





matically, chronologically, according to their creator, or according to the institution or archive fund they are stored in today?

One possible principle demands that all documents up to a certain date, e.g. the year 1400, be published.<sup>3</sup> The other principle is that of the “central archival fonds” i.e. the primacy of fonds created through the activities of central legislative or executive organs (e.g. the Croatian or Croatian-Slavonian Diet or Parliament/Sabor, the Croatian Royal Council etc.). According to yet another principle the material that pertains to the largest number of people (e.g. laws and other similar regulations) should be published first. Perhaps the priority should be given to those documents which offer the most information on topics that are currently or which are predicted to be the most popular?<sup>4</sup> Or are the documents that are damaged or in danger of being lost to be published first? The fact that great interest exists among researchers for documents in some inaccessible local or foreign archive, or that the documents are written in a language or script that is not well known today, could also be taken into account when deciding on publishing priorities.

Evidently, these criteria can be further combined and subdivided, and each carries questions of its own. For instance, the territorial principle is often defined through state or national borders, but these borders can be the ones from the “glorious” past, the “inglorious” present or the possible, yet again “better” future – that is, they can be based on more or less overtly expressed ideological projections. Sometimes borders change before the long-term edition is complete, leaving the publishers to decide whether the starting territorial criterion should be further adhered to, or discontinued.<sup>5</sup> Also, speaking of creators, one could ask whether is it more appropriate to completely cover documents produced by one individual or institution (e.g. a single Zadar notary office), or to attend to a whole class of similar creators (e.g. all known Dalmatian notary offices), selecting only their most interesting products? What to do if archive material of common quality is dispersed throughout several institutions or even countries, making the project highly demanding in terms of working hours and total costs? To conclude, the publishing priorities – in all of the above-mentioned senses – can’t be neatly separated from the basic methodological presumptions of historiography, which tend to differ according to period, national traditions and even personal attitudes.

Further questions pertain to the changing definition of primary sources as well as the general scope of legal history. The great 19<sup>th</sup> century editions of sources tended to concentrate on Antiquity and, even more so, the Middle Ages, which meant that the whole mass of preserved documents was, at least theoretically, possible to be edited and pub-

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<sup>3</sup> E.g. in Croatia it was dubious whether the pre-1400 notary papers should also be published *in extenso* within general series dedicated to charters or diplomas. I. Filipović, *Načela...*, p. 136. On the other hand, J. Stipišić, *Egdotika...*, p. 98, proposed the year 1450 as an upper limit for the large-scale editions of standard charters or diplomas.

<sup>4</sup> Of course, popularity is a relative thing if one is to begin a 100 years-lasting editing project. For instance, in 1972 Filipović emphasized the comparative importance of publishing sources on “progressive social and national movements and on agrarian history”. I. Filipović, *Načela...*, p. 137.

<sup>5</sup> E.g. the 1967 Zagreb issue of *Codex Diplomaticus* was criticized for not including Istrian documents, notwithstanding the fact that Istria as a whole was never a part of the medieval *Regnum Croatiae, Dalmatiae et Slavoniae*, territory of which was used to define the whole series from its beginnings in 19<sup>th</sup> century (note: Istria was appended to Yugoslavia resp. Croatia only after the Second World War). J. Stipišić, *Egdotika...*, p. 107.

lished, even if it took several decades of work and dozens of volumes. Many documents like laws, statutes, court decisions, grants, contracts, testaments, registers etc. owe their preservation to their legal character in the first place, as they were pragmatically considered to be important enough to be worth the effort of transcribing before the invention of print. Certain amount of pre-modern narrative sources, like annals and chronicles are, of course, not of legal nature, but they sometimes give the only available, indirect data on ancient institutions of government, legal institutes and procedures.<sup>6</sup> a non-legal document could thus be a more important source for legal history than a legal one, and the legal document could be more important for political, social, economic or cultural history than a non-legal one. In that context, a legal historian's interest could also vary between the "legal form" and "factual content" of a document, valuing "typical" legal forms more than "atypical" ones (and vice versa).

The rise of print, followed by the ascent of the modern, interventionist state and its regulatory apparatus characterized by the "explosion of normativity" surely resulted in the inability of a single legal historian to edit and publish, let alone study all the available primary sources, even within temporally limited national confines.<sup>7</sup> Certainly, the widespread standard of compulsory official publication (as a general prerequisite for a legal norm to be applicable), made the additional "critical" editing and publishing of modern legal regulations superfluous to a degree, albeit not in every case. For instance, one must bear in mind that – at least in Croatia – a number of 19<sup>th</sup> and even mid-20<sup>th</sup> century official gazettes are nowadays unobtainable, preserved in just one or two copies or dispersed through several institutions. Because of their total voluminosity, the unstable nature of the paper they are made of, and the comparative lack of interest by "non-legal" historians as well as by the decision-makers of cultural and scientific policy, it is high time to shift more effort towards their preservation, alternatively publication by means of digitalization. Furthermore, even during the 20<sup>th</sup> century, a number of state regulations were held in secret, or distributed only for the "internal use" of the administrative branches or services that were supposed to apply them.

Treating modern (that is, approximately, post-1848) legal regulations as already published, i.e. as well-known and by all means and purposes "materially indestructible" (which, as we have seen, is not always the case), probably resulted in comparatively more research and editing attention being given to previously unpublished sources, namely court proceedings, administrative decisions, institutional protocols and legislative *travaux préparatoires*. For instance, those notable exceptions could be found among legal regulations and decrees of constitutional significance, or the ones concerning border disputes, or those related to the post-communist restitution of confiscated or nationalized property. However, the motivation for their repeated publication often does not belong to the standard field of legal history (which is not to say it shouldn't).

<sup>6</sup> Croatian legal history textbooks published between 1919 and 2012 thus tend to contain at least several pages, if not a whole chapter, on methodological issues concerning various primary and secondary sources. Cf. M. Kostrenčić, *Hrvatska pravna povijest*, p. 10–24, 86–137 and *passim* and D. Čepulo, *Hrvatska pravna povijest u europskom kontekstu od srednjeg vijeka do suvremenog doba*, Zagreb 2012, p. 93–104.

<sup>7</sup> Valuable reflections on this topic, including the rising complexity caused by frequent "referencing" of singular legal norms to others, thus making isolated, continuous and concentrated "reading" of a modern regulation impossible, unless personal "revised text" is constructed, are given by C. Stebbings, *Benefits and Barriers – The Making of Victorian Legal History* [in:] *Making Legal History...*, p. 72–87.

The democratic transition and Croatian War of Independence during the early 1990s, also brought about several questions concerning the so-called *principle of historical distance*, supposedly an important factor in obtaining a satisfactory degree of scientific objectivity. According to both standard procedure and regulations, documents resulting from various activities of government and quasi-governmental institutions must, after a time, be stored in public archival institutions. Only after decades have passed (of course, norms tend to vary from state to state, and according to the type of material) is public access to these documents approved, and they are eligible to be edited and published. The reasons for this kind of approach are related to national security, possible abuse for the purposes of daily politics, and personal data protection. However, since 1990 several exceptions to this rule have been noted in Croatia, as some fonds (e.g. those of secret services) were deliberately and secretly “filtered” before being handed over to the public archives, while numerous important documents from 1945 to the 1990s were “privately” edited and published, in media as well as whole book-series, often before the legal temporal distance limits had expired. Rightfully doubtful of their authenticity or, at least, acknowledging their possible partiality, the question must be posed whether the legal historian of the more recent Croatian past should ignore them completely, or should he use them, risking that he could reach the wrong conclusions in spite of all his caution?<sup>8</sup>

Another set of questions concerns the treatment of popular, customary law characteristic of oral culture, and the modes of delimitation between legal history, legal sociology and legal anthropology. All the vestiges of pre-modern legal systems were written down at one point in the time, sometimes blurring the distinction between original, non-written legal customs and the written result, which could have been deliberately altered, inventing the supposed “customarity” or “antiquity” only for legitimation purposes. Not surprisingly, we can often only guess to what extent did “real life” correspond both to written and, allegedly, customary legal norms, including numerous local or temporal variations. However, the point is, if popular, customary law is also to be included in the scope of legal history (as it almost regularly is, at least to a degree), various questionnaires on the oral layers of past (and present) legal systems, first appearing in the second half of 19<sup>th</sup> century, must then also be taken into account when discussing the editing of primary sources.<sup>9</sup>

Consequently, if broader tendencies towards the study of both “inner” and “outer” aspects of “legal culture” (that is, the actions and attitudes of both legal professionals respectively legal laymen) are followed, the range of eligible primary sources tends to become even wider. Thus, ancient doctrinary opinions as presented in legal textbooks, edited lecture notes or examination questions, or even popular advisory manuals can lose the status of secondary source or literature, and become primary sources of their own, deserving to be edited and printed once again or, in some cases, for the first time.

