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Valtazar Bogišić and the General Property Code for the Principality of Montenegro: Domestic and Foreign Associates

Abstract: Assigned with the task to prepare a general property code for the Principality of Montenegro, V. Bogišić conducted in 1873 a survey on customary law, relying on several local informants who were well versed in the matter and as a rule holders of high military and civil offices. A distinctive group of Bogišić's associates were members of the commission responsible for discussing two drafts of the code, all of them judges of the highest court in Montenegro at the time. In contrast to their contribution which is quite well known, that of his foreign consultants, although significant, is not. In two of his texts, one of which was published posthumously, Bogišić expressed his gratitude for the assistance provided by the eminent French and German legal experts R. Dareste, E. Glasson, C. Bluntschli, J. Neubauer and K. Dickel.

Keywords: Valtazar Bogišić, Property Code, Principality of Montenegro, domestic associates, foreign consultants, Russia

Introduction

Of the many works of the Serbian scholar Valtazar Bogišić (1834–1908), the one for which he is best known is his magnum opus: *General Property Code for the Principality of Montenegro* (Opšti imovinski zakonik za Knjaževinu Crnu Goru) of 1888. This is a *civil* code which does not include *family* and *inheritance law*, and has therefore been designated as *property code*.¹

After the Second World War, interest has begun to grow in the genesis of the Code. Scholarly work based on the material from Bogišić's archive at Cavtat² has resulted in extensive studies such as those by N. Martinović,

¹The Code was formally proclaimed on 26 April 1888 in the Montenegrin capital, Cetinje, and came into force on 1 July the same year by Prince Nikola's decree. See Bogišić 1980 I–VI.

² Bogišić's archives, a library of more than 15,000 books and a museum holding his personal belongings, art collections and other valuable objects, are at Cavtat. They are in ownership of the Institute of Historical Sciences at Dubrovnik, which forms part of the Croatian Academy of Arts and Sciences based in Zagreb. His archives contain more than 160 manuscripts, unfinished texts and notes on various subjects: history of law of the Slav peoples, codification of property law in Montenegro, ethnology, folklore, literature etc. For more, see Djivanović 1984.

W. G. Zimmermann, T. Nikčević, J. Bojović and S. Pupovci.³ Useful information on the origin of the Code has also come from documents kept in Russian archives⁴ and Bogišić's personal correspondence with many renowned figures and institutions (about a thousand) from Belgrade, Novi Sad, Cetinje, Zagreb, Dubrovnik, Split, Djakovo and several European centres, of which only a small part has been published.⁵ That work has shed much more light on a number of people who assisted Bogišić in the process of preparing the Code, and whose contribution had for a long time been unknown or neglected, resulting in all the credit for the Code being attributed to Bogišić. The contribution least examined is the one made by eminent experts in civil law from Vienna, Berlin, Munich, Paris, as well as members of the state codification commissions in Berlin and Budapest. This paper will, therefore, shed more light on the broader context of this cooperation and the professional profile of these associates of Bogišić's.

1. Bogišić's education and career prior to his codifying mission

Bogišić's codifying mission in Montenegro began in late 1872. Nikola I, Prince of Montenegro and the Highlands (*Crna Gora i Brda*), which was the official name of the country in 1796–1878, made a request to the Russian Tsar to send Valtazar Bogišić, professor at the Novorossiski University in Odessa, to Montenegro. By that time Montenegro had regained Russian support withdrawn during the Crimean War and the Prince was receiving annual financial aid from Russia.⁶ In this revival of pro-Russian feeling, he found solid support in the Russian consul in Dubrovnik, Alexandr S. Yonin. Meanwhile, military and administrative reforms had been carried out in Montenegro, but, not even following the demarcation of her borders with the Ottoman Empire under the aegis of the European powers (1859/60) was Montenegro internationally recognized as an independent country and Prince Nikola needed to put the legal system on a more solid footing in order to demonstrate his country's credibility before the European powers.⁷ Thus Bogišić found himself in the service of Russian–Montenegrin political relations, in fact in the orbit of Russia's Balkan policy.

³ Martinović 1958 and 1964; Zimmermann 1962; Nikčević 1967; Bojović 1992; Pupovci 1996 and 2004.

⁴ See Pupovci 1996; Montenegrin Codes III; Bogišić 1999

⁵ See Jagić 1930; Novak 1960; Ivanišin 1962; Nedeljković 1968.

⁶ Jovanović 1977, 181; Popović 1995, 314–316.

⁷ Martinović 1958, 55–60; Pupovci 1996, 20; Montenegrin Codes III, 289–290.

