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2012 Chronicle of Legal and Constitutional History Research in Germany

1. Max-Planck-Institut für Europäische Rechtsgeschichte

In January 2012, the LOEWE research “Extrajudicial and Judicial Conflict Solution” began, preceded by a series of lectures to the same subject. The research was joint effort between the Max Planck Institute for European Legal History (MPIeR), the Johann Wolfgang Goethe University, the Frankfurt am Main University of Applied Sciences, and the Society for Imperial Chamber Court Research in Wetzlar. The focus of the joint research project was an interdisciplinary and international analysis of conflicts, conflict activities, and conflict resolution from a comparative, intercultural and historical perspective. The project goals were the development of models, types, and modes of conflict and conflict resolution, in order to create the foundation for the formation of historically and empirically based theories in conflict research. The range of individual projects was very broad and included the ancient Middle East, Middle Ages Europe, and international law of the last two centuries as well. The geographic range was not restricted to Europe, but also encompassed Japan and the United States.

Between May 25th and 27th, an international conference entitled “The Emergence and Translation of Foreign Policy” took place. It was related to a research project of the Cluster of Excellence named “The Formation of Normative Orders”. One of the main premises of the project and the starting point for individual research of the participants was the conviction that “foreign policy” is not the result of international dynamics, but should be understood as one of the principal dynamic factors in the formation and evolution of an international order. The aim of the cluster was an interdisciplinary analysis of the historical development of foreign policy, its justification narratives, and the correspondent notions of international order. The central theme was the methods of constituting foreign policy actors. As for the conference itself, the lecturers touched upon different aspects of foreign policy throughout all periods of European history. They spoke not only about strictly legal aspects of foreign policy, such as international law

or diplomacy, but also devoted a lot of attention to its cultural aspects, like the role of religion in the performance of foreign policy actors.

On June 7th and 8th, a debate entitled “The Shaping of Centrality in the Antique and the Middle Ages. Normative and Spatial Dimensions” took place. The lectures focused on different aspects of the process of shaping the cultural and political centres in contemporary Europe. They were divided into three categories: “Religious Centres”, “Hierarchies, Orders and Spaces” and “Law and Space”.

On June 8th and 9th, the Max Planck Institute organized a summer debate focused on the question “Legal Practice – Knowledge or Trade?”. The agenda of the debate encompassed the dynamics of legal education and the engagement of learned jurists in legal practice.

On August 20th to 25th, as part of a collaboration between the Chinese University of Law and Politics and the University of Vienna, a dialogue concerning the main questions of the legal history of both continents was organized. The focus of the conference was historiography and the current status of the most important problems of legal history in Europe and West Asia. On August 29th through 31st, the “Entanglements in Legal History” workshop was held. Its main aim was to show the “journey” and influences of the main legal orders and ideas of Europe in all periods. The primary, surprising notion was that these influences could be traced in very distant countries. The conference also detailed how the law influenced the course of history. The lectures were divided into the following categories: “Codification of Civil Law”, “Empires and Law”, “Transnational Discourses and Institutions” and “Transplant, Transfer, Transculturation – Conceptual Aspects”.

2. Recht anschaulich

On October 29th and 30th, the International Conference on Multisensory Law took place in Munich. The main aim of the conference was to show how legal messages involve all five senses. Apart from trademark and copyright law, an important part of the program was the question of how the multisensory of legal transmission can be used, for example, with people with speaking or hearing disorders.

3. Other

On 27th February, a group of historians, philologists and legal historians in Heidelberg discussed the problem of a historic legal language. The conference was organized by the Research Post of the German Legal Dictionary [Forschungsstelle Deutsches Rechtswörterbuch] of the Academy of Humanities in Heidelberg. The debate was not only about what the historic legal language really is, but also about different aspects of its creation, development, and relations to other common types of professional

and non-professional jargon. The time span of the examined examples of its presence ranged from the Antique to the 20th century.

