Establishment of legal system of the Czechoslovak Republic (1918)[1]

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Establishment of legal system of the Czechoslovak Republic (1918). The contribution focuses on the establishment of the Czechoslovak legal system in 1918. It is based on an analysis of so-called "reception norm", being connected to the problems of continuity of law and the problems of sources of law, ending up with the issues of overcoming legal trialism and dualism in a process known as unification of law (to be reached only in 1950).

Key words: *reception of law, unification of law, continuity of law*

Introduction

The submitted contribution addresses the issue of establishment of the Czechoslovak legal system in 1918. It is based on the analysis of so-called "reception norm", being connected to the problems of continuity of law and the problems of sources of law, ending up with the issues of overcoming legal trialism and dualism, that are common for several interwar states.

First Czechoslovak act and reception of law

The first act of the Czechoslovak state (the final decision on its form as a republic had not been made yet) was an act hurriedly prepared by A. Rašín[2] overnight from 27 to 28 October 1918. The public learned about this act from the press and posters on the following day. In a partially modified version it was published under no. 11 in the Collection of Laws and became known as so-called "reception norm"[3]. Reception of law means adoption of law; this act thus primarily (among others) established a legal system of the new Czechoslovak State, not on "greenfield", but by the reception – adoption of existing legal system of the predecessor state of Czechoslovakia, Austria-Hungary. For his reason the act is (inaccurately) called "reception norm".[4] However, as

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[2] The act is based on an extensive issues paper of the law expert Pantůček, which however was not usable because of its scope (33 articles) and content (some issues were only outlined, the state president should have powers of a dictator). See LACO, K.: Constitution of the pre-Munich Czechoslovak Republic and Constitution of the Czechoslovak Socialist Republic 1. Bratislava: Vydavateľstvo SAS, 1966, p. 98.

[3] HORÁK, O.: Foundation of Czechoslovakia and reception of law. To the legal nature and importance of the Act no. 11/1918 Collection of Laws and Regulations, taking into account the issue of reception of the legal system. In *Právněhistorické studie*, Volume 38, 2007, pp. 153-169.

[4] To the issue of reception see also the chapter on reception and modernisation of law in EÖRSI, Gy.: Comparative Civil (Private) Law : Law Types, Law Groups, The Roads of Legal Development. Budapest:

the terms "norm" and "regulation" are not identical and this regulation contained the reception norm only as one (or two) of the norms, this regulation as a whole cannot be called "reception regulation" , or even "reception norm". Also the name of the regulation was "About foundation of the independent Czechoslovak State" – the first sentence namely stated: "The independent Czechoslovak State entered into life",[5] and was followed by five articles published by "the National Committee in the name of Czechoslovak nation as the executor of state sovereignty". Article 1 provides that the form of the Czechoslovak State shall be determined by the National Assembly following agreement with the Czechoslovak National Council in Paris. It added that the National Committee was a body expressing the unanimous will of the nation as well as executor of state sovereignty. It means that the body issuing this act proclaimed itself therein as a body of the unanimous will of the nation. Article 2 was a reception norm itself, stating that "all existing regional („Länder") and imperial acts and regulations shall provisionally remain in force." Article 3 further provides that all self-governing, state, county, regional ("Länder"), district, and in particular local authorities shall be subordinated to the National Committee and perform their functions according to existing acts and regulations[6] (maybe the second reception norm in this regulation). Beside of confirmation of reception, this article pursued the objective to win control over the public power apparatus, which in the Czech conditions was not a big problem, but in Slovakia, as we know, the Hungarian clerks subordinated themselves to the new authority unwillingly.[7] Article 4 addresses the entry into force of the regulation – the date of publication, i.e. 28 October 1918, rather than the date of proclamation in the official collection, i.e. 6 November 1918. But paradoxically, the wording published in the Collection of Laws and Regulations[8] is regarded as authentic (there were differences between the wording published in the Collection of Laws and Regulations and the initial wording). Finally, Article 5 imposed on the National Committee the obligation to implement this act – i.e. the body issuing the act and proclaiming itself as executor of state sovereignty imposed the obligation to implement this act on itself. In revolution conditions it thus temporarily concentrated legislative and executive powers. The act was signed by A. Rašín, Fr. Soukup, A. Švehla, J. Stříbrný, and V. Šrobár for the Slovaks.[9]

Akadémiai Kiadó, 1979, p. 562-569. And also HORÁK, O.: The issue of reception and civil codes. In SCHELLE, K. (ed.). *Development of legal codifications*. Brno: Masaryk University, 2004, pp. 150-164.

[5] About the constitutional importance of preamble of this content see BEŇA, J.: Development of Slovak legal system. Banská Bystrica: Matej Bel University, 2001, p. 19.

[6] Slovak version of the Act in Article 3 also contained this explanatory note: „i.e. within the Slovak territory according to XLIV. Article from 1868. Slovak language". See: Documents of the Slovak national identity and statehood I. Bratislava: National literary centre, 1998, pp. 503-505.

[7] The Ministry holding full powers for administration of Slovakia ensured reliability and performance of the administrative apparatus.