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<sup>8</sup> Surely, this practice is not completely new, as even the 1971 manual S. Antoljak, *Pomoćne istorijske nauke*, p. 189, mentions “certain phenomena like monopolism and collecting for personal use only” of archival documents in “our scientific circles”.

<sup>9</sup> For instance, Kostrenčić’s aforementioned 1919 textbook also discusses oral recollections (on the blood-revenge custom) as one of the possible legal historical sources. M. Kostrenčić, *Hrvatska pravna povijest*, p. 12.

Similarly, programmes, decisions and protocols of bodies without direct public authority, like political parties, think-tanks and pressure groups could also be highly relevant for understanding the legal past as it was sometimes influenced from behind the scene. As far as an individualized, personal viewpoint is complementary to a systemic approach towards understanding the legal past, autobiographies of renowned judges, attorneys and administrators could also be treated as a primary, albeit narrative sources.<sup>10</sup> Owing to the general humanization of law, the parallel experiences of “ordinary” people, not only victims of direct state repression, but also of a more indirect denial of justice, or even of the collateral, unwanted effects of regulations and singular decisions, are also becoming a valuable primary source. Similarly, epic oral poetry and sometimes drama has long been used to reconstruct legal life of ancient communities, but even the modern “fictional” prose can – with due caution – also serve to reconstruct those aspects of legal situations or attitudes that are not preserved in official records, as proposed by various authors adhering to the “law and literature” approach.<sup>11</sup>

Arguing for the defining of legal-historical sources in somewhat broader, rather elastic terms, the second part of this article strives to offer a brief and general overview of selected editing and publishing activity within today’s borders of the Republic of Croatia and pertaining to Croatian legal history,<sup>12</sup> mentioning other relevant publications only sporadically.<sup>13</sup> Furthermore, our comments will mostly concern the “contextual” aspects of editing and publishing, i.e. the ones connected to the general methodological issues of (national) legal historiography.<sup>14</sup>

## 2. Editing and publishing primary sources – a general overview of the Croatian practice

Although not planned exclusively as a collection of primary sources, some early modern historiographic publications also deserve to be mentioned since they can contain full or abridged transcriptions of documents as well as narrative texts by older writers

<sup>10</sup> Cf. G. Parry, *Is Legal Biography Really Legal Scholarship?*, “Legal Studies” 2010, vol. 30, no. 2, p. 208–229.

<sup>11</sup> Cf. D. Vrban, *Sociologija prava – uvod i izvorišne osnove*, Zagreb 2006, p. 16–17.

<sup>12</sup> Elementary on-line data on Croatian history, state organization and territorial changes (in English) can be found on the *Croatia.eu – Land, People* (2013) Lexicographic Institute Miroslav Krleža website (<http://www.croatia.eu/index.php?lang=2>, access: January 31, 2014), while *The Little Lexicon of Croatian Legal History* (2013) prepared by F. Hameršak and authored by D. Čepulo, Marino Jureković, Mirela Krešić and Nella Lonza ([http://www.pravo.unizg.hr/download/repository/The\\_Little\\_Lexicon\\_of\\_Croatian\\_Legal\\_History.pdf](http://www.pravo.unizg.hr/download/repository/The_Little_Lexicon_of_Croatian_Legal_History.pdf), access: January 31, 2014) strives to give a rather more detailed account based on selected topics.

<sup>13</sup> For instance, one should bear in mind that since the 19<sup>th</sup> century many important sources on the Croatian past have also been published by Hungarian, Italian, Serbian and German historians within their respective states, sometimes as a result of overlapping territorial aspirations.

<sup>14</sup> As a consequence, editions of primary sources concerning general legal history or the pre-Migrations of Peoples period are not included in this short survey.

(*scriptores*), including ones that were later lost.<sup>15</sup> The relative abundance of preserved medieval charters or diplomas (that is, written accounts of singular legal acts), even older epigraphic monuments and other primary sources, often enabled by the continuity of written culture in what were for the most part littoral urban and ecclesiastical communes. This was already reflected in works from the second half of the 17<sup>th</sup> century (printed in Rome, Amsterdam and Venice) of Trogirian noble Ivan Lučić (Joannes Lucius), who is regularly designated as a founding but for a rather long time childless father of critical historiography in Croatia.<sup>16</sup> For instance, late 17<sup>th</sup> and 18<sup>th</sup> century historical works of Pavao Ritter Vitezović and Baltazar Adam Krčelić, who lived in what is today Northern Croatia, are generally considered important in many ways (including the sources they cite),<sup>17</sup> but of somewhat lower value as far as their methodological groundings are concerned.

At the end of 17<sup>th</sup> century the young Italian Jesuit priest Filippo Riceputi started collecting and transcribing various documents concerning the history of lands encompassed by the former Imperial Roman province of Illyricum, but his monumental work was completed only several decades after his death, having been continued by Daniele Farlati and Jacopo Coleti, and published in Venice between 1751 and 1819 under the title *Illyricum sacrum*, totalling 8 volumes and 1902–1909 (!) supplements published by Frane Bulić.

When the Zagreb Royal Academy of Science (meaning a sort of early university) was founded in 1776, Matija Kirinić was appointed the first-ever professor of auxiliary historical sciences in Croatia, one of his efforts after 1791 being the transcription of historic yet legally binding documents pertaining to the Croatian and Slavonian constitutional framework.<sup>18</sup> Kirinić's work wasn't brought to print, but the urgencies of not only daily but also long term state politics, which regarded ancient legal acts of various kinds as

<sup>15</sup> As far as publishing sources on pre-1990 political events and legal acts is concerned, the following part of our article mostly combines *prima facie* insight with data from valuable surveys by Z. Nikolić-Jakus, *Uvod u studij povijesti – historiografski praktikum*, Zagreb 2008 (revised edition 2012), S. Antoljak, *Hrvatska historiografija* (second edition), Zagreb 2004 and, briefly, S. Antoljak, *Pomoćne istorijske nauke*, p. 63–70, while M. Gross, *Suvremena historiografija – korijeni, postignuća, traganja* (second edition), Zagreb 2001 gives a broader picture of methodological issues. a highly informative bibliographical overview of medieval statutes and laws was written by D. Karbić and M. Karbić, *The Laws and Customs of Medieval Croatia and Slavonia – a Guide to the Extant Sources*, London 2013, easily available on the Internet. Mid-19<sup>th</sup> century development of modern Croatian historiography is also covered by M. Strecha, *O nastanku i razvoju moderne historiografije u 19. stoljeću*, "Povijest u nastavi" 2005, vol. 3, no. 6, p. 103–116. M. Matijević-Sokol, *Historijske pomoćne znanosti* and J. Šidak, *Historiografija*, published in Enciklopedija hrvatske povijesti i kulture, Zagreb 1980, p. 197–198 resp. 201–212 are probably still the best short introductions.

<sup>16</sup> However, S. Antoljak, *Hrvatska historiografija*, p. 26–114 analyzes the critical activities of several earlier, lesser known "humanist historians", some of whom even belong to 15<sup>th</sup> century. On Lucius, see also M. Kurelac, *Ivan Lučić Lucius – otac hrvatske historiografije*, Zagreb 1994. Furthermore, renowned Istrian-born Protestant writer Matija Vlačić Ilirik (Matthias Flacius Illyricus) is listed among the first source-editors ("egdoticians"), because of his contribution to the mid-16<sup>th</sup> century Basel publications of *Catalogus testium veritatis* and *Ecclesiastica Historia*. Cf. J. Stipišić, *Egdotika...*, p. 95 and Đ. Križman-Zorić, *Egdotika*, Istarska enciklopedija (2008), at <http://istra.lzmk.hr/clanak.aspx?id=786> (access: January 31, 2014).

<sup>17</sup> For instance, the 1242 king Béla IV's Privilege of Zagreb (called *Zlatna bula*, i.e. *The Golden Bull*) and the 1273 decisions of the Diet of the Kingdom of Slavonia were published for the first time in 1771 by Krčelić in his book *De Regnis Dalmatiae, Croatiae, Sclavoniae notitiae praeliminares*. D. Karbić, M. Karbić, *The Laws...*, p. 80 and 84.