The University of Münster organized a series of lectures on a common subject: “Religion, Law, and Politics”. From April 3rd to July 3rd, twelve lectures were held, during which the guests discussed the relations between the three elements. The lectures were focused on how religion and politics influence law and how religious beliefs and political activities become regulated through law.

On the April 28th, the Humboldt University of Berlin organized an interdisciplinary symposium entitled “Secularisation. History, Meaning, and Scope”. The lecturers strived to explain the mechanisms of how religious justifications fade from the mainstream legal, political, and scientific arguments of the West and how this change spread around the world in all periods. The lectures were divided into the following categories: “Secularization and Historiography”, “Secularization and the State”, “Secularization, Colonialism, and the Law of Nations”, “Secularization and Method,” “Secularization: a Research Agenda”.

On May 28th through 31st, in Lüneburg, the “Hanseatic Cities in Conflict. Crisis Managing and Armed Separation in the 13th–17th Century” conference was held. The participation of the Hanseatic League in local and regional conflicts was the primary focus.

On September 27th to 29th, the Warsaw University, in cooperation with the Polish Academy of Science, organized an international interdisciplinary conference entitled “Intellectual Transmission of Intellectual Traditions in the Middle Ages and the Early Modern Period”. The aim of the conference was to bring together scholars focusing on the proliferation of various intellectual traditions across political, legal, linguistic, and religious boundaries from late antiquity to the early modern times.

MICHAL POVAŽAN
(Comenius University, Bratislava)

Legal History in Slovakia – Report on Events and Activities in 2012

From the point of view of legal history the year 2012 was an ordinary one in Slovakia. It could be described as “work goes on”. The main events were dedicated to various theoretical topics which were examined from the perspective of legal history as well.

Faculties of law in Slovakia organised six international conferences in 2012 where particular scholars dealing with legal history presented their research concerning legal history.

Traditionally, the scientific events in the domain of law started with the international conference for young legal researchers entitled “Milestones of Law in Central Europe”. It was the sixth annual conference organised by the Faculty of Law at Comenius University in Bratislava, which usually takes place in the tiny of village Častá near Bratislava. The University welcomed young researchers from several countries of Central Europe. One of the most interesting papers in the section on legal history was the article “Illusion of feudal fragmentation” written by Miroslav Lysý (Comenius University). The paper deals with the periodization of the Slovak legal history in a high mediaeval period. Based on the comparison of the term “the state of feudal fragmentation”, or “the monarchy of feudal fragmentation” in existing literature, the paper concludes that its subject and chronological classification is not homogeneous. Therefore the article gives reasons why it would be more appropriate to cancel such a term and stop using it in periodization. We can disagree with the reasons, but the article remains a precious contribution to the discussion on periodization of the development of state in high medieval times.

In the last several years *ius nature* has been a more and more researched topic in Slovakia. Slovak and Czech Romanists decided to dedicate their fourteenth annual conference to the role of natural law in the system of Roman law. After the forty-year-long gap in the study of natural law in Slovakia the conference is a sign that natural law is again becoming the centre of attention of researchers. The conference, organised on 27th and 28th April 2012 by the Faculty of Law, Comenius University in Bratislava, was opened by the doyen of the Slovak studies of Roman law, Prof. Peter Blaho, who has published his Slovak translation of the *Digest*.

Teaching of law is a matter of an on-going discussion: What is the goal of the university legal studies? What kind of “competences” should a student acquire? and many other questions. A very frequent topic in this discussion is the role of legal history in teaching law at “modern” universities. The role of legal history at contemporary universities was the main topic of the conference “Optimization of Teaching History of State and Law – New Challenges for the 21st Century”. A valuable contribution to the discussion was the paper of Tomáš Gábriš: “On the possible renaissance of legal history in the 21st century: Quo vadis, legal history?” The conference was organized by the Faculty of Law, University of Trnava, and took part on 1st June 2012.