[8] LACO, K.: Constitution of the pre-Munich Czechoslovak Republic and Constitution of the Czechoslovak Socialist Republic 1. Bratislava: Vydavateľstvo SAS, 1966, p. 97.

[9] For the detailed comment to the Act see VOJÁČEK, L.: First Czechoslovak act. An attempt at a late comment. Prague: Wolters Kluwer, 2018. 379 p.

The causes of the differences between the two wordings of the Act on Foundation of the Independent Czechoslovak State are not explained in a fully satisfactory manner.[10] The differences concerned, among others, Article 1. Whereas its version published in newspapers provides that the form of the state shall be determined by the National Assembly with the Czechoslovak National Council (CSNC) in Paris as bodies expressing the unanimous will of the nation and that the National Committee shall execute state sovereignty inside the state until then, the version published in the Collection of Laws and Regulations (i.e. authentic, binding wording of the act) equally provides that the form of the state shall be determined by the National Assembly following agreement with CSNC in Paris, but it only designates the National Committee as the body expressing the unanimous will of the nation. The limitation according to which the National Committee should have executed state sovereignty inside the state until the determination of the form of the state[11], was also omitted in this version of Article 1. Another difference was in Article 5, where the initial wording entrusted with implementation of the act the "presidency" of the National Committee.[12]

However, in this contribution we will address the reception of existing Austria-Hungarian legal system as an instrument of establishment of a new Czechoslovak legal system, rather than the text of the Act. As this reception norm (norms) cancelled the operation and effectiveness of these legal norms and regulations as norms and regulations of the existing state (Austria-Hungary) and simultaneously took them over as norms and regulations of the new (Czechoslovak) state,[13] the provision of this Act (no. 11/1918 of the Collection of Laws and Regulations) that "the regulations shall provisionally remain in force" can be regarded as incorrect. It namely did not mean continuation of the old regulations, Austrian or Hungarian, but *sui generis* origin of new regulations – Czechoslovak ones. Due to this ambivalent function of the reception norm it cannot be claimed that the Austrian and Hungarian regulations were valid the territory of Czechoslovakia – by the reception these regulations changed to Czech and Slovak or Czechoslovak ones, which were different in the Czech regions (where the former Austrian law was adopted) and in Slovakia and Ruthenia (where the former Hungarian law was adopted). We can talk about "Slovak law"[14] only in the territorial sense; in this context it would be more appropriate to talk about the Czechoslovak legal system valid in Czech regions, on one hand, and about the Czechoslovak legal system valid in Slovakia and Ruthenia, on the other hand.

Also the formulation that "all acts and regulations shall provisionally remain in force" is problematic – it would mean also reception of regulations regulating institutes that are typical for a monarchy, which however would be in stark contrast with the new

[10] LACO, K.: Constitution of the pre-Munich Czechoslovak Republic and Constitution of the Czechoslovak Socialist Republic 1. Bratislava: Vydavateľstvo SAS, 1966, p. 102, note no. 7. This issue is not addressed by this study.

[11] Ibidem, p. 100.

[12] For the full wording of the initial draft see ibidem, pp. 97-98.

[13] See BEŇA, J.: Development of the Slovak legal system. Banská Bystrica: Matej Bel University, 2001, pp. 20-21.

[14] Ibidem, p. 27.

character of the state. Therefore, the limits of reception were later determined by the Constitution from 1920.[15]

However, much bigger problem presented a formulation indicating only regional ("Länder") and imperial acts and regulations as those that "shall provisionally remain in force". The legislator either did not realise the specific sources of Hungarian law (e.g. common law), or left them out purposefully to terminate their validity in the territory of the Czechoslovak state, resp. its Slovak and Ruthenian regions. The first possibility is probably correct – otherwise a legal vacuum in the important sphere of private law would arise in the territory of Slovakia and Ruthenia. This assumption is also supported by the legal practice of the first Republic, which regarded as sources of law, beside of the forms of legal regulations stipulated by the Constitutional Charter, other formal sources of law, specific for the former Hungarian legal system.[16] Therefore, some theoreticians even came with the idea of so-called "concludent reception" (Hexner),[17] according to which the state tacitly adopted also common law and decisions of Curia Regis (from the period of 1912-1918, having the force of law, of two kinds – plenary decisions and decisions of legal uniformity), as later proved by the judicial practice.

Consequently, acts adopted by the Czechoslovak National Assembly (or the National Committee) as well as acts that became part of the legal system by reception, can be regarded as sources of Czechoslovak law. The same holds for regulations as another source of Czechoslovak law. In Slovakia and Ruthenia common law as basic source of private law, reflected among others in court rulings, and decisions of Curia Regis from the period of 1912-1918, must also be regarded a source of law. However, after the establishment of the Czechoslovak Supreme Court (by Act no. 5/1918 of the Collection of Laws and Regulations), the question was raised whether preceding binding decisions of the Hungarian Curia Regis should or should not be binding for the Supreme Court. The prevailing opinion was negative, which manifested itself in the juridical practice of the Supreme Court – specifically in the decision of 3 December 1934 Pres. 912/34, no. 1890, in which the Supreme Court deviated from the decision of the Curia Regis no. 8 of 19 February 1916.[18] However, there also were opinions that the binding power of decisions of Curia Regis continued.[19] An interesting opinion was expressed by Ernest Ziegler[20] who claimed that decisions of legal uniformity and plenary decisions issued and

[15] See HORÁK, O.: Issue of reception and civil codes. In SCHELLE, K. (ed.). *Development of legal codifications*. Brno: Masaryk University, 2004, pp. 150-164.