<sup>18</sup> V. Dugački, *Kirinić, Matija* [in:] *Hrvatski biografski leksikon*, vol. 7, Zagreb 2009, p. 320.

highly important for defining the contemporary and ever more troubled relationships with the Kingdom of Hungary and the Habsburg dynasty, significantly boosted the editing and publishing of primary sources during later decades. One of the early examples – actually a legal treatise with numerous references and excerpts from older documents and writers including those published by Lucius and Farlati – is the anonymous work by Josip Kušević, protonotary of Croatian-Slavonian Diet, titled *De municipalibus iuribus et statutis regnorum Dalmatiae, Croatiae et Slavoniae* (On Municipal Rights and Laws of the Kingdoms of Dalmatia, Croatia and Slavonia, 1830).<sup>19</sup>

More systematic efforts were recorded after the events of 1848, when the Društvo za jugoslavensku povjestnicu i starine (Society for South Slav Historiography and Antiquities) was founded in Zagreb, led by the energetic albeit self-taught Ivan Kukuljević (1850), who was in 1847 given a mandate by the Croatian-Slavonian Diet to collect and publish historical documents. In the 1851–1875 period, the society published 12 volumes of the periodical “Arkiv za povjestnicu jugoslavensku”, which also included primary legal history sources such as Statut otoka Krka (The Statute of the Island of Krk), Istarski razvod (The Istrian Perambulation, both in 1852) or Poljički statut (The Law Code of Poljica, 1859). Another of Kukuljević’s undertakings were three volumes of *Jura regni Croatiae, Dalmatiae et Slavoniae* (1861–1862), containing transcriptions of various documents (charters, laws, diet decisions etc.) from the entire 852–1848 period made in numerous archives or based on earlier publications such as Lucius’s and Farlati’s. As stated, one of the motives (close to the aims of Kirinić’s and Kušević’s work) was to ease the negotiating position of Croatian delegates, as some originals were previously lost while being transported to the Hungarian-Croatian Diet.<sup>20</sup> During following years Kukuljević also published the one-volume *Acta Croatica* (1863) and two-volume *Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae* (1874–1875), thus forming the series Monumenta Historica Slavorum Meridionalium, inspired by the then ongoing Monumenta Germaniae Historica (since 1826), and planned to consist of three sub-series: Acta seu Diplomata (charters or diplomas), Scriptores (writers) and Leges (laws). Although helped to a degree by Matija Mesić and Ivan Krstitelj Tkalčić, and generally considered to be of pioneering importance, Kukuljević’s work on editing and publishing was – from the specialist’s point of view – criticized in his own time, and mostly superseded by subsequent editions.

For instance, after the 1861–1866 founding of the Zagreb-based Yugoslav Academy of Arts and Sciences (Jugoslavenska akademija znanosti i umjetnosti, JAZU), today the Croatian Academy of Arts and Sciences (Hrvatska akademija znanosti i umjetnosti, HAZU), a number of long-lasting source-publishing projects of high scientific standards

<sup>19</sup> Cf. V. Klaić, *Prilozi za historiju državnoga prava hrvatskoga*, “Vjesnik Kr. državnog arkiva u Zagrebu” 1928, vol. 3, p. 119–137. According to Klaić, a booklet *Articuli Slavoniae regni*, containing important early 17<sup>th</sup> century decisions of the Croatian-Slavonian Diet, was printed by P. Ritter Vitezović as early as 1702 and 1705.

<sup>20</sup> This work served as a basis for a similar, but more popular source-publication of Bogoslav Šulek, *Naše pravice* (Our Rights), Zagreb 1868, holding documents (both in original Latin and Croatian translation, where needed) from the 12<sup>th</sup> century Trogir Chart of king Coloman to the 1867 king Francis Joseph’s decree on dissolving the Croatian-Slavonian Diet. From the Hungarian perspective, a collection of documents from the 1071–1599 period titled *Croatiae, ac Slavoniae cum regno Hungariae nexus et relationes* was published in 1839 by the renowned historian György Fejér, also responsible for a multivolume *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, published from 1829 on.

were started, led by several generations of renowned (legal) historians, archivists and editors, from Šime Ljubić, Franjo Rački, Jaromir Haněl, Karel Kadlec, Tadija Smičiklas, Ferdo Šišić or Emilije Laszowski to Milan Šufflay, Marko Kostrenčić, Grga Novak, Jakov Stipišić, Stipe Gunjača, Josip Lučić, Ante Marinović, Josip Barbarić, Mirjana Matijević-Sokol, Nella Lonza, Zdenka Janeković-Römer, Lovorka Čoralić and Damir Karbić. Since the academy itself was, according to the idea of its founder Josip Juraj Strossmayer the bishop of Đakovo, to become the scientific and cultural centre of all South Slavic peoples, the first series were to encompass sources important not only for Croatia, but for all Southern Slavs. However, like the Academy itself, they quickly turned to exclusively Croatian sources, especially after the founding of Serbian and Bulgarian academies that published their own editions of sources.<sup>21</sup>

The first series that started coming out was the *Monumenta Spectantia Historiam Slavorum Meridionalium* (Monuments Concerning the History of South Slavs, MSHSM) in 1868, and it remains to this day the main series for publishing larger and more compact pieces of archival material, as well as the narrative works of older writers (56 volumes so far, the latest one dating from 2012). Among other materials, particular volumes of MSHSM (mainly ones with special titles or even those that were part of sub-series) published: the oldest Croatian diplomas (issue 7 from 1877), notary and court records from the 13<sup>th</sup> century Trogir (issue 44 from 1948, issue 45 from 1950, and issue 46 from 1951), those from the 14<sup>th</sup> century Split (issue 53 from 2002), the decisions of the councils of the Republic of Dubrovnik from the 14<sup>th</sup> century (*Monumenta Ragusina*; issue 10 from 1879, issue 13 from 1881, issue 27 from 1895, issue 28 from 1896, and issue 29 from 1897), documents of the Croatian Diet from 1526 to 1630 (“*Acta comitalia Regni Croatiae, Dalmatiae et Slavoniae*”; issue 33 from 1912, issue 36 from 1915, issue 39 from 1916, issue 41 from 1917, and issue 43 from 1918).

The second large series of HAZU/JAZU sources is the *Monumenta Historico-Juridica Slavorum Meridionalium* (Legal-historical Monuments of South Slavs, MHJSM), published between 1878 and 1979 in 13 volumes. Medieval town statutes and particular law codes are printed in this series, including those from Korčula (issue 1 from 1877), Split (issue 2 from 1878), Budva, Skradin and Lastovo (issue 3 from 1882–1883; those from Lastovo are also in issue 8 from 1901), Vinodol, Poljica, Vrbnik, Kastav, Veprinac and Trsat (issue 4 from 1890), Dubrovnik (issue 9 from 1904), Trogir (issue 10 from 1915), Brač (issue 11 from 1926), Ilok (issue 12 from 1938) and Poreč (issue 13 from 1979), while issue 5 from 1894 contains several Croatian terriers originating from the 15<sup>th</sup> up to the 17<sup>th</sup> centuries.

The *Codex Diplomaticus Regni Croatiae, Dalmatiae et Slavoniae* (The Diplomatic Codex of the Kingdom of Croatia, Dalmatia and Slavonia), started by the extremely able T. Smičiklas and not to be confused with Kukuljević’s earlier project, is according

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<sup>21</sup> On JAZU/HAZU past and present activity see 150 – *HAZU 1861–2011*, Zagreb 2011, on source-publishing specifically p. 53–55 and 63–69, available on the Internet. See also L. Cibán, *Popis izdanja Jugoslavenske akademije znanosti i umjetnosti 1867–1985*, vol. 1–2, JAZU, Zagreb 1986–1988, A. Zrnić, *Popis izdanja Hrvatske akademije znanosti i umjetnosti 1986–2000*, HAZU, Zagreb 2001, and t. Runjak, *Popis izdanja Hrvatske akademije znanosti i umjetnosti 1986–2000 – dopune*, HAZU, Zagreb 2003.

to many the most important series of sources published by the JAZU/HAZU.<sup>22</sup> Twenty volumes, including supplemental ones, have been published during the 1904–2002 period, encompassing chronologically arranged diplomas or charters from 743 to the end of the 14<sup>th</sup> century.<sup>23</sup>

The *Monumenta Historica Ragusina* (Historical Documents of Dubrovnik/Ragusa) is yet another JAZU/HAZU series, containing twelve volumes published between 1951 and 2012, mostly on Dubrovnik notaries and councils from 13<sup>th</sup> to 14<sup>th</sup> century.<sup>24</sup> Similar in scope, but having only two volumes published (in 1951 and 1981) is the *Monumenta Catarensia* (Monuments of Kotor/Cattaro) series, resulting from co-operation between JAZU and the Montenegrin Academia of Arts and Sciences.<sup>25</sup>

On the other hand, a 22-volume 1951–2012 JAZU/HAZU series titled *Građa za gospodarsku povijest Hrvatske* (Materials on the Economic History of Croatia) covers a variety of genres, from full-length analytical studies to primary source collections from the 13<sup>th</sup> century onwards, while narrative texts of older Croatian historiographic writers are partially represented in *Hrvatski latinisti* (Croatian Latinists), a 10-volume series published from 1951 to 2007.