Bogišić's life, which led to his being sent to Montenegro, was an unusual one, and by then he had already become a scholar of some repute in the Slav world.⁸ Valtazar Bogišić was born at Cavtat in 1834, into a Catholic family originally from the Dubrovnik hinterland region of Konavle, "on the border between Herzegovina and the one-time Republic of Dubrovnik".⁹ He had no regular education before he entered university. Both his grandfather and father were seamen and traders, and had made a sizable fortune. The young Bogišić kept his father's business books and drew up business-related legal documents in Italian. In that way he gained practical legal experience and at the same time learnt German and French. Having settled family business and property matters following the sudden death of his father in 1856, Bogišić completed an accelerated secondary school course in Venice in 1859. He then began law studies and read the first two semesters in Vienna, the third in Berlin, and the fourth in Munich, and attended several lectures in Paris. He completed the final two years (four semesters) of law in Vienna, simultaneously studying philosophy. In the course of his studies, Bogišić mastered several languages and became a polyglot.

Bogišić's professors in Vienna were the law professors Unger, Glaser, Arndts, Siegel, Stein and Neumann, the historians Jäger, Sieckel and Aschbach, and the philologists Miklosich, Bonitz and Vahlen. His Berlin teachers were the jurists Dirksen and Stahl, the German philologist Beseler, the canon law scholar Richter, the founder of comparative linguistics Bopp, the historian Droysen and the philosopher Michelet. His professors in Munich were the jurists Windscheid and Bluntschli, the church historian Dölinger and the art historian Lützov. In 1862 he received doctoral degree in philosophy from the university in Giessen,¹⁰ where he had also attended lectures of the prominent Roman law professor Ihering. In Heidelberg he attended lectures of the renowned scholar of civil law, Wangerow.

In 1863, Bogišić found employment at the department for Slavic books of the Court Library (Hofbibliothek) in Vienna, while completing his law studies and receiving a doctoral degree in 1864. His work at the Court Li-

⁸ During his employment at the Court Library in Vienna, Bogišić published two works: *Legal Customs of the Slavs*, the first of its kind in the Slav world, and *A Guide to Describing Living Legal Customs*, in fact a questionnaire containing 352 questions and intended only for the South Slavs. The *Guide* was translated into Ukrainian, Bulgarian, Slovenian and (partially) Czech, but it soon gained popularity beyond the Slav world. Bogišić spent a few years busily collecting customary law and from the abundant material collected prepared a *Compilation of Contemporary Legal Customs of the South Slavs. Material from Various Parts of the Slavic South* (1874).

⁹ Bogišić provides information about himself, his family and origin in three autobiographical texts, see Bogišić 1938 [1902]; and Bogišić 1938.

¹⁰ Bogišić 1938 [1902], 5, 74; Bogišić 1938, 51.

brary brought him multiple benefits. He was in constant contact with scholars from different Slavic countries, to mention but the Pole Waclaw Maciejowski; Russians Izmail Ivanovich Sreznevsky, Nil Alexandrovich Popov, Mikhail Fyodorovich Rayevsky; Serbs Djura Daničić, Jovan Gavrilović, Stojan Novaković and Vladan Djordjević; Croats Franjo Rački, Vatroslav Jagić and Imbro Ignjatijević Tkalac.¹¹ In Vienna he made contact with liberals from Serbia, a connection that would prove useful to him later on.¹²

It was in Vienna that Bogišić embraced the then widespread notion of Serbs and Croats as being “two halves of a single people”, and remained faithful to it for the rest of his life, although he was never politically active.¹³ He expressed his Serb national feeling and his affiliation to the Catholic tradition, two constituent elements of his identity from his youth days in his hometown of Cavtat and contacts with the intellectual circle round Niko Veliki Pucić in Dubrovnik.¹⁴ He called his own language Serbian, and he also used the terms Serbo-Croatian and Croatian.