[16] For the historical legal analysis of development of these sources see LUBY, Š.: History of private law. Bratislava: Iura Edition, 2002. 626 p. For the theoretical view of common law see ROUČEK, F.: Civil law valid in Slovakia and Ruthenia. General Part I. Kroměříž: J. Gusek, 1927, p. 35 and the following.

[17] HEXNER, E.: Common law in the Czechoslovak Republic. In *Právny obzor*, Volume IX, 1926, pp. 497-502, 529-535, 561-570.

[18] FAJNOR, V., ZÁTURECKÝ, A.: Outline of private law valid in Slovakia and Ruthenia. Volume 3. Šamorín: Heuréka, 1998, p. 31, note no. 5.

[19] HORÁK, J.: Some questions regarding sources of civil law in the practice in Slovakia and Ruthenia. In *Právny obzor*, Volume VIII, 1925, p. 13.

[20] ZIEGLER, E.: Validity of plenary decisions and decisions of legal uniformity. In *Právny obzor*, Volume XVIII, 1935, p. 357.

proclaimed before 28 October 1918 could only be changed by a new decision of the 11-member Divisional Court; a session of the Divisional Court composed of eleven members convened ad hoc could even issue a new decision of legal uniformity, which allegedly would be binding for all courts from the 15th day after its publication in the Official Journal of the Czechoslovak Republic in Prague. The situation concerning sources of law was further complicated by Article 98 of the Constitutional Charter, providing that judges were only bound by an act. It would exclude also the application of common law, which however, as we know, was a source of law in the territory of Slovakia until 1950. It only did not evolve and remained in the state in which it was adopted,[21] because the Supreme Court in spite of the opinions that granted this power to it (Ziegler) basically ceased to further develop common law. The recognition of the authority of decisions of the Supreme Court was thus only factual; it was not supported by any legal norm regarding the decisions of the Supreme Court as a special source of law.[22] All attempts to "adapt" the legislative powers of the Hungarian Curia to the Supreme Court, making reference to the reception of Hungarian norms that regulated this power, failed – the opponents argued by the fully new character of the state and of its legal system.

Other specific sources of law in former Hungary (and later in Slovakia and Ruthenia), forgotten by "reception norm", were privileges and statutes. In interwar Czechoslovakia a statute could determine a valid private-law rule[23] in exceptional cases, when an act imposed this obligation – it concerned in particular city and regional statutes (legislative competence of the regional representation was regulated by Article 56 and Article 57 of the Act no. 125/1927 of the Collection of Laws and Regulations). Also on the basis of a legal power of attorney the regional presidents of Slovakia and Ruthenia could issue the cancellation and moving regulations, which also were sources of private law[24] (statutes as well as cancellation and moving regulations thus derived their authority from an act that permitted their publication). Privileges originating from royal charters issued before 1848 and granting private law privileges to the holders, e.g. to levy fair and market fees in a specified town or village, were preserved also in interwar Czechoslovakia, regardless of the fact that aristocracy had been abolished by an act.[25] The abolition of aristocracy by Act no. 61/1918 of the Collection of Laws and Regulations namely did not influence the private-law position of the former aristocrats, although the right to collect e.g. the said fair and market fees was a private law privilege. It was also used for justification of the different legal regulation for the former aristocrats that persisted especially in family law.

[21] LUBY, Š.: Unification efforts in the area of Czechoslovak private law in the period of 1918–1948. In *Právny obzor*, Volume L, 1967, no. 6, p. 573.

[22] For the complexity of this issue see LACLAVÍKOVÁ, M.: Reception of common law and law of decisions of Curia Regis in the first Czechoslovak Republic (contribution to the history of private law in Slovakia). In *Acta Universitatis Tyrnaviensis, Iuridica*. Trnava: Faculty of Law of Trnava University in Trnava, 2005, pp. 149-167.

[23] FAJNOR, V., ZÁTURECKÝ, A.: Outline of private law valid in Slovakia and Ruthenia. 3rd edition. Šamorín: Heuréka, 1998, p. 32.

[24] Ibidem.

[25] Ibidem.