The main anniversary of 2012 was twenty years of Slovak Constitution. On 12th September the Faculty of Law, Comenius University in Bratislava, organized an international conference entitled “The Constitution of the Slovak Republic – 20 Years from the National and European Perspectives”. The main speakers were the first Chairman of the Constitutional Court of the Slovak Republic Milan Čič and its contemporary head Yveta Macejková. In their papers the speakers dealt with the origins of the constitution, its development as it is reflected in the judicial praxis of the Court, and the lessons that should be taken from the short constitutional history of the modern Slovak Republic.

The last main event in 2012 were the Legal Days of Trnava/Dies Iuris Tyrnavienses organized by Trnava University on 20th and 21st September 2012. Their main topic was the value system of law and its reflection in legal theory and practice.

Of course, these five events do not cover all scientific events regarding legal history in Slovakia. I have chosen only those which are better known and therefore whose impact on the researcher’s community is higher. Beside these events there were many smaller ones usually devoted to a particular topic or presentation of a new book on the legal history of Slovakia.

ROMAN SHANDRA
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Brief Review of Scientific Events in Legal History in Ukraine in 2012

In 2012 a wide range of scientific works in the field of history of state and law was published and several historical-law conferences were held by scholars of Ukrainian higher education institutions.

Among the scientific works published in 2012 a special consideration should be given to a book *Poland: History of Statehood and Law (from 10th to the beginning of 21st century)* written by Borys Tyshchuk, Professor of Ivan Franko Lviv National University, head of the Department of History of State, Law and Political-Legal Doctrine. The book outlines the processes of appearing, establishing and development, and the legal nature of statehood and state of Poland. It also analyzes the sociopolitical relations, as well as the main sources and branches of law¹. This book is one of the first full-scale studies of Polish history and law in the Ukrainian historical-legal science.

Another work, entitled *Election Law in Ukraine: History and Modernity*, written by Andriy Stryzhak, a former judge of the Constitutional Court of Ukraine, is also of great scientific and practical importance. The monograph investigates the emerging, formation and consolidation of citizens' right to participate in elections and referendums in Ukraine and its protection by the Constitutional Court of Ukraine. Moreover, modern aspects of enforcing the active and passive right of Ukrainian citizens are discussed².

Another monograph of significant academic interest is the book written by Volodymyr Sukhonis, Professor of the Ukrainian Banking Academy of the National Bank of Ukraine and entitled *Prosecutor's Office in State Mechanism of the Russian Empire after Judicial Reform of 1864*. It lays out the results of a historical-legal investigation of the place and role of judicial and prosecutor authorities in the state mechanism of the Russian Empire after the judicial reform of 1864. Reasons, preconditions and peculiarities of reforming prosecutor authorities in 1864 and legal consequences of such reforms are presented and discussed³.

¹ B. Tyszczyk, *Polszcza: istorija deržavnosti ta prava (X – počatok XXI st.)*, Lviv 2012, p. 512.

² A. Stryczak, *Iyborče pravo v Ukrajinі: istorija ta sučasnist'*, Kyjiv 2012, p. 448.

³ V. Sukhonis, *Prokuratura v deržavnomu mechnizmi Rosijs'koji imperiji pislja sudovoji reformy 1864 roku*, Sumy 2012, p. 104.

An extensive research on the process of forming and establishing police authorities in Ukraine was conducted by Oleksandr Bandurka, Professor Volodymyr Hrechenko and Professor Oleksandr Yarmysh, scholars of Kharkiv University of Internal Affairs. Issues connected with the formation, establishment and development of police authorities in Ukraine starting from the first decades of the 18th century and finishing in 1917 were described in their collective monograph *Police in Ukraine: historical-legal research (beginning of 18th century – 1917)*. The authors, drawing on considerable documentary material, researched the evolution of the organization and diverse aspects of functioning of the police force in major periods in its history. They also analyzed the legal regulations of functioning of the general (criminal) police. Significant attention was paid to theoretical issues of police functioning, its role in modern state and society⁴.