Back in 1869 the JAZU periodical “*Starine*” (Antiques) was started, sometimes being irregular but lasting up to this day (volume 64 of 2012) and encompassing fragmentary archival material from Croatian political, legal and literary history such as *Istarski razvod* (The Istrian Perambulation, this time in Latin and Italian, 1874), excerpts from the Landesarchiv in Graz (1885, 1887), Kukuljević’s *regesta* of various 13<sup>th</sup> century documents (1889–1891, 1893, 1895–1896), Tkalčić’s documents on witch trials (1892), another 14<sup>th</sup> and 16<sup>th</sup> century Šibenik resp. Split notary records (1952, 1957), 15<sup>th</sup> century Trogir communal office papers (1987) etc.

Some primary sources, mostly from the medieval period, were since 1867 also published in the Academy’s journal, “*Rad JAZU*”, i.e. “*Rad HAZU*”, and (since 1954) in the journal of its aforementioned Historical Institute (later transformed to a department) in Zagreb, which is currently titled “*Zbornik Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti Hrvatske akademije znanosti i umjetnosti*”.<sup>26</sup>

<sup>22</sup> On Smičiklas’ commendable editing approach see V. Gamulin-Tudjina and M. Matijević-Sokol, *Tadija Smičiklas kao izdavač povijesne građe*, “*Zbornik Odsjeka Zavoda za društvene i povijesne znanosti Hrvatske akademije znanosti i umjetnosti*” 2000, vol. 18, p. 105–114.

<sup>23</sup> All until 1967, when a more complete version was edited by J. Stipišić, Miljen Šamšalović and M. Kostrenčić, Rački’s 1877 collection *Documenta historiae Croatiae periodum antiquam illustrantia* (issue 7 of MSHSM) was also counted as volume one of this *Codex*, covering the 548–1102 period. As said, since Istria was not part of the Kingdom of Croatia, Dalmatia and Slavonia, Istrian charters are not included in the Diplomatic Codex, but they can be found in the *Codice diplomatico istriano*, published in five volumes in Trieste by Pietro Kandler in 1862–1865. On the Diplomatic Codex and other editing activities of the Zagreb-seated JAZU/HAZU Historical Institute, see also M. Matijević-Sokol, *Izdavanje povijesnih izvora*, “*Zbornik Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti Hrvatske akademije znanosti i umjetnosti*” 1999, vol. 17, p. 181–184.

<sup>24</sup> Numerous documents on Dubrovnik were also published during the 1932–1997 period in the Belgrade-based Serbian Academy of Arts and Sciences series *Zbornik za istoriju, jezik i književnost srpskog naroda – odeljenje 3*.

<sup>25</sup> Both these series were produced by the JAZU Historical Institute in Dubrovnik.

<sup>26</sup> The journal’s bibliography was published by D. Karbić and Z. Ladić, *Sadržaj “Zbornika Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti Hrvatske akademije znanosti i umjetnosti”*

In addition, the periodical “Zbornik za narodni život i običaje Južnih Slavena” (Journal of the Traditional Life and Customs of the South Slavs), since 1995 titled simply “Zbornik za narodni život i običaje”, was started in 1896 and continued, with some pauses, up to volume 57 in 2013.<sup>27</sup> Also important for the primary source-based research of popular, customary law, characteristic of oral culture, were other JAZU/HAZU sponsored editions, especially those by renowned legal historian and anthropologist Baltazar Bogišić, who had stressed the importance of the field as early as the mid-1860s.<sup>28</sup> In collecting data on the popular customs and customary law, he was followed by the contributions of Antun Radić and Ivan Strohal, while Ferdo Čulinović published a book on “legal thoughts” as found in oral, epic poetry and popular sayings (*Narodno pravo – zbornik pravnih misli iz naših narodnih umotvorina*, 1938), also under the auspices of JAZU.<sup>29</sup>

Although not source-publishing projects in their own right, several other JAZU editions are to be mentioned, since they were enabled by these fundamental 19<sup>th</sup> century series, and potentially serve not only as dictionaries but also as a sort of cross-referenced guides for the further study of older sources. Of foremost importance is Vladimir Mažuranić’s *Prinosi za hrvatski pravno-povjestni rječnik* (Contributions to the Dictionary of Croatian Legal History; 1908–1923 and 1975), while Zlatko Herkov’s *Građa za financijsko-pravni rječnik feudalne epohe Hrvatske* (Materials for the Financial-Legal Dictionary of Croatian Feudal Period; 1956) is somewhat more specialized. Together they amount to two standard encyclopaedic volumes. Of a similar nature, and indispensable when one is to handle medieval primary sources of mostly legal nature, is a two-volume *Lexicon latinitatis medii aevi Jugoslaviae (Rječnik srednjovjekovnog latiniteta Jugoslavije*, i.e. the Dictionary of Medieval Latinity of Yugoslavia, 1973–1978), edited by M. Kostrenčić, Veljko Gortan and Z. Herkov.

Apart from JAZU/HAZU, the Croatian State Archives (since 1992 named Hrvatski državni arhiv, HDA; its beginnings are symbolically dated to the year 1643, while the final separation from the administrative state structures took place in 1923), being the central and supreme archival institution that preserves, protects and handles the written heritage produced by central bodies of state government, education, culture, healthcare and military institutions, also had an important role in the editing and publication of legal history documents.<sup>30</sup>

As mentioned, the first efforts to publish the documents of the feudal Croatian Diet (Sabor) for the 1526–1630 period were made by F. Šišić, in the 1912–1918 Acta Comititalia sub-series of MSHSM. The HDA made a further contribution to the publishing of legal-historical materials with its 12-volume collection of Croatian Diet resolutions covering the period from 1631 to 1847 (*Zaključci Hrvatskoga sabora*, 1958–1980), and with

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vol. 1–16 (1954–1998.), “Zbornik Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti Hrvatske akademije znanosti i umjetnosti” 1999, vol. 17, p. 203–218.

<sup>27</sup> The complete 1896–2009 bibliography of the *Zbornik* was published in volume 55 of 2010.

<sup>28</sup> On Bogišić see M. Foretić and B. Tomečak, *Bogišić, Baltazar* [in:] *Hrvatski biografski leksikon*, vol. 2, Zagreb 1989, p. 77–80 and the more recent collected papers *Bogišić i kultura sjećanja* (eds. Josip Kregar and others), Zagreb 2011.

<sup>29</sup> On their efforts see V. Čulinović-Konstantinović, *Običajno pravo, njegova primjena i proučavanje do polovine 20. stoljeća*, “Etnološka tribina” 1984, vol. 6–7, p. 51–70.

<sup>30</sup> For a concise bibliography of various editions by Croatian State Archives see D. Mikšić, *Izdanja Hrvatskog državnog arhiva (1899–2003)*, “Arhivski vjesnik” 2002, vol. 45, p. 437–440.

a five-volume series on Croatian Kingdom councils for the period from 1689 to 1848 (*Hrvatske kraljevske konferencije*, 1985–1993). Furthermore, the activity of the first civil Croatian Parliament from 1848 was documented in detail in the four volumes of *Hrvatski državni sabor 1848* (2001–2008). All in all, several generations of historians and archivists, from F. Šišić, E. Laszowski, Josip Buturac and Bernard Stulli to Josip Kolanović, Petar Strčić, Iskra Iveljić, Nikša Stančić and Jozo Ivanović, have contributed to HDA's publication of sources. Furthermore, in 1899 the State Archives started its periodical “Vjestnik Kr. hrvatsko-slavonsko-dalmatinskog zemaljskog arkiva” (The Gazette of the Royal Croatian-Slavonian-Dalmatian Archives), whose mission was continued in 1958 by “Arhivski vjesnik” (The Archival Gazette), while in the 1995–2013 period a total of 19 volumes of the specialized “Fontes – izvori za hrvatsku povijest” (Sources on the Croatian History) series were published, dedicated exclusively to the publication of archival sources and the critical appraisal of analogous projects.<sup>31</sup>

Other Croatian state archives, i.e. those of regional or local scope, have also contributed much to the publication of primary sources, but the selection of their series will be further presented by topic. Among their periodicals, “Vjesnik Državnog arhiva u Rijeci” (The Rijeka State Archives Gazette), started in 1953 and having undergone several transformations related to the founding of other archival institutions in Western Croatia, is still being published today.