The result of reception thus was that individual social classes were subject to different law. Moreover – in view of the connection of the Czech regions, Slovakia and Ruthenia that originated, on one hand, from the Austrian and, on the other hand, from the Hungarian part of the former monarchy – different law was applied in different regions of the republic (although it is sometimes indicated that after the short-term introduction of Austrian law in former Hungary in the period of 1850-1861 the Hungarian judicial practice also started to adopt the ideas and legal formulations of Austrian law). However the Slovak legal scientist Štefan Luby claimed that it was only a purposeful argumentation of Czech lawyers, who were not familiarised with Hungarian law and tried to enforce former Austrian law also in the conditions of Czechoslovakia.[26] But it is true that different legal regulations and norms regulating the same relations applied to different parts of the republic in the territory of Czechoslovakia until 1950. Initially even legal trialism (with German law in the westernmost regions of the republic) was applied, which was later replaced by "mere" dualism (with former Austrian and former Hungarian law). Beside of the existing differences between legal regulations valid in Czech regions and in Slovakia (and Ruthenia), according to provisions of the Act no. 76/1920 of the Collection of Laws and Regulations, by which the region of Hlučínsko was incorporated in Czechoslovakia, the existing German legal norms continued to apply within its territory, "as long as this practice was compatible with Czechoslovak sovereignty".[27] However, Czechoslovak acts proclaimed after 1 May 1920 entered into force in the region of Hlučínsko, too. The differences between the previous legal system and the Czechoslovak legal system should have been eliminated by government regulations. The Act no. 76/1920 of the Collection of Laws and Regulations in this sense empowered the government to take the required measures. The application of different acts and regulations was gradually extended to the region of Hlučínsko: acts and regulations from the area of private law and court administration by Regulation no. 152/1920 of the Collection of Laws and Regulations, Czechoslovak acts and regulations from the area of public administration by Regulation no. 321/1920 of the Collection of Laws and Regulations, acts and regulations from the area of military administration by Regulation no. 456/1920 of the Collection of Laws and Regulations, and finally administration of taxes, extension of powers of the police and other matters by other regulations. It basically meant the transition from legal trialism to legal dualism, except for legal regulation of some minor issues. However, this dualism was not easy to overcome.

Beside of the undesirable diversity of regulation of the same relations within the territory of the unitarian republic by different legal norms, the problem of a dual legal

[26] LUBY, Š.: Unification efforts in the area of Czechoslovak private law in the period of 1918–1948. In *Právny obzor*, Volume L, 1967, no. 6, pp. 574-575.

[27] However, within the territory of regions of Vitorazsko and Valčicko (Valticko) the Czechoslovak legal system was applied from the date of annexation, i.e. 30 July 1920. LACO, K.: Constitution of the pre-Munich Czechoslovak socialist Republic and constitution of the Czechoslovak Socialist Republic 1. Bratislava: Vydavateľstvo SAS, 1966, p. 158. It also was applied within the territories gained on the Czechoslovak-Prussian border by the treaty with Germany (no. 218/1933 of the Collection of Laws and Regulations) – See Government Regulation no. 15/1934 in the Collection of Laws and Regulations

system was multiplied by the fact that a large portion of law valid in Slovakia and Ruthenia only existed in Hungarian version. Certain efforts at translation of basic regulations can be observed in works issued under the lead of Emil Stodola;[28] another exceptional achievement was the work entitled Comment to the Civil Law by Rouček and Sedláček. Immediately after the foundation of the Republic both Slovak lawyers, members of Slovak Lawyer´s Society[29], came with the idea of a Hungarian-Slovak dictionary of legal terms.[30]

The duality of the legal system should have been a temporary, short-term phenomenon – also the reception norm in the Act no. 11/1918 of the Collection of Laws and Regulations mentioned "temporary" validity of adopted legal norms – "they shall provisionally remain in force". The establishment of a new, Czechoslovak legal system was envisaged. But, of course, the new legal system cannot be built up immediately; its development takes some time, whereby during this period the previous different legal means are left in force and further used. Formulations on the temporary nature were thus contained also in other existing reception norms throughout Europe or in all states that were coping with the problem of reception of law after territorial changes caused by World War I. In these countries their "temporary validity" usually lasted longer than they wished.[31]

For example in Austria, which after the World War I gained Burgenland belonging to former Hungary, the provisional national assembly by its resolution no. 1 of 30 October 1918 temporarily adopted Austrian and Hungarian legal regulations. This fact was also confirmed by the Constitutional Act no. 85 of 25 January 1921, which "provisionally" left in force in Burgenland the old Hungarian law and, as its authentic wording, the Hungarian text.[32] In Romania the principles of reception and unification were reflected in the Constitution of 29 March 1923, where Article 137 provided that all codes and laws valid in different parts of the Romanian state (i.e. system of the old Romanian Kingdom, the Hungarian system in annexed Transylvania, the Austrian system in Bukovina and the Russian system in Bessarabia, and valid Islamic family, marital and succession law for the Muslims) would be revised in order to harmonise them with the constitution and to

[28] STODOLA, E.: Private law acts 1-3. Bratislava: Universum, 1926, 1928, 1930. 1150 p.

[29] About foundation of Slovak Lawyers´ Society see BAŘINKA, C.: Foundation of „Slovak Lawyers´ Society". In *Právny obzor*, Volume III, 1920, pp. 61-62. Fajnor was elected as president, the body of the Society was the scientific magazine *Právny obzor* of dr. Emil Stodola, who ceded it to the Society for free. See also OVEČKOVÁ, O., VOZÁR, J. et al.: A Centenary of the magazine Právny obzor 1917-2017. Bratislava: VEDA, 2017.