After five years at the Court Library, Bogišić entered the Austro-Hungarian Ministry of Defence, and was appointed Temesvar-based school supervisor for the Banat and Srem regions of the Military Frontier (*Vojna Krajina Militärgrenze*), which had a large Serbian community. For a time, Bogišić lived in Novi Sad, where he used to meet up with Jovan Hadžić, author of the *Civil Code of the Principality of Serbia*. He also used to visit Belgrade, where he met up with Djura Daničić, Jovan Gavrilović, Stojan Novaković, Janko Šafarik and other prominent figures in Serbia’s cultural life. In Belgrade he also met the Austro-Hungarian consul Benjamin von Kállay, subsequently the Austro-Hungarian governor of Bosnia-Herzegovina and author of a *History of the Serbian People*. Bogišić kept track of events in the Serbian capital, and when preparations began for the 1869 Constitution of the Principality of Serbia, he submitted, together with a conational from the coastal region (“two southern Serbs”), a proposal for some of its clauses.¹⁵

Yet, Bogišić thought of leaving the Habsburg Monarchy, which in the wake of the Austro-Prussian war of 1866 underwent essential internal change: in 1867 it became a dual monarchy. Having been granted the first ever honorary doctorate from Odessa University (Novorossiski), which had been founded in 1865, and elected full professor at its Law School and

¹¹ Bogišić 1938 [1902], 79.

¹² Nedeljković 1968, 65; see Bogišić 1938 [1902], 106.

¹³ See Bogišić 1938 [1902], 106.

¹⁴ For a detailed account of the Serbs in Dalmatia between the fall of the Venetian Republic and the formation of the Yugoslav state in 1918, see Bakotić 1938.

¹⁵ Bogišić 1938, 50; Nedeljković 1968, 28–29.

chair of the History of Slavic Legal Systems, Bogišić set out for Odessa. He arrived there in early January 1870, became a Russian citizen and was granted the title of state advisor.¹⁶ Although he taught for no more than five semesters, he continued to be officially considered professor of Odessa University until his retirement in late 1889. The request for his mission to Montenegro arrived at a point when his research into the Slavic customary laws and legal systems had gained a fresh momentum: in the summer of 1872 he was doing a research in the Caucasus, which was part of the Russian Empire at the time.¹⁷

2. *Bogišić's codification concept and method*

Prior to his mission to Montenegro, Bogišić had not been specifically concerned with theoretical, methodological and practical problems of codification.¹⁸ Now that he had to cope with them, he was left to his own devices. The kind of work that lay before him was being done by teams of many members and over many years in countries such as Germany, Switzerland and Japan. The mission was therefore a turning point in his life. The assignment he was allotted by the Russian authorities was completely different from anything he had done so far, and he had to find a formula to carry it out.

The prolonged length and content of Bogišić's codification mission was influenced by several factors. As time went on his pragmatism came increasingly to the fore: he adjusted the task entrusted to him to his own scholarly views and personal plans, used it to enhance his scholarly reputation and to solidify his official status with the relevant Russian ministries. Bogišić's propensity to live a life of ease and to travel much, and not always for official purposes, did not go unnoticed.¹⁹ As a result, his work on the Code took more than fifteen years (1872–1888). Bogišić's preparatory work on the Code was validated by two Russian ministries (of Foreign Affairs and of National Education) and the Tsar himself, and the prolongation of his Montenegrin mission was approved several times in a row.²⁰

¹⁶ Bogišić 1938 [1902], 87.

¹⁷ Bogišić described his time in the Caucasus in his *Autobiography*, see Bogišić 1938 [1902]; see also Novak 1960, 211–215; Nedeljković 1968, 62–63.

¹⁸ As already pointed out by Pupovci 1996, 27.

¹⁹ Novak 1960, 95.

²⁰ For more detail, see Pupovci 1996.

Bogišić first arrived in Cetinje in early April 1873, but already in May he was a member of Prince Nikola's suite on his visit to Vienna.²¹ He remained in Montenegro until January 1874, which is when he carried out his famous survey on customary laws in Montenegro, Herzegovina and northern Albania. The concept of the Code was defined during his two stays in 1875, in July and in August–September respectively.²² Late in May 1881, he arrived in Cetinje once again in order to discuss issues surrounding the Code project, and stayed until February 1882, but during that period he visited Dubrovnik seven times to prepare there for the next stage of his work. He made his last stay in Montenegro in the interval between June 1885 and January 1886, but apart from three months, he spent most of the time in Dubrovnik. All the remaining months and years of the fifteen-year-long preparation of the Code, then, Bogišić spent out of Montenegro.

With the consent of the Russian Minister of Education, Bogišić settled in Paris in November 1874. Apart from the rich libraries and the possibility of consulting legal experts, he had some private reasons for settling in the French capital,²³ where he spent most of the time until the proclamation of the Code, although he frequently travelled. Saint Petersburg was the place of his second longest sojourn. The material kept in Russian archives (primarily the Archive of Foreign Policy of the Russian Empire and the Russian State Historical Archive in Moscow)²⁴ elucidates the position of Russia's highest government bodies and persons towards Bogišić and Montenegro. At the end of Bogišić's codifying work, a representative of the Russian Foreign Ministry said in Saint Petersburg that Bogišić's work should be seen as a "monument to Russia's historical and civilizational role in the Orthodox East".²⁵ Russia had financed Bogišić's work on the Code from beginning to end, including its printing and its author's pension.²⁶

Besides Paris, Bogišić made stays of varying length in Vienna: in September 1879, May 1881, May and June 1883, July and August 1884,²⁷ the spring of 1885, and June and July 1886.²⁸ He travelled to Berlin in March 1877, July 1878, May and June of 1880, April and May of 1881,²⁹ April

²¹ Medaković 1998, 293.