However, since the founding of the modern University of Zagreb in 1874 and the further proliferation of the high school network (gymnasias), the need for rounded, anthology-like editions of selected national-level primary sources, intended for the general public, students and even non-specialist historians, has also risen. Some of them contain only Croatian translations of original documents with explanatory comments of uneven complexity: *Izvori za hrvatsku povijest* by Stjepan Srkulj (1910 and 1911), *Priručnik izvora hrvatske historije* by F. Šišić (volume one only, up to 1107; 1914), *Historijska čitanka za hrvatsku povijest* by J. Šidak (volume one only, up to 1848; 1952), *Izvori za hrvatsku povijest* by Nada Klaić (four volumes, up to 1848; 1955–1959) and *Izvori za hrvatsku povijest do godine 1526.* by the same author (1972).<sup>32</sup> The more narrow field of medieval legal historical sources is well-represented by Lujo Margetić and Magdalena Apostolova Maršavelski's collection *Hrvatsko srednjovjekovno pravo – vrela s komentarom* (1990 and 1999).<sup>33</sup>

Also parallel to the JAZU/HAZU and HDA activity, several source collections of more local importance were edited and published since the later decades of 19<sup>th</sup> century.

<sup>31</sup> E.g. selected documents on the 1848–1849 Croatian political movement were also edited and published by Tomislav Markus in vol. 12 of the *Fontes* series (2006).

<sup>32</sup> On the modern University of Zagreb's (Faculty of Humanities and Social Sciences) teachers of auxiliary sciences of history from the aforementioned t. Smičiklas, M. Šufflay, J. Stipišić, N. Klaić, Z. Janeković-Römer and M. Matijević-Sokol to Karlo Horvat, Viktor Novak, Josip Nagy, Miho Barada, Josip Matasović and others see T. Galović, *O stotoj obljetnici utemeljenja Katedre (1908–2008)*, “Pro tempore” 2009, vol. 6–7, p. 362–365.

<sup>33</sup> As it seems, the Zagreb Faculty of Law legal history professors M. Kostrenčić and Milivoj Maurović had by 1922 prepared a manuscript on the legal-historical primary sources of Serbs, Croats and Slovenes (*Priručnik izvora za pravnu povijest Srba, Hrvata i Slovenaca*), but it has never been printed and is probably lost. M. Kostrenčić, *Milivoj Maurović*, “Ljetopis Jugoslavenske akademije znanosti i umjetnosti” 1925/1926–1926/1927, vol. 40, p. 236.

Let us mention a miscellaneous series on the historical documents related to the town of Zagreb called *Monumenta historica liberae regiae civitatis Zagrabiae metropolis regni Dalmatia, Croatiae et Slavoniae (Povjestni spomenici slob. kralj. grada Zagreba prijestolnice Kraljevine dalmatinsko-hrvatsko-slavonske)*. It was supported by various institutions and consisted of 24 volumes published during the 1889–2007 period, in which not only old diplomas or charters were printed, but also court sentences, testaments, property registers, magistrate protocols, etc. dating from the end of 11<sup>th</sup> up to the end of 18<sup>th</sup> century, collected for the most part by I.K. Tkalčić and E. Laszowski. In 1873 Tkalčić also started a parallel series on the Zagreb bishopric documents beginning with year 1134, the *Monumenta historica episcopatus Zagradiensis (Povjestni spomenici zagrebačke biskupije)*, whose seventh volume up to year 1465 was edited by Andrija Lukinović in 2004 (third and fourth volumes on the 14<sup>th</sup> century period are yet to be issued). On the other hand, E. Laszowski has also produced a four-volume primary source-series on the Turopolje noble community, called *Monumenta historica nob. communitatis Turopolje olim “campus Zagradiensis” dictae (Povjesni spomenici plem. općine Turopolja nekoć “Zagrebačko polje” zvane)*, covering the 1225–1895 period, published between 1902 and 1905.

Another important town of northwestern Croatia, Varaždin, can also boast source-collections of its own, ranging from an initial two volumes on 1209–1526 charters and 1454–1469 magistrate's protocols (*Monumenta historica liberae regiae civitatis Varasdini*, 1942–1944) to the Varaždin State Archives' 11 volumes on the magistrate's protocols from the 1587–1714 period (*Zapisnici Poglavarstva slobodnog i kraljevskog grada Varaždina*, 1990–2006).

The protocols of Osijek, the largest urban community in Slavonia, from the 1705 to 1901 period, were also published through 1965–2009 by Ive Mažuran and Stjepan Sršan in a total of twelve volumes, under various titles and under the auspices of the Osijek State Archives. Karlovac, the ex-fortress town near the Slovenian border, also thanks to its State Archives, received a three volume source-collection series on its 1778 statute, 18<sup>th</sup> century marriage contracts, 1778 magistrate protocols and 1774–1837 royal charters (2010–2012).

Apart from the aforementioned JAZU/HAZU series, 13<sup>th</sup> and 14<sup>th</sup> century Zadar notary papers were published by the Zadar State Archives in five volumes over the 1959–2003 period, while various documents on the activity of Catholic Church since the 13<sup>th</sup> century are being edited and published in multi-volume series of *Monumenta Croatia Vaticana* (1996–2005), sponsored by several institutions.

Naturally, since mid-20<sup>th</sup> century, many town statutes and law codes from the older periods have been edited or re-printed, most including Croatian translation, in more loosely defined series or independent editions such as: *Statut grada Rijeke iz godine 1530* (1948) and *Knjiga statuta, zakona i reformacija grada Šibenika* (1983) by Z. Herkov, *Srednjovjekovni statut bračke komune iz godine 1305.* (1968, edited issue 2006 as *Brački statut*), *Statut grada Splita* (1985, edited issues 1987 and 1998) and *Korčulanski statut* (1987 and 1995, as *Statut grada i otoka Korčule* in 2002) by Antun Cvitanić, *Statut grada Trogira* by Marin Berket, A. Cvitanić and Vedran Gligo (1988), *Krčki (vrbanski) statut iz 1388.* (1988 and 2008) and *Statut rapske komune iz 14. stoljeća* (2004) by L. Margetić and P. Strčić, *Statut grada Dubrovnika 1272.* (1990) and *Zadarski*

*statut* (1997) by J. Kolanović and Mate Križman, *Hvarski statut* by A. Cvitanić and Ivo Kasandrić (1991), *Lastovski statut* by J. Lučić and A. Cvitanić (1994), *Statut pulske općine* by M. Križman (2000), *Statut grada Dubrovnika sastavljen godine 1272* by Ante Šoljić *et al.* (2002), *Statut grada Skradina* by Ante Birin (2002), *Mljetski statut* by A. Marinović and Ivo Veselić (2002), *Grimanijev zakon* by Josip Ante Soldo (2005), *Statut grada Bala* by L. Margetić (2007), *Statut Dvigradske općine* (2007) and *Vodnjanski statut* (2010) by Jakov Jelinčić and N. Lonza and *Statut Paške općine* by D. Čepulo *et al.* (2011). Editions of the *Vinodolski zakon* (The Law Code of Vinodol) and the *Poljički statut* (The Law Code of Poljica) have been particularly numerous, including translations to German, Russian, English, French, Polish and Spanish of more or less recent date.<sup>34</sup> Also, the works of the renowned legal historian L. Margetić concerning medieval laws and other regulations of Kvarner/Quarnero area, often including their full texts, were re-edited in a three-volume series *Srednjovjekovni zakoni i opći akti na Kvarneru* (2006–2007; the 2012 posthumous Margetić's book of the same title is a separate issue).