[30] STODOLA, E., ZÁTURECKÝ, A.: Draft Slovak legal nomenclature (Hungarian-Slovak legal terminology). Martin, 1919.

[31] See the development in France, Austria, Italy, Yugoslavia, Poland, Romania and CSR in articles FRITZ, J.: Unification problem elsewhere and in our country. In *Právny obzor*, Volume IX, 1926, p. 411-431; VAVERKA, F.: Unification problem in the legal systems of the states of post-war Central Europe. In *Právny obzor*, Volume XX, 1937, pp. 337-365. The most recent LACLAVÍKOVÁ, M.: Process of codification and unification in CSR in the context of development of interwar Central Europe, taking into account the area of private law. In *Private and public law of these days: Proceedings of the scientific conference of doctoral students of PF TU*. Trnava: PF TU, 2005, pp. 210-228.

[32] VAVERKA, F.: Unification problem in the legal systems of the states of post-war Central Europe. In *Právny obzor*, Volume XX, 1937, p. 347.

ensure uniformity of laws. The "old" acts should have remained in force until then. However, acts adopted after 1923 (after the entry into force of the new constitution) applied to the whole territory of Romania and therefore had a unification character.[33]

It was not only a problem of the East European states – e.g. also in France, which gained Alsace and Lorraine by the war, the Act no. 84 of 17 October 1919 expressed a principle that "until the introduction of French laws the territories of Alsace and Lorraine shall continue to be governed by the acts and regulations taken from Germany, which thus remain in force" (Article 3, Article 1).[34]

In all affected states the term "reception of law" was thus closely linked with the term "legal continuity of law" (conservation of law), and in the sense of "temporary validity" and its elimination also with the term and problem of unification of law; plus for example in Slovak conditions in the area of substantive civil law (general private law) not codified in that period, also with the equally difficult problem of codification of law.

Continuity of law

Reception norms, both explicit and concludent (e.g. in Poland), were the instrument of establishment of a new legal system, while conserving the content (i.e. continuity) of the existing adopted legal regulations. In terms of continuity of law, according to the normative theory of the period it was so-called "continuity of law" in the material sense. Formal continuity namely meant a situation where new acts by their content repeal the old ones, but derive their validity from the same basic norm (constitution), i.e. formally it is the same legal system, although it continuously changes. However, in case of material continuity a legal norm takes the content from another norm, but formally is regarded as a new norm – for example, when the state X takes over the legal system of the state Y, in whose territory it originated (which is our case), the norms have identical content, but formally are fully different.[35] Our statements of transformation of the Austrian and Hungarian norms and regulations to Czechoslovak ones, as well as all mentioned criticisms of formulation of the Act no. 11/1918 of the Collection of Laws and Regulations, or its reception norm, are also based on this normativist theory.

After World War II, when normativism and its school in Czechoslovakia faded away, the issue of continuity was addressed again by Štefan Luby, who however arrived at conclusions more or less identical with results of the normative theory,[36] although he did not regard himself as a normativist, because he also recognised non-legal factors. The most renowned Czech legal theoretician Viktor Knapp also contributed to the discussion debate in 1979. He regarded continuity as conservation of the legal system as a whole or at least of its part nearing the whole (i.e. he did not talk about continuity of individual

[33] Ibidem, p. 363.
[34] FRITZ, J.: Unification problem elsewhere and in our country. In *Právny obzor*, Volume IX, 1926, p. 427.
[35] WEYR, F.: System of Czechoslovak state law. 2nd edition. Prague: Fr. Borový, 1924, pp. 56-57.
[36] LUBY, Š.: Continuity. In *Právny obzor*, Volume XXVIII, 1945/46, p. 193.

regulations or institutes). He recognised legal continuity without or with qualifications[37] and defined which differentiation as formal legal continuity. On the other hand, he recognised so-called "class structure, type of law (bourgeois or socialist)."[38] He examined continuity in unity with its dialectic opposite – discontinuity, which expresses the relatively independent existence of individual stages or types and phases of the development of law.[39] Also according to Jozef Beňo, the term "continuity of law" did not exhaust itself only by reception of law, takeover of norms; in his opinion it was a type of takeover, which improves, develops and fills old forms by new content. Consequently, reception is only one of means of implementation of the first stage of continuity of law, i.e. takeover of normative material. The process of reception of law there ends, while the process of continuity of law enters its ownest stage – overcoming of what was taken over. According to him we can talk about continuity only in case of accumulation of two attributes, i.e. at the takeover and abolishment of elements of the previous development, which however – and this is the second condition – is the direct predecessor of this stage or phase of development. But according to J. Beňo reception may also mean the takeover of law from much older than the immediately preceding phase of development, as it was the case of reception of Roman law.[40]