²² Novak 1960, 252–253.

²³ *Ibid.*, 247.

²⁴ Cf. Pupovci 1996, and 2004, 41–62, 237–279; Montenegrin Codes III.

²⁵ Pupovci 1996, 57.

²⁶ For a detailed account, see Pupovci 1996; partly also Martinović 1958, 236.

²⁷ Novak 1960, 304–305.

²⁸ Novak 1960, 3, 311 ff; Nedeljković 1968, 154.

²⁹ Novak 1960, 281.

1882, the autumn of 1883, and July and August 1884. He paid somewhat shorter visits to other capital cities that were of interest for his codifying work, such as London (July and August 1880), Heidelberg (April 1881), Munich (June 1883), Prague (May 1881) and Budapest (October 1874 and September 1884).³⁰ In 1877, sent by the Russian government to join the Russian troops in Bulgaria during the Russo-Turkish war of 1877–78, Bogišić drew up the “Provisional rules of the organization of courts” in Bulgaria.

Bogišić believed that collecting and studying customary law was a necessary “preliminary” to his work of codification. It was a way to learn about and appraise the nature of what he called the “indigenously developed” laws of the people in order to avoid the mechanical and anachronous transplantation of institutes of Roman law into contemporary legislation. Bogišić’s views were encouraged by the work of the so-called Warsaw School of Law, notably the pan-Slavic historian Waclaw Maciejowski, with whom he had established friendly relations and maintained a long-standing correspondence.³¹ Contending that customary law was very much alive in the traditional patriarchal structure of Montenegrin society, and that, by contrast, written laws were very few, especially in the domain of civil law, Bogišić designed an extensive questionnaire (2,000 questions) to cover customary practices in both public and private laws, and used it in the survey he carried out in the course of 1873.³²

Bogišić visited Belgrade in 1874 to acquaint himself with the thirty years of implementation of the *Civil Code of the Principality of Serbia*.³³ His proposal to draw up a single civil code for Serbia and Montenegro on identical principles was not accepted in Belgrade.³⁴ During Bogišić’s stay in Cetinje in mid-1875, he convinced Prince Nikola and the Senate to agree to his concept of the Code,³⁵ by demonstrating that what Montenegro needed most at the moment was a regulation in the field of civil law. In that way, the initial broadly conceived *general national code* (which would have included public law as well) became reduced to a *civil* one, which in turn, lacking family law and the law of inheritance, became a *property code*.

³⁰ Novak 1960; Nedeljković 1968.

³¹ Bogišić 1938 [1902], 102; Nikčević 1967, 8.

³² For more on the 1873 survey, see Martinović 1958, 72–167; Martinović 1964; Bogišić 1984; Nikčević 1984.

³³ Sirotković 1989, 69; Luković 1994, 49.

³⁴ For more, see Nikčević 1971.

³⁵ For more, see Bojović 1992; Luković 2004.

3. *Bogišić's associates*

The names of Bogišić's associates in preparing the Code are known. They can be divided into two categories according to their origin. Because of the peculiar nature of his codification mission, however, it is not always simple to make a clear distinction between domestic and foreign. Namely, in Montenegro Bogišić represented the Russian "side", while at the same time being treated as "one of us", a Serb from the neighbouring Dubrovnik area. He had a few associates playing various roles in Montenegro, and they unambiguously are domestic. However, some of his key associates were subjects of Austria-Hungary (as was Bogišić himself prior to his departure for Russia), on the one hand, and Serbs or Croats or "Serbo-Croats" by nationality, on the other. They also seem entitled to be categorized as domestic associates, as are those from the Principality/Kingdom of Serbia. As Bogišić's truly foreign associates may be considered citizens of France, Germany, Switzerland, Hungary, and even those of Austria-Hungary who were not of Serb, Croatian or "Serbo-Croatian" nationality.

