elites that supported the centralistic trends of State organization opposed jury trials because their intention was to fully eliminate laymen from participating in criminal procedure. Immediately after the new Yugoslav state was formed in 1918 jury trials were abolished in the former Hungarian legal area. The *Constitution of 1921* guaranteed the press freedom, though, in the same provision where the freedom was proclaimed, it provided abolition of jury trials in press offences. Thereby jury trials were abolished in the Croatian-Slavonian legal area, though, in the Dalmatian-Slovenian legal area they continued to operate in cases of serious and political offences. While working on unification of Yugoslav procedural criminal law, Croatian legal expert Nikola Ogorelica authored a special draft on the jury trial which was finalized by the end of 1921. The first jurists' congress of the Kingdom of Serbs, Croats and Slovenes, which took place in Belgrade from 18th to 20th September 1925, discussed whether laymen should be admitted (and employed) to criminal procedure. The debates resulted with a full exclusion of laymen from criminal procedure, which received its normative expression in the Code of criminal procedure of 1929.⁴⁴

⁴² *Zakonik o sudskom krivičnom postupku za Kraljevinu Srba, Hrvata i Slovenaca*, "Službene novine Kraljevine Srba, Hrvata i Slovenaca" 1929, vol. 11, no. 45-XX, pp. 209–270; B. Marković, *Udžbenik...*, pp. 38–39.

⁴³ B. Marković, *Udžbenik...*, p. 39.

⁴⁴ M. Dolenc, *Ausländische...*, p. 209; p. I. Maroević, *Za ili protiv porote?*, "Mjesečnik glasilu pravničkoga društva u Zagrebu" 1924, vol. 50, no. 10, pp. 418–422; S. Frank, *Treba li i kako zavestu učešće lajičkoga elementa u krivičnom pravosuđu*, "Mjesečnik glasilu pravničkoga društva u Zagrebu" 1925, vol. 51, no. 10, pp. 421–424; V. Bayer, *Problem sudjelovanja nepravnika u savremenom kaznenom sudovanju*, Zagreb 1940, pp. 160–167.

8. Conclusion

This brief overview and its particular complexity indicate how turbulent, long and low-efficient the process of unification of criminal law in Yugoslavia actually was. Though there was a national consensus that it should be achieved urgently and in the shortest possible period of time, the complex political circumstances, different legal traditions and particularism resulted with many delays, drafts and committees. This brief overview clearly indicates that the issue of legal unity required not only good wishes and a lot of legislative effort, but also a political stability. In the turbulent circumstances of 1920's and 1930's these territories went through a constant political changes which affected the criminal law for which the unification was achieved with considerable delays.

The interwar Yugoslav State had interest for the unification processes of criminal law that were ongoing in other Slavic countries of the central Europe which were formed after the First World War. This may be confirmed with reference to the lecture that Aleksander Mogilnicki, professor at University of Warsaw and the president of Supreme Court, had at the University of Zagreb on 23rd May 1925. As a guest of the Zagreb Jurists' Society professor Mogilnicki gave a lecture on codification of civil and criminal law that was at the time going on in Poland.⁴⁵

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⁴⁵ A. Mogilnicki, *Kodifikacija građanskoga i krivičnoga prava u Poljskoj*, "Mjesečnik glasilo pravničkoga društva u Zagrebu" 1925, vol. 51, no. 6, pp. 241–246.

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