When we combine the understandings of J. Beňo and the normativist school of František Weyr, reception of the immediately preceding legal system according to Beňo is basically material continuity as understood by the normativists. To them such reception fulfils the definition of the term "continuity"; unlike Beňo they do not require any other changes in the adopted content of legal norms (but it is understandable, if we compare the ideological views of reception from 1918 and after the World War II. In case of continuity in 1918 ideologization in the sense "higher-lower" was missing – the legal system of the monarchy was not regarded as a lower degree of development, reception was enough to assure continuity. The republic could without problems identify with the content of legal norms from the monarchy. It only made changes that were required by the change of the form of government from a monarchy to a republic; such thinking really did not give any reason for highlighting of discontinuity. On the other hand, the supporters of a brand new social system of popular democracy or socialism later needed to highlight discontinuity. According to them simple reception was not enough for fulfilment of the definition of the term "continuity"; continuity had to include a change, improvement, progress – although made gradually, during the existence of the regime. While the normativists could afford to distinguish between material continuity as reception at the moment of foundation of a new state or adoption of a new constitution (*Grundnorm*), and formal continuity, which occurred after the rise of a stable legal

[37] KNAPP, V.: Two ways of Czechoslovak law: Continuity and discontinuity (1918, 1945). In *Právník*, Volume CXVIII, no. 3, 1979, pp. 273-274.

[38] BEŇA, J.: Continuity in law. In *Právny obzor*, Volume 64, no. 4, 1981, p. 352.

[39] Ibidem, p. 354.

[40] Ibidem, pp. 350 a 355. Due to the different understanding of reception it is sometimes used the term "Romanisation of law", i.e. influence of Roman law on domestic law, instead of the term "reception of Roman law".

system, the new view tried to apply a dialectic approach – combination with an anti-thesis and overcoming of a thesis in synthesis.

From it follows a discrepancy between understanding of continuity of law in the first and second halves of the 20th century. The question is whether we still should insist on the progress element, or whether we can start to regard reception as continuity again and distinguish between continuity in two successive legal systems (material continuity) and continuity of the legal system itself, as its self-renewal by amendments being part of the same legal system, derived from the same basic norm (constitution).[41] In view of the absence of big constitutional changes and constitution of new legal systems, as well as the absence of ideological transformations in the recent period, the issues of continuity and discontinuity of individual legal institutes, norms or regulations should attract more attention than issues of continuity and discontinuity of the whole legal system.[42]

Unification of law

Unification of law in Czechoslovakia has certain common features with unifications that occurred in the same period in the other European countries, especially in the successor states of the former monarchies.

The main common feature is, of course, the effort to accelerate unification of legal norms inherited from the predecessor states that regulate the same issues in different regions of the new-founded state differently. The differences consist among others in authorities responsible for unification and in the unification procedure applied by the responsible authorities.

According to the unification procedure František Vaverka classified in 1937 states concerned by the issue of unification to A) states, in which unification was basically assimilation, i.e. extension of the valid legal system from the main territory to the territorial "increments" (France, Italy and Austria) and B) states, in which the unification problem is present in full extent, because it is linked to reception, issue of legal continuity and discontinuity, and often also to codification (Yugoslavia, Romania, Poland and Czechoslovakia).

Unification in the form of extension of the legal system of the dominant territory to smaller territorial increments was a quite simple and natural way in the states with indicated territorial characteristics. On the other hand, almost in all countries where more than one system was taken over, it was felt necessary to build up a new regime of the adapted legal system by combining unification with a reform and codification.

Special authorities were usually set up to ensure unification of the legal system within the territory of the state – either central government authorities (ministries) or autonomous, independent authorities (such as Polish codification commission); or such authorities

[41] One of the opinions says that also after 1989 progress of law against the previous period was observed, i.e. some authors still regard the requirement of progress as part of continuity of law as valid. See HORÁK, O.: The issue of reception and civil codes. In SCHELLE, K. (ed.) *Development of legal codifications*. Brno: Masaryk University, 2004, pp. 150-164.

[42] Also in: Topical issues of the theory of law. Bratislava: Wolters Kluwer, 2018, Chapter 11.

were not set up (or later abolished) and their functions were replaced by the executive power (government or president), which was more effective and successful with the unification efforts. As Vaverka says: "From the formal aspect the legal way was less viable than the transfer of legislative powers to the government. Unification by regulations was faster. There were also forms of accelerated proceedings in the legislative assembly, objections of the review of issued regulations and the joint unification committee of both legislative chambers, but they did not have large practical importance." He also points out that independent groups of professionals (commissions) worked out better than bureaucratic special institutions (offices). However, in addition to the different unification authorities, the mentioned states applied different methods of unification, which would deserve special attention too.

In Czechoslovakia we can find a number of apparent interfaces with the process of unification in other, already mentioned states, among others the setting up of a special unification authority (Ministry of Unification), with Italy the common (at least declared) effort to adapt law to the local conditions, with Austria the effort to create a collection of valid laws, and with Yugoslavia, Romania and Poland the linkage of the unification problem with codification. The difference is the declared ambition of France to simply extend French law (although also in Czechoslovakia such proposals regarding "Czech law"[43] appeared); in case of Italy and Austria the extensive powers given to the governments, in case of Yugoslavia the three-year period of execution of the legislative power by a ruler unlimited by the constitution, and in case of Romania the effort to introduce fully new, purely Romanian laws without excessive inclination to a specific foreign model; and finally in case of Poland, which initially showed similarities with Czechoslovakia, but later the government and the president started to participate in the unification process.