3. 1. *Domestic associates*

When, in 1873, Bogišić designed the questionnaire for surveying legal customs in Montenegro, Prince Nikola appointed informants for particular areas of Montenegro, but also for some of the neighbouring areas, such as Herzegovina and northern Albania.³⁶ The informants were high-ranking military and civilian officials knowledgeable about customary law: *Vojvoda* Djuro Matanović, Senator Jole Piletić, ex-Senator Vido Bošković, *Vojvoda* Djuro Cerović and *Vojvoda* Marko Miljanov, while the informant for church relations was Archimandrite Visarion Ljubiša.³⁷

Members of the commission on two code drafts may be described as a distinctive category of associates: Djuro Matanović, Jagoš Radović and Gavro Vuković, judges of the Grand Court (the highest court in Montenegro at the time). Bogišić commended them in his reports to the Russian ministries for their exquisite knowledge of the customary legal practices in

³⁶ Following the Congress of Berlin in 1878, these areas became part of Montenegro, with the exception of Malesija (Tuzi, Hoti and Grude areas east of Podgorica), which were to be incorporated into Montenegro after the Balkan War of 1912. See Martinović 1958, 63.

³⁷ Montenegrin Codes III, 335.

Montenegro, although only Gavro Vuković was a trained jurist.³⁸ Prince Nikola himself took part in the final reading of the draft.³⁹

Bogišić's domestic associates did not only include authorities on customary law. Once his concept of the Code was accepted in 1875, he decided to call in philologists to help resolve issues of terminology. Several philologists from the South-Slavic areas, also knowledgeable about folk life, answered the call.⁴⁰ Their contribution to his codifying work is less known even though at the end of his unfinished manuscript "Method and System of Codifying Property Law in Montenegro", Bogišić expresses his gratitude to those who helped him resolve problems of terminology, mentioning by name: Fran Miklosich, professor at Vienna University; Vatroslav Jagić, university professor in Saint Petersburg; Stojan Novaković, professor at the Great School in Belgrade ("presently a minister"); Jovan Pavlović, former assistant professor at the Belgrade Great School; Laza Kostić, former secretary of the Serbian diplomatic mission to St Petersburg; professor Pero Budmani from Zagreb; professors Luko Zore and F. Kastropeli from Dubrovnik; and "the late Vuk Vrčević, vice-consul [resting] in peace in Dubrovnik".⁴¹

3.2. *Foreign associates*

Least known, however, is the contribution made by Bogišić's foreign associates. In two texts, one of which was published posthumously, Bogišić expresses his gratitude to the five foreign legal experts who helped him with the preparation of the Code and cites their names and posts: R. Dareste, advisor to the Court of Appeals and member of the Institut de France, Paris; C. Glasson, professor of law and member of the Institut de France, Paris; C. Bluntschli, professor of law in Heidelberg during the last years of his academic career; J. Neubauer, advisor to the Appeals Committee for the editing of the German civil code; K. Dickel, professor of law in Berlin. The first time that Bogišić expressed gratitude to his foreign associates, as well as friends who helped him with technical terms, was in a text published in Brussels in 1901 by the *Révue de Droit international et Législation compare*. These names of Bogišić's helpers are also mentioned in his uncompleted

³⁸ Ibid., 426, 427.

³⁹ On discussions of the two drafts of the code, see Bojović 1992; Luković 2004.

⁴⁰ Hence the epistolary form of Bogišić's text "Stručno nazivlje u zakonima" [Technical Terminology in Laws] and its subtitle: A Letter to a Philologist Friend. The text was contributed to the magazine *Pravo* (published in Split) in 1876, see Bogišić 1967, 152, 153, and 1986, 87–99.

⁴¹ Bogišić 1967, 152–153.

study, edited and published by T. Nikčević in 1967 under the title *Method and System of Codifying Property Law in Montenegro*.

Most information on Bogišić's collaboration with "foreign" legal experts can be found in W. Zimmermann⁴² and S. Pupovci,⁴³ who have done most to reconstruct his biography from the archival material. This particular issue is best elucidated from documents kept in the Russian archives, as Bogišić sent the Russian ministries detailed progress reports.⁴⁴

Zimmermann notes a "surprising connection" between the Montenegrin Code, the historical school of law and the *Privatrechtliches Gesetzbuch für den Kanton Zürich* of 1854–56⁴⁵ drawn up by Bluntschli⁴⁶ as a continuation of F. L. Keller's work of 1840. Bluntschli's Code was the greatest contribution to Swiss nineteenth-century legislation, succeeding as it did in bridging the gap between Swiss legal tradition and contemporary civil law. It is devoid of abstractions and couched in simple language, which is also characteristic of Bogišić's Code. From 1877 to 1879, Bluntschli was a member of an expert committee for Swiss contractual law. In April 1881, Bogišić met with Bluntschli for three days of consultation on "some important and contentious issues".⁴⁷ However, Bluntschli's death in October the same year deprived Bogišić of further assistance of this acknowledged expert.