Because of their wide range, several newer special editions of epigraphic and cartographic sources, also important in the field of legal history, are to be mentioned. For instance, Latin transcriptions from early medieval Croatia were collected and commented by Vedrana Delonga in *Latinski epigrafički spomenici u ranosrednjovjekovnoj Hrvatskoj* (1996), while Branko Fučić invested analogous effort in the glagolitic ones, published in a JAZU-sponsored volume *Glagoljski natpisi* (1982). Under the auspices of Hrvatski institut za povijest (the Croatian Institute of History), several researchers have edited 12 volumes of 18<sup>th</sup> century I: 28 800 maps of Northern Croatia, which had been produced as a result of modern measurements ordered by Joseph II (*Hrvatska na tajnim zemljovidima 18. i 19. stoljeća*, 1999–2009).

Generally stated, it is obvious that the majority of efforts were invested in editing and publishing pre-16<sup>th</sup> or even pre-15<sup>th</sup> century sources, while some series extend their interest to the 1848 or even to the beginning of 20<sup>th</sup> century. Arguably, there are multiple reasons for this distribution. First of all, the traditional chronological approach, which is supposed to enable dealing with causes before narrating the consequences. Close to it is a general rule (with notable exceptions, as also mentioned above) that the more ancient a document is, the more rare, fragile and valuable it is, thus deserving to be researched and published prior to the newer ones. Similarly, older documents are usually deemed to require more specialist knowledge to be transcribed, collated and interpreted, and as such could more readily legitimate their researcher as a member of the modern academic community. As this process of introducing a critical, “scientific” approach to the human past largely coincided with the 19<sup>th</sup>-century rise of nationalism and the national state, it is hardly surprising that so many historians were interested in finding data and explanation on his nation's or his state's real or supposed medieval origins, often taking mythical proportions. As we have seen, the analogous interest of Croatian historians was to prove that there existed an independent Medieval Croatian Kingdom with “rulers of Croatian blood” before the free election of the “foreign”, Hungarian dynasty of Arpad at the beginning of 12<sup>th</sup> century, and that it had retained the essence of its state-

<sup>34</sup> Detailed data listed by D. Karbić, M. Karbić, *The Laws...*, p. 55–61.

hood all the way up to 19<sup>th</sup> century.<sup>35</sup> On the other hand, even the interest in editing and publishing medieval town statutes and particular law codes was similarly motivated to a certain degree, as it could have been used to demonstrate the high level of historic legal culture of the Croatian people, thus also boosting its national self-consciousness.<sup>36</sup> In that context, it is no wonder that more recent documents, or those of presumably more local character, were edited and published less frequently.

This kind of reactive narrative was adequately continued after the dissolution of Austria-Hungary and the forming of the first Yugoslav state in 1918, when the Croatian lands gradually lost even the last vestiges of their historic autonomy. On the other hand, a number of Croatian historians did see Yugoslavia as an imperfect but reformable entity, protecting the majority of Croatian territory from partition among other neighbours. F. Šišić, for instance, published two valuable source-collections on its origin (*Dokumenti o postanku Kraljevine Srba, Hrvata i Slovenaca 1914–1919*, 1920) and the post-war negotiations concerning delimitation with Italy (*Jadransko pitanje na Konferenciji mira u Parizu*, 1920), while Vladimir Šulek extracted two volumes of documents on the diplomacy of the Central Powers (*Diplomatska historija Centralnih sila 1882–1915, 1938–1939*).

After the rather brief “interregnum” of the Independent State of Croatia (1941–1945), which was – until the capitulation of Italy in 1943 – in no position to overtly argue over its western and southern borders, but whose intellectuals did try to wage a limited cultural war on the affiliation of Dalmatia and even Istria, a new federal, communist-led Yugoslav state was organized. Although defined as a community of equal nations, and gradually introducing some confederal elements, ethno-national relations were – to say the least – entangled enough to give the existing Croatian reactive narrative a new life.

New editions of political and legal documents referring to the rather recent historical activity of the central bodies of the new Yugoslav state and its communist party were mostly started in federal, Belgrade-based institutions.<sup>37</sup> Another new field of interest were documents on pre-communist socialist parties, the history of the workers’ movement in general, and documents that were supposed to prove the crimes of either the occupying forces or of internal political opponents.

As shown, practically all of the JAZU’s 19<sup>th</sup> century long-term source-publishing projects in the People’s (later Socialist) Republic of Croatia were continued by the 1950s, judged to have no undesired ideological bias. Furthermore, the total number of professional (legal) historians increased manifold compared to the pre-1945 statistics, and

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<sup>35</sup> This historiographic “narrative” of the Croatian nation and/or statehood is discussed by M. Ančić, *Što “svi znaju” i što je “svima jasno” – historiografija i nacionalizam*, Zagreb 2008, p. 9–69.

<sup>36</sup> The selection of published Istrian and Dalmatian town statutes and particular law codes was also applicable in showing that the Roman or Venetian component was assimilated or at least dominated by the Croatian hinterland, and that consequently no modern Italian territorial claims are justified. Also, some of the oldest vernacular legal monuments, like the 1288 *Law Code of Vinodol*, were initially taken as belonging to a wider, pan-Slavically i.e. ideologically defined legal-historical family.

<sup>37</sup> The largest of these was a 170-plus-volume series *Zbornik dokumenata i podataka o Narodnooslobodilačkom ratu jugoslovenskih naroda* (Collection of Documents and Data on People’s Liberation War of the Yugoslav Peoples), published in 1949–1986 period by Vojnoistorijski institut (Institute of Military History) in Belgrade.

a network of Soviet-type research institutes was founded.<sup>38</sup> Furthermore, the Communist Party of Yugoslavia was no unitary organization; the Communist Party of Croatia was founded all the way back in 1930s, and many of the influential Croatian communists partook in the aforementioned reactive narrative, and thus – as a complement to federal or even unitary, Belgrade seated projects – sponsored several series of documents concerning the role of Croatian nationals in the worker's movement, the 1941–1945 socialist revolution and in re-constituting Yugoslavia in general, including emphasizing the role of the Antifascist Council of the National Liberation of Croatia (*Zemaljsko antifašističko vijeće narodnog oslobođenja Hrvatske, ZAVNOH*) as a bearer of Croatian national sovereignty. Roughly along these lines was the Zagreb-based Institute of the History of Workers' Movement (Institut za historiju radničkog pokreta, today Hrvatski institut za povijest, the Croatian Institute of History) founded in 1961 – its initial director Franjo Tuđman would later become the first president of the post-communist Republic of Croatia.<sup>39</sup> The pre-1990 period of the Institute's source-publishing is thus represented by a four-volume series *Zemaljsko antifašističko vijeće narodnog oslobođenja Hrvatske – Zbornik dokumenata* (1964–1985) edited by Hodimir Sirotković and by the 10-volume series *Građa za povijest Narodnooslobodilačke borbe u sjeverozapadnoj Hrvatskoj* (Materials on the History of People's Liberation Struggle in Northwestern Croatia, 1981–1989) by various editors.

Analogous sources on political, legal and military Second World War events in Southern Croatia were published by the Split-based Institute of the History of Workers' Movement of Dalmatia (Institut za historiju radničkog pokreta Dalmacije; founded in 1968, ceased to exist in 1989) in a 10-volume series *Narodnooslobodilačka borba u Dalmaciji, 1941–1945* (1981–1986). Of a more narrow scope were individual contributions, dedicated to selected or partially cited legal documents pertaining to the constitutional or administrative framework of both the first and second Yugoslav state, such as F. Čulinović's *Dokumenti o Jugoslaviji – historijat od osnutka zajedničke države do danas* (Documents on Yugoslavia – a History from the Founding of Common State till Today, 1968), or Leon Geršković's and H. Sirotković's *Dokumenti o razvoju narodne vlasti* (Documents on the Development of People's Government, 1983, first volume only).<sup>40</sup>

As expected due to the instrumental, subdued role of the law in a social system governed by the Communist Party, many of the nicely-stated legal norms cited in these post-1945 collections were more of a declarative nature, or at least require an additional dose of contextual knowledge to be properly interpreted.

However, already in the late 1960s some Croatian historians started to apply approaches based on the somewhat abstract terminology of social sciences, switching

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<sup>38</sup> Of course, their activity and membership was supposed not to challenge the proclaimed social values and to accept Marxism as at least a superficial basis of their work, but instances of direct communist party intervention (sometimes to a repressive degree) were practically reserved for standard controversial issues like inter-ethnic relations and contemporary party politics. Cf. M. Najbar-Agičić, *U skladu s marksizmom ili činjenicama? Hrvatska historiografija 1945–1960*, Zagreb 2013.