As regards the specific situation of Czechoslovakia, in the interest of gradual elimination of legal differences the Act no. 431/1919 of the Collection of Laws and Regulations set up the Ministry of Unification of Laws and Organisation of Administration, abbreviated Ministry of Unification (headed by Milan Hodža),[44] which however suffered by the lack of funds in the practice and ultimately did not play an important role in the process of unification.

The Ministry of Unification was set up also for reasons and due to problems related to the lack of Slovak lawyers, which did not allow staffing of all central offices with a sufficient number of Hungarian law experts. This lack of qualified staff should have been partially compensated by employees of the Ministry.[45]

[43] See SKŘEJPKOVÁ, P.: Successor states and further development of the General Civil Code. In: *Two hundred years of the General Civil Code*. Prague: Wolters Kluwer ČR, 2011, pp. 130-137.

[44] List of ministers: 1. Milan Hodža (1919–20), 2. Vavro Šrobár (1920), 3. Vladimír Fajnor (1920–21), 4. Ivan Dérer (1921–22), 5. Ivan Markovič (1922–25), 6. Leo Winter – responsible for administration of the ministry, 7. Ivan Dérer (1926), 8. Juraj Slávik – charged by administration, 9. Milan Hodža (1926–27), 10. Marek Gažík (1927–29), 11. Ľudovít Labaj (1929), 12. Anton Štefánek, 13. Ján Šrámek (until 1938), 14. Josef Fritz (1938), 15. Ladislav Feierabend (1938), 16. Jaroslav Krejčí (1938).

[45] HOETZEL, J., WEYR, F. (eds.): Dictionary of Czechoslovak public law, Volume V. Reprint. Prague: Eurolex Bohemia, 2000, p. 75.

According to the provisions of the Act no. 431/1919 of the Collection of Laws and Regulations the Ministry was set up temporarily and it should have been abolished once it has fulfilled the set aim (task) – unification of laws and administration within the territory of the Czechoslovak Republic.[46] Its competences were defined in detail by the Government Regulation no. 501/1921 of the Collection of Laws and Regulations. According to Article 1 of the regulation the Ministry should have prepared and submitted draft acts and regulations to unify legal norms that were left in force by the Act no. 11/1918 of the Collection of Laws and Regulations, providing they were still valid and not unified. The provision of Article 2 defined powers of the Ministry of Unification negatively – from its competence were excluded a) cases where certain legal situations were regulated by legal norms of only one of the adopted legal systems (e.g. in the area of old-age pension insurance Slovakia and Ruthenia did not have any act regulating this agenda before 1 January 1922), b) cases involving not only unification of existing legal regulations, but also their reform (but this term was not explained anywhere), c) laws and regulations regulating the new legal situation after 28 October 1918 and d) regulations to be issued for the implementation of unified acts. Article 3 of the Regulation provided that draft acts and regulations prepared by other authorities and regulating matters concerning Slovakia and Ruthenia should be timely notified to the Ministry for approval. In case of need the Ministry could have been invited to cooperation already during the preparatory works on such draft regulations. The provision of Article 4 required the Ministry to cooperate with other ministries or with other authorities and experts,[47] during works on regulations relating to accounting, as well as with the Supreme Audit Office, according to regulations that would be elaborated by the Ministry in cooperation with other ministries and approved by the government. It was possible to deviate from these regulations or to leave the unification on another ministry only in case of necessity; any disputes between the ministries should have been decided by the government. The government approved these working regulations in June 1924. The Ministry of Unification was left the possibility to independently work in:

a) political-administrative area (e.g. draft Act on the citizenship, on the right of domicile, on the use and change of the name, on population reporting, on the stay and reporting of foreigners, on the police, on "pushing" and competences of the ministries);

b) financial area (draft Act on the tax on weapons and hunting, gain prizes, spirits, sugar and mineral oils, and the draft Act on Sweeteners),

c) judicial area (the draft Act on the Civil Procedure Act, on expungement of record).

[46] The aim declared in the Act on the Ministry of Unification was only unification of acts (and administration), i.e. not unification of law (including other sources of law than acts and application of law, i.e. interpretation of law by court). Moreover this formulation did not take into account the fact that many issues of civil law in Slovakia were regulated by common law rather than by a special act. The declared aim was therefore formulated incorrectly.

[47] See e.g. the summary of original legislative works and cooperation with other ministries and authorities in the period of 1922–1925 in: About work of the Ministry of Unification in the last government period (1922–1925) : Speech of the minister Dr. Ivan Markovič departing from the Ministry of Unification on 11 December 1925. In *Publications of the Ministry of Unification of Laws and Organisation of Administration : Journal : Special supplement to Právny obzor*, Volume VII, 1925, notebook 10, pp. 2-10.

The provision of Article 5 of the Regulation no. 501/1921 of the Collection of Laws and Regulations treated a case where some ministry has already started working on tasks entrusted by Article 1 of this Regulation to the Ministry of Unification. In this case the works were not handed over to the Ministry of Unification, but the latter should have been only provided the widest support required for their finalisation.