Bogišić had a longstanding collaboration with Wilhelm C. Neubauer, a member of the German Appeals Court and secretary to the commission working on the German civil code. The possibility of collaboration was discussed in Berlin as early as July 1878, as Bogišić wished to be kept informed on the progress of the German commission.⁴⁸ In May 1880, he revisited Berlin for a fortnight to consult with Neubauer. The following year, there were further three-day consultations "on some important and contentious issues". He then left for Prague, spent four days there consulting with the professor of civil law Anton Randa, and then travelled to Vienna for four

⁴² See Zimmermann 1962.

⁴³ See Pupovci 2004.

⁴⁴ Cf. Montenegrin Codes III, 449–451; Pupovci 2004, 255–279.

⁴⁵ Zimmermann 1962, 5.

⁴⁶ Johann Caspar Bluntschli (1808–1881), a practising lawyer and university professor (Zurich, Munich, Heidelberg), advocated the introduction of "local" (German) law in place of Roman law which had held precedence until then; cf. *Deutsche Biographische Enzyklopädie*. Bogišić attended Bluntschli's lectures in Munich for a semester, which greatly helped to crystalize the main direction of his studies, cf. Zimmermann 1962, 38.

⁴⁷ Montenegrin Codes III, 450; Zimmermann 1962, 189, 471.

⁴⁸ Montenegrin Codes III, 450.

days of “negotiations” with professor L. von Stein,⁴⁹ whose student he had been in Vienna.⁵⁰

While in Montenegro to discuss the first draft of the Code, sometime between May 1881 and February 1882 Bogišić received the first chapters of the draft of the German civil code from Neubauer.⁵¹ He returned to Paris in February 1882, and in May he was again in Berlin in order to “confer on some issues that had arisen during discussion of the first Montenegrin code” with Neubauer and other members of the German codification commission.⁵² In October 1882, Bogišić had separate consultations with high-ranking officials of the Russian ministries on his further work on the Montenegrin Code, at which time a special protocol was adopted. According to it, Bogišić undertook to translate the final version into German or French, and to discuss the draft with distinguished European lawyers.⁵³

Bogišić designates Neubauer as his chief consultant. In March 1883, on Bogišić’s return voyage from Saint Petersburg to Paris, the two of them met in Berlin so as to “set the time and place for discussing the draft”.⁵⁴ At the end of April, Bogišić hurried off to Vienna, where he engaged three students from the South-Slavic regions for the purpose of translating his draft of the Code into German.⁵⁵ The German codification commission commended Bogišić’s draft.⁵⁶ However, that year Neubauer was only able to spare “two weeks” for him in late August and early September. Immediately prior and subsequent to his consultations with Neubauer, Bogišić discussed the draft in Berlin with “a judge engaged in theoretical work”.⁵⁷ The judge was Karl Dickel.⁵⁸ When the Code came into force in 1888, Dickel gave its

⁴⁹ Lorenz von Stein (1815–1890), jurist, politician, university professor, lectured in the national economy; opposed to the integration of Schleswig-Holstein into the Kingdom of Denmark; actively involved in the German nationalist movement 1848/49 in Kiel, his hometown, but, deprived of professorship, left his homeland; for some years a journalist in Augsburg, moved in 1855 to Vienna, where he taught as a very influential university professor for more than thirty years; cf. *Deutsche Biographische Enzyklopädie*.

⁵⁰ Zimmermann 1962, 189, 471.

⁵¹ Montenegrin Codes III, 431, 432.

⁵² *Ibid.*, 433, 455.

⁵³ Pupovci 2004, 264.

⁵⁴ Montenegrin Codes III, 439.

⁵⁵ *Ibid.*, 440.

⁵⁶ Martinović 1958, 219; Zimmermann 1962, 498; Montenegrin Codes III, 442.

⁵⁷ Montenegrin Codes III, 440–441.