<sup>39</sup> Development and contributions of the Croatian Institute of History are presented in two jubilee monographs: *Pola stoljeća prošlosti – Hrvatski institut za povijest (1961–2011)*, Zagreb 2011 and *Bibliografija Hrvatskog instituta za povijest (1961–2011)*, Zagreb 2011.

<sup>40</sup> Earlier, shorter editions of Geršković's source-book were published in Belgrade, in 1946 and 1948.

some of their now methodologically more mature interest to the 19<sup>th</sup> century processes of “modernization”, “national integration” and “state building”. Since the late 1980s this trend has been much more present, being also applied to the supposedly “boring” 18<sup>th</sup> as well as the “overcontroversive” 20<sup>th</sup> century. In the fields of legal and political history, politology and history of ideas, this means that more attention (including publishing sources) is given nowadays to the rise of the modern state apparatus and its legal systems, including human and citizen’s rights and authoritarian or totalitarian aberrations. In a way, one could say that the national narratives have been continued by other means, interested not only in state borders, but also in the quality of life they provided. Probably the more frequent publishing of modern sources such as the above-mentioned town magistrate’s protocols is in a similar way related to the recognition of the multiple levels of one’s identity, reflected not only on the national level but also on local, self-governmental affairs.

All in all, since the 1990s, various new topics were opened besides the existing HAZU and HDA publishing projects, often by trans-institutional research teams (the Institute of Croatian History, again, produced a number of editors). For instance, numerous documents on partisan and communist repression and terror, including court sentences and investigative records were edited by Vladimir Geiger and others in four volumes of *Partizanska i komunistička represija i zločini u Hrvatskoj 1944–1946* (2005–2011), while the 1971–1972 dismissals and persecution of the adherents of the so-called Croatian Spring Movement were documented in several editions of uneven quality,<sup>41</sup> and the late 1980s activities of the Služba državne bezbednosti (Yugoslav secret service) were covered in the book *Hrvati i drugi neprijatelji SFR Jugoslavije* by Robert Tafra (2000).<sup>42</sup>

Furthermore, the HDA-stored protocols of the Communist Party of Croatia Central Committee Politbureau (later Executive Committee) for the 1945–1959 period were published in four volumes of the *Zapisnici Politbiroa (Izvršnog komiteta) Centralnog komiteta Saveza komunista Hrvatske* (2005–2010), while the more reciprocal relationship between politics, the state and the law is also notable in the programmatic documents of earlier, mostly liberal parties and circles (Stjepan Matković and Tihomir Cipek, *Programatski dokumenti hrvatskih političkih stranaka i skupina 1842–1914*, 2006).

The early 20<sup>th</sup> century also earned some interest, as Zlatko Matijević and Marina Štambuk-Škalić have edited and published a rounded selection of important HDA-stored documents on the Zagreb-seated National Council of Slovenes, Croats and Serbs, including its role in the 1918 unification with Serbia, which is still a heated topic (*Narodno vijeće Slovenaca, Hrvata i Srba u Zagrebu 1918–1919 – izabrani dokumenti*, 2008).<sup>43</sup> Shortly after the unification, as a result of general popular dissatisfaction, and stimulated

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<sup>41</sup> For instance, official protocols and reports were edited in *Sjeća Hrvatske u Karadorđevu 1971 – autorizirani zapisnik* by Milan Pišković (1994) and *Izveštaj o kontroli zakonitosti rada Matice hrvatske* by Jelena Hekman (2002), while personal recollections were published in *Nepoznata istina o crnom danu za hrvatske domoljube 11. siječnja 1972* by Vlatko Pavletić (2002).

<sup>42</sup> An appraisal by Ana Holjevac Turković was published in 2005 vol. 11 of the “Fontes” series.

<sup>43</sup> The same selection was also published as vol. 14 (2008) of the “Fontes” series. Another result of this project is a re-print issue of the rare official gazette of the short-lived National Council’s government defence department, edited by Milan Pojić (*Vjesnik naredaba Odjela za narodnu obranu Vlade Narodnog vijeća Slovenaca, Hrvata i Srba 1918–1919*, 2008).

by the introduction of universal suffrage the Croatian (Republican) Peasant Party under Stjepan Radić became a leading political force, winning among others the elections for the Provincial Assembly of Zagreb District, and thus leaving interesting protocols, edited by Mira Kolar-Dimitrijević in the book *Radićev sabor 1927–1928* (1993). Documents on another, less influential political organization, the revolutionary Ustaša organization, which nevertheless governed the four-year Independent State of Croatia, were edited and published by journalist Petar Požar, alas in a way that cannot be recommended (*Ustaša – dokumenti o ustaškom pokretu*, 1995).<sup>44</sup>

The 1991–1995 Croatian War of Independence (also known as the Homeland War, Domovinski rat) and its long-lasting political and social aftermath stimulated a wide range of source-publications of varying goals and quality. Some of them consisted of already published legal documents of constitutional importance, pertaining to Croatia's 1990–1992 road to independence and international recognition, e.g. *Dokumenti o državnosti Republike Hrvatske* by Anđelko Milardović (1992). In a similar but more comprehensive manner, documents of the self-proclaimed Serbian para-state on the Croatian territory, as well as those of Croatian institutions and international organizations concerning its status, were edited by Davor Pauković in *Uspon i pad "Republike Srpske Krajine"* (2005).<sup>45</sup> As a third collection attached to the same organization, the Zagreb-based Centar za politološka istraživanja (Politology Research Centre), documents concerning the earlier phases of activities by the International Criminal Tribunal for the former Yugoslavia (ICTY) were also published by A. Milardović, titled *Zadnja pošta – Den Haag* (2003). Other editors reached for somewhat older topics, deemed to still be of interest as the basis of current legal developments – H. Sirotković thus authored another source-book on the *ZAVNOH – Zemaljsko antifašističko vijeće narodnog oslobođenja Hrvatske* (2002),<sup>46</sup> while Arsen and Petar Bačić collected rules of procedure for various Croatian central representative bodies from 1861 to 2002 (*Hrvatske parlamentarne procedure*, 2002). a bit more controversial, the two-volume edition titled *Stenogrami o podjeli Bosne* (2005) by journalist Predrag Lucić contained a selection of transcripts of officially taped conversations held in president Tuđman's office during the war years, suggesting he did not believe that Bosnia and Herzegovina could survive as a state.<sup>47</sup> Along similar lines, the long-lasting war crime trials of the ICTY have resulted in a number of publications of varying objectivity, containing legal, political and military documents or "documents" not only from public, but also from "private" or "semi-private" archives.

In order to enable a more systematic approach towards gathering, arranging, preserving and interpreting documentation and all information related to the Croatian War of Independence (Homeland War), a special archival and scientific institution called Hrvatski memorijalno-dokumentacijski centar Domovinskoga rata (Croatian Memorial-Documentation Centre of the Homeland War) was founded in 2004 by the Croatian Parliament. Among other editions, in 2007 the Centre started publishing a series

<sup>44</sup> As early as 1990 Požar had published a Šulek-like popular documentary collection of *Hrvatske pravice* (Croatian Rights), starting with 879 letters of Pope John VIII to Croatian prince Branimir.

<sup>45</sup> An appraisal by Mario Fabekovec was also published in vol. 12 (2006) of the "Fontes" series.

<sup>46</sup> According to the 1990 preamble of the Constitution of the Republic of Croatia, the decisions of ZAVNOH are considered to be one of the bases of Croatian state sovereignty.

<sup>47</sup> An appraisal by M. Fabekovec was also published in 2006, vol. 12 of the "Fontes" series.

*Republika Hrvatska i Domovinski rat 1990.–1995. – dokumenti* (The Republic of Croatia and the Homeland War 1990–1995 – Documents), mostly containing the confiscated archival material of the civil and military institutions of the self-proclaimed para-state Republic of Serb Krajina (a total of 14 volumes have been published by 2013, edited by Mate Rupić and others).