The Ministry also provided to other authorities expert opinions and translated "Hungarian" legal sources into the state language – however the Ministry had to abandon this plan due to the lack of funds and to work with sources in Hungarian language, which forced its personnel to learn Hungarian or to engage new conceptual officers speaking Hungarian.[48]

On the basis of the aforesaid we can agree with Miriam Laclavíková who says that "the powers of the Ministry of Unification could be executed in the practice to a very limited extent. The Ministry of Unification was not politically independent and autonomous body... but (except for its political dependence) it was basically an "assisting" body for unification of norms in the sense that it fulfilled the function of a "consulting centre".[49] This is proved by the fact that in spite of the existence of the Ministry of Unification it was the Ministry of Justice which implemented the unification of civil law.

However, other ministries were active in the area of unification of law as well - unification efforts already manifested themselves in all branches of law, but especially in the area of private law, in particular civil and commercial,[50] where people were most sensitive to differences. In particular commercial law, different in western and eastern regions of the republic, could have decelerated the economic development of the country.[51] Non-neglectible and understandable are also efforts at unification of criminal law[52] providing to the state means for enforcement of legal norms and for the protection of interests of the state and individuals.

Therefore a wider expert public was interested in unification, too. The appeals to accelerated codification from Slovakia to the government and the legislative assembly came, among others, from the Chamber of Commerce and Industry in Bratislava, Banská Bystrica and Košice, the Central Union of Slovak Industry, the Business Panel in Bratislava, the Tradesmen´s Association in Turčiansky Svätý Martin, and Agricultural Council in Slovakia. From law community comments were submitted by: the Slovak and Ruthenian Lawyers´ Society, the Slovakian and Ruthenian Lawyers´ Congress, but also

[48] Ibidem, pp. 11-12.

[49] LACLAVÍKOVÁ, M.: Solution of the problem of unification and codification of private law norms in interwar Czechoslovakia and Poland. In: SCHELLE, K. (eds.) Development of legal codifications. Brno: Masaryk University, 2004, pp. 187-219, p. 199.

[50] See e.g. SCHROTZ, K.: Civil law in the first decade of the Czechoslovak Republic. In *Právny obzor*, Volume XI, 1928, p. 622-703; FUNDÁREK J.: Unification of commercial law. In *Právny obzor*, Volume XX, 1937, pp. 609-620.

[51] Although there were fully opposite views claiming that commercial law does not need unification. See Second Congress of Slovak Lawyers in Bratislava, held on 30 and 31 October 1920. In *Právny obzor*, Volume III, 1920, p. 68.

[52] MILOTA, A.: First decade of Czechoslovak criminal legislation. In *Právny obzor*, Volume XI, 1928, pp. 594-604.

by the Faculty of Law of Comenius University in Bratislava. Contributions of individuals, in particular teachers of the Faculty of Law, were published in the magazines *Právník*,[53] *Právny obzor*,[54] *Prúdy*, *Hospodárska politika*, *Hospodárske rozhľady*, *Hospodárstvo a právo*, but also in the daily press.[55]

However, in spite of the broad interest (or just because of it) the unification works advanced very slowly. Beside of the notorious financial problems of the Ministry of Unification, another reason of the slow unification was the fact that unlike other countries,[56] were unification was entrusted to the government and engaged experts, in Czechoslovakia not only professionals, but sometimes also the wide community participated in its preparation. Merely in Slovakia, the minister Dérer set up seven panels for individual branches of law (civil, public, financial, criminal, commercial, civil procedural and social).[57] Also the first Lawyers' Congress in Slovakia in 1935 proposed (unsuccessfully) the establishment of new panels at the Ministry of Unification according to the model of the former Slovak panels – the Codification Panel in Prague, the Unification and Reception Panel in Brno and the Republication and Translations Panel in Bratislava.[58]

According to the prevailing opinions the unification works should have been based on so-called "legislation archive" as a reliable source of valid texts of adopted Austrian and Hungarian norms. Their later republication[59] should have been the second step towards the unification of law. Finally, the stress was also laid on elaboration of a fixed unification plan and all the steps should have been taken by the way of an act, or even a constitutional act. However the results were not epochal – instead of a legislation archive only the Register of Czechoslovak Law (in 1936) was published as a private act; the problem of republication was in turn complicated by the Czechoslovakist question in which language – Czech, Slovak or both – the adopted norms should be republished. Imrich Karvaš recommended at

[53] See RÁTH, A.: Unification. In *Právník*, Volume LIX, 1920, pp. 153-162, 193-203.

[54] For example STODOLA, E.: About unification of law in the Czechoslovak Republic. In *Právny obzor*, Volume XX, 1937, pp. 413-416.

[55] KINDL, V.: Slovak unification initiatives from the period of 1935-37 and their reflection in legislation. In ŠOŠKOVÁ, I. (ed.) *To 75th birthday of professor Hubenák: Proceedings of the international legal history conference held on this occasion*. Banská Bystrica: Faculty