⁵⁸ Karl Philipp Dickel (1853–1920), a judge in the area of civil law in various types of courts in Berlin; from 1890, senior lecturer at the Forst-Akademie in Eberswalde, and

detailed presentation before the Society of Jurists (*Juristenverein*) in Berlin in early 1889.⁵⁹

Upon his return to Paris, Bogišić spent the time until July 1884 putting the finishing touches to the Code, visiting Berlin for five-day consultations on “some issues which have not been resolved in correspondence”.⁶⁰ In September he visited Budapest for four days, where he received the complete draft of the new Hungarian civil code, the result of the fifteen-year work of a special commission. According to Bogišić, it did not provide “anything of interest to his task”.⁶¹

Although Bogišić’s official reports to the Russian ministries make no specific reference to his collaboration with French law experts, in January 1875 he announces his choice of Paris as the place of his further residence since it “provides the best working conditions.” Apart from the rich National Library and the specialized library of the Société de la Législation comparée, there also were “several acquaintances among the good professors of law”.⁶² Bogišić was indeed in lively contact with French law experts, of whom, however, he mentions only two by name: Dareste⁶³ and Glasson.⁶⁴

Legal experts in Paris had been following Bogišić’s work on the Code and he himself wrote of his work. He published a booklet in French *On the Montenegrin Civil Code — A Few Words on the Principles and Methods Used in Drafting*, subtitled: *A Letter to a Friend*,⁶⁵ first in Paris in 1886 and then

from 1899 professor of German civil and procedural law at the University of Berlin; cf. *Deutsche Biographische Enzyklopädie*.

⁵⁹ Pupovci 2004, 300, 388.

⁶⁰ Montenegrin Codes III, 451, 457.

⁶¹ *Ibid.*, 451, 457.

⁶² *Ibid.*, 355.

⁶³ Rodolphe-Madeleine Cléophas Dareste de la Chavanne (1824–1911), lawyer and philologist by education, author of numerous works in the field of law; in 1847–1877 worked as a lawyer, in 1877–1899 as counsellor and judge of the Court of Appeals in Paris; very active in barristers’ and legal associations, president of the Société de législation comparée and member and president of the Académie des sciences morales et politiques of the Institut de France in Paris; cf. *Notices biographiques* 1907.

⁶⁴ Ernest Désiré Glasson (1839–1907), lawyer 1860–1865; substitute professor (suppléant) at the Faculty of Law and the lycée in Strasbourg; in 1865–1907, he practised law and lectured at the Faculty of Law in Nancy, and in 1867–1907 was professor of civil and procedural law and the history of law at the University of Paris; for a time he was a professor at the Ecole libre des sciences politiques; he was a member of the Conseil supérieur de l’instruction publique and member and president of the Académie des sciences morales et politiques of the Institut de France; cf. *Notices biographiques* 1907.

⁶⁵ The “friend” was in fact Dareste, at the time secretary to the Société de la législation comparée in Paris, of which Bogišić was a foreign member.

in Brussels in 1888.⁶⁶ Another study published in Brussels was devoted to a section of the Code: “On the rural family type known as *Inokosna* among the Serbs and Croats”.⁶⁷ In 1884, he became a corresponding member of the Académie des sciences morales et politiques⁶⁸ of the distinguished Institut de France and his reputation grew in that country. Thus in May 1888 we find Dareste reading a report on the Montenegrin Code before the Institut de France and expressing himself very favourably on Bogišić’s work.⁶⁹ In 1892, Dareste and Albert Rivière published a French translation of the Code.⁷⁰

Bibliography

- Bakotić, L. 1938. *Srbi u Dalmaciji. Od pada Mletačke republike do ujedinjenja*. Belgrade.
- Bogišić, V. 1938 [1902]. “Autobiografija”. Repr. from the almanach *Dubrovnik* for the years 1900, 1901, 1902. Dubrovnik 1902. In *Spomenica Valtazara Bogišića o tridesetogodišnjici njegove smrti*. Dubrovnik, 57–134.
- 1938. “Bogišićevi autobiografski koncepti”. In *Spomenica Valtazara Bogišića o tridesetogodišnjici njegove smrti*. Dubrovnik, 33–55.
- 1967. *Metod i sistem kodifikacije imovinskog prava u Crnoj Gori*. Ed. T. Nikčević. Belgrade: SANU, Sp. ed. CDIX.
- 1984. *Pravni običaji u Crnoj Gori, Hercegovini i Albaniji (Anketa iz 1873. g.)*. Ed. T. Nikčević. Titograd: CANU, Ist. izvori 2.
- 1986. *Izabrana dela i Opšti imovinski zakonik za Crnu Goru*. Ed. J. Danilović. Belgrade: NIU Službeni list.
- 1999. *Bogišić o sebi i drugi o Bogišiću*. Ed. and preface M. Čizmović. Belgrade–Podgorica.
- Bojović, J. R. 1992. *Usvajanje teksta Opšteg imovinskog zakonika za Knjaževinu Crnu Goru*. Podgorica.
- Deutsche Biographische Enzyklopädie*. Vols. 1–9. Munich–New Providence–London–Paris, 1995–1998.
- Djivanović, S. 1986. “Bibliografija radova, rasprava i članaka o Bogišiću u god. 1984–1985”. In *Svečani skup u povodu 150. obljetnice rođenja akademika Valtazara Bogišića održan u Cavtatu 11. svibnja 1985*. Cavtat, 60–63.
- Ivanišin, N. 1962. “Jagićeva pisma Bogišiću”. *Arhivski vjesnik* 4–5 (Zagreb), 9–97.