Finally, we are obliged to mention the primary source-publishing activities of members of the Croatian Legal History Chair at the Faculty of Law, University of Zagreb.<sup>48</sup> Even prior to its founding in 1911, M. Kostrenčić contributed to Smičiklas' *Codex Diplomaticus*. Editing contributions of F. Čulinović, H. Sirotković, D. Čepulo and N. Lonza have already been mentioned, while Ivan Beuc also partook in the publishing activities of the Rijeka State Archives and the Croatian State Archives. As a part of the international project "The Rise of Modern Constitutionalism 1776–1849", led by Horst Dippel from the University of Cassel, a compilation titled *Croatian, Slovenian and Czech Constitutional Documents 1818–1849* was edited in 2009 by D. Čepulo, Mirela Krešić and Dunja Pastović as part of the series *Constitutions of the World of the late 18<sup>th</sup> Century to the Middle of the 19<sup>th</sup> Century – Sources on the Rise of Modern Constitutionalism*, published by De Gruyter.<sup>49</sup> Since 2011, as part of the University of Zagreb's learning-advancement project "Hrvatska pravna povijest – suvremenom metodikom do kvalitetnijeg pravnog obrazovanja" led by D. Čepulo, a growing selection of more than 30 digitalized constitutions, laws and singular legal acts from 1222 to 1990 have been published on the Chair's web pages,<sup>50</sup> while preparatory steps were taken to publish the renowned Josip Pliverić's edited lecture notes on Croatian-Hungarian State law (1900).

### 3. Conclusion: Glorious past and dubious future

To conclude, although highly demanding in terms of time and competence, even the editing and publishing projects of premium quality are not entirely free of changing methodological as well as ideological presumptions, at least concerning the list of priorities, i.e. the criteria according to which a given part of those vast documentary vestiges of the past deserves to be attended to before some other part. Not surprisingly, in a world where large parts of history don't seem so important anymore, being labelled as "dormant" or "inactive" categories (e.g. as opposed to the legal-historical wars of 19<sup>th</sup> centu-

<sup>48</sup> An article on the Chair's history by D. Čepulo, *Hrvatska pravna povijest i nastava pravne povijesti na Pravnom fakultetu u Zagrebu od 1776 do danas*, "Zbornik Pravnog fakulteta u Zagrebu" 2013, vol. 5–6, p. 885–919.

<sup>49</sup> During the selection process, emphasis was put on the acts of the Croatian Parliament (Sabor) of 1848, including the acts of its committees, which referred to the structure of power and the position of the citizens, and were in great part based on principles usually considered modern (e.g. the idea of a nation, vernacular language gaining official status, the separation of powers, equality before the law, citizens' rights), while political documents of a programmatic nature were also taken into account. Documents are also available on the Internet, at <http://www.modern-constitutions.de/> (access: January 31, 2014).

<sup>50</sup> Available on <http://www.pravo.unizg.hr/PHPD/materijali> (access: January 31, 2014).

ry), funding could be hard to find not only for large source-series, but also for the elementary survival of humanities or historically orientated sub-disciplines of social sciences.

Further challenges regarding the editing and publishing of legal-historical documents that lie ahead of Croatian scholars mostly pertain to the lack of motivation for such an undertaking on the part of the researchers themselves, given that its results are not adequately recognized by the centralized, mainly quantitative advancement criteria, which treat (national) legal history as only a part of a uniform field of social sciences, thus not distinguishing between research, communication and applicability standards of particular legal disciplines, or economy, sociology and psychology in general.

An older issue is that, in Croatia, the discipline of legal history is exclusively taught on the faculties of law, while the auxiliary historical sciences, much needed for understanding, editing and publishing of earlier primary sources are represented only on the faculties of social sciences and humanities, or those of philology. Of course, individuals can learn the required skills by themselves, aided by formal or informal mentors, but this takes time measured in years, which is a disappearing commodity thanks to persistent reforms of the educational and scientific system that keep enlarging the proportion of project-based, short-time financing and analogous employment contracts.

No doubt, the digitalization of primary sources is a much needed option,<sup>51</sup> but one should not forget that it also requires funding, and that it doesn't diminish the need to decide on the priorities, as discussed in the first part of this text. Furthermore, the changing nature of software and hardware technology can sometimes cause incompatibility or even loss of the digitalized data, as was painfully demonstrated in several Croatian institutions.<sup>52</sup> Lastly, no matter how advanced in terms proposed within the framework of so-called digital humanities, digitalization as such will supposedly never fully replace the critical, interpretational activity of thoroughly educated human beings. Perhaps it is high time to reflect on their future as well...

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<sup>51</sup> Digitalization of books, periodicals and archival documents is, of course, taking place in many Croatian public institutions. For instance, the majority of the above-mentioned JAZU/HAZU publications are available on <http://dizbi.hazu.hr/>, while the Nacionalna i sveučilišna knjižnica (National and University Library) website offers gateways to digitalized manuscripts (<http://db.nsk.hr/HeritageDetails.aspx?id=1098>), rare books (<http://db.nsk.hr/HeritageDetails.aspx?id=1193>), older journals (<http://dnc.nsk.hr/journals/Default.aspx>), newspapers (<http://dnc.nsk.hr/newspapers/Default.aspx>) and maps (<http://db.nsk.hr/HeritageDetails.aspx?id=1025>). However, various official gazettes are under-represented, and a much better coverage of pre-1919 period can be found at the National Library of Austria website (<http://alex.onb.ac.at/>), as the actual Croatian official state gazette *Narodne novine* website covers only the post-1989 period (<http://narodne-novine.nn.hr/default.aspx>), and the website of the former HIDRA agency (recently transformed into Digitalni informacijsko-dokumentacijski ured) covers those pre-1990 regulations that were still in force in 2007 ([http://www.hidra.hr/sluzbena\\_dokumentacija\\_rh/pravni\\_propisi](http://www.hidra.hr/sluzbena_dokumentacija_rh/pravni_propisi)). On the other hand, digitalized archival materials can be accessed through the centralized gateway of the Croatian State Archives (<http://arhinet.arhiv.hr/>), while some of the Croatian Memorial-Documentation Centre of the Homeland War editions are also available for download at [http://centardomovinskograta.hr/?page\\_id=20](http://centardomovinskograta.hr/?page_id=20). Alas, the *Hrvatska kulturna baština* (Croatian Cultural Heritage) project website, which was supposed to enable and co-operate digitalization on the national level (<http://www.kultura.hr/O-nama>), was, it seems, last updated several years ago. In that context, individual initiatives, like the digitalization and catalogization of the Croatian Latinist texts by Neven Jovanović and others should also be appreciated (<http://www.ffzg.unizg.hr/klafil/dokuwiki/doku.php/z:hrvatski-latinisti-internet>). Access: January 31, 2014.

<sup>52</sup> Previous instances of miscoordination between historians, archivists and librarians are rather mild if compared to ones where computing engineers are also involved.

## Streszczenie

### Doświadczenia i osiągnięcia w zakresie edycji źródeł historycznoprawnych w Chorwacji

Autorzy w swoim artykule scharakteryzowali kilka problemów edycji źródeł historycznoprawnych. W pierwszej, teoretycznej części poruszyli dylematy, przed którymi stają edytorzy na początku swojej pracy. Problemem jest kwestia tego, zgodnie z jakimi dyrektywami wydawać źródła – czy publikować według kryterium chronologicznego, instytucji, dostępności, czy może wedle stanu zachowania źródła? Pozostają także kwestie publikacji falsyfikatów, adresata edycji i związanego z nim aparatu naukowego, współczesności języka źródła, układu publikowanych dokumentów. Pytaniem, w opinii autorów, pozostaje również kwestia cezury publikacji źródeł historycznych, a także przedmiotu edytorstwa źródeł, które obecnie nie są uznawane za źródła prawa, ale mogą za takie być uznane w przyszłości. Zdaniem autorów krytyczna analiza jest potrzebna od samego początku pracy ze źródłem. Aparat krytyczny ma być przede wszystkim pomocą dla badacza korzystającego z opublikowanej edycji. Dyrektywy rządzące każdą edycją związane są, w mniejszym bądź większym stopniu, zarówno z indywidualnym podejściem edytora, jak i z ogólnymi założeniami metodologicznymi. Następnie autorzy dokonali krytycznego przeglądu edytorstwa źródłowego w dzisiejszej Chorwacji. Podnieśli kwestię wpływu czynników pozanaukowych (politycznych i ideologicznych) na edycję źródeł. W podsumowaniu poruszyli istotny problem digitalizacji źródeł historycznych. Stwierdzili, że samo przeniesienie źródła na ekran komputera nie jest wystarczającym rozwiązaniem w kwestii edycji, a na pewno nie zastąpi krytycznej edycji źródeł historycznoprawnych w przyszłości. Ponadto wskazali na, ich zdaniem, niesprzyjający edytorstwu źródeł rozdział nauczania historii prawa i nauk pomocniczych historii.