Another monograph – *Organizational-Legal Principles of Foreign Policy Administration Functioning in the USSR (1917–1929)* by Iryna Strelnikova, a scholar from the Crimea Law Institute of Yaroslav the Wise Law Academy of Ukraine – is of certain scientific interest. Organizational-legal principles of functioning of the People's Commissariat of Foreign Policy of the Ukrainian Socialist Soviet Republic in 1917–1922 and authorized bodies of the People's Commissariat of Foreign Policy of the Union of the Soviet Socialist Republics in Ukrainian SSR in 1923–1929 were studied in the monograph⁵.

In 2012 two specialized international historical-legal conferences organized by the International Community of Law Historians were held. The first – *State, Law and Legal Thought in the Balto-Black Sea Region* – was held on 27–29 April 2012 in Odesa. Co-organizers of the conference were such establishments as the National University Odesa Law Academy, Koretskyi Institute of State and Law of the National Academy of Sciences of Ukraine, Kharkiv National University of Internal Affairs, International Humanitarian University (Odesa), Commission of History of Ukrainian Law at the Presidium of the National Academy of Sciences of Ukraine, and State and Law History Section of the Scientific Council of the National Academy of Sciences of Ukraine for coordinating fundamental legal researchers. More than 80 scholars from different cities of Ukraine (Kyiv, Lviv, Odesa, Kharkiv, Dnipropetrovsk, Simferopol etc.) and researchers from Russia (Stavropol, Rostov-on-Don, Arkhangelsk) and Belorussia (Polotsk, Novopolotsk) participated in the conference. Based on the results of the conference, a collection of 84 reports was issued⁶.

The second conference – *Historical-Legal Reality in Global and Regional Dimensions* – was held on 20th–23rd September 2012 in Yevpatoria of the Autonomous Republic of Crimea. Among co-organizers were the following establishments: Koretskyi Institute of State and Law of the National Academy of Sciences of Ukraine, Kharkiv National University of Internal Affairs, Commission of History of Ukrainian Law at the Presidium of the National Academy of Sciences of Ukraine, and State and Law History Section

⁴ O. Bandurka, V. Hreczanko, O. Yarmysz, *Policija v Ukrajini: Istoryko-pravove doslidzennia (poczatok XVIII st. – 1917 r.)*, Kharkiv 2012, p. 616.

⁵ I. Strelnikova, *Orhanizacijno-pravovi zasady funkcionuvannia zovnisznopolitycznoho vidomstva v USRR (1917–1929)*, Kharkiv 2012, p. 200.

⁶ *Deržava, pravo i jurydyczna dumka u baltoczornomors'komu rehioni: istorija ta suczasnist'*: Materialy XXVI Mižnarodnoji istoryko-pravovoji konferenciji 27–29 kvitnia 2012 r., m. Odesa, Odesa, 2012.

of the Scientific Council of the National Academy of Sciences of Ukraine for coordinating fundamental legal researchers. More than 100 scholars and practicing lawyers from various cities of Ukraine (Kyiv, Lviv, Luhansk, Odesa, Zaporizhia, Donetsk etc.), Russia (Moscow, Arkhangelsk, Kursk) and Belorussia (Minsk) participated in the conference. The conference participants were greeted personally by Andriy Danylenko, mayor of Yevpatoria.

Speeches were delivered by Viktor Shemchuk, member of Verkhovna Rada of Ukraine, Professor Ihor Isaev, head of the Department of History of State and Law at Kutafin Moscow State Law Academy, Oleksandr Yarmysh, President of the International Community of Law Historians etc. A collection of conference materials was published in two parts, which included 94 reports⁷.

⁷ *Istoryko-prawowa realnist' u hlobalnomu i rehionalnomu vymirach: Materialy XXVII Miżnarodnoji istoryko-pravovoji konferenciji 21–23 veresnia 2012 r., m. Yevpatoriya, Yevpatoriya 2012.*