⁶⁶ V. Bogišić, *A propos du Code civil du Monténégro. Quelques mots sur les principes et la méthode suivis dans la codification du droit civil au Monténégro. Lettre à un ami* (Paris 1886); the text was also published in the *Bulletin de la Société de législation comparée* 17 (Brussels 1887/88), 483–497.

⁶⁷ V. Bogišić, “D’une forme particulière dite *Inokosna* de la famille rurale chez les Serbes et les Croates”, *Revue de droit international et législation comparée* 16 (1884), 374–409.

⁶⁸ Montenegrin Codes III, 443.

⁶⁹ Pupovci 2004, 300, 388.

⁷⁰ Martinović 1958, 277.

- Jagić, V. 1930. *Spomeni mojega života. I deo (1838–1880)*. Belgrade.
- Jovanović, R. 1977. *Politički odnosi Crne Gore i Srbije*. Cetinje.
- Luković, M. 1994. *Razvoj srpskoga pravnog stila. Prilog istoriji jezika i prava u Srbiji*. Belgrade.
- 2004. “Jezičko oblikovanje Opštega imovinskog zakonika”. *Arhiv za pravne i društvene nauke* 3–4 (Belgrade), 241–288.
- Martinović, N. S. 1958. *Valtazar Bogišić. I: Istorija kodifikacije crnogorskog imovinskog prava*. Cetinje.
- 1964. *Valtazar Bogišić. II: Upitnik ankete za opisivanje pravnih običaja Crnogoraca*. Cetinje.
- Medaković, D. 1998. *Srbi u Beču*. Novi Sad.
- Montenegrin Codes III: *Crnogorski zakonici 1796–1916. Pravni akti od značaja za istoriju državnosti Crne Gore. Zbornik dokumenata*. III. Eds. B. Pavičević and R. Raspopović. Podgorica 1998.
- Nedeljković, B. 1968. “Prepiska Stojana Novakovića i Valtazara Bogišića”. *Zbornik SANU za istoriju, jezik i književnost srpskog naroda XXVIII* (Belgrade).
- Nikčević, T. 1967. “O naučnom metodu V. Bogišića i njegovoj raspravi ‘Metod i sistem kodifikacije imovinskog prava u Crnoj Gori’”. In *Valtazar Bogišić. Metod i sistem kodifikacije imovinskog prava u Crnoj Gori*. Ed. T. Nikčević. Belgrade, 1–35.
- 1971. *Postanak i pokušaj prerade građanskog zakonika Kneževine Srbije*. Belgrade.
- Notices bibliographiques 1907: Notices biographiques et bibliographiques des membres titulaires, membres libres et associés étrangers de l'Académie des Sciences morales et politiques*. Paris.
- Novak, V. 1960. “Valtazar Bogišić i Franjo Rački. Prepiska (1866–1893)”, *Zbornik SANU za istoriju, jezik i književnost srpskog naroda XXV* (Belgrade).
- Popović, Vojvoda S. 1995. *Memoari*. Ed. J. Bojović and N. Rakočević. Cetinje–Podgorica.
- Pupovci, S. 1996. “Valtazar Bogišić u svetlu dokumenata iz ruskih arhiva”, *Pravni život* 7–8 (Belgrade), 5–63.
- 2004. *Valtazar Bogišić. Život i djelo*. Podgorica.
- Sirotković, H. 1989. “Ocena prof. Koste Vojnovića (čitana u Jazu 9. ožujka 1889) o značenju i znanstvenoj vrijednosti crnogorskog Opšteg imovinskog zakonika”. In *Stogodišnjica Opšteg imovinskog zakonika za Crnu Goru*. Titograd: CANU, 57–75.
- Zimmermann, W. G. 1962. *Valtazar Bogišić, 1834–1908. Ein Beitrag zur südslawischen Geistes- und Rechtsgeschichte im 19. Jahrhundert*. Wiesbaden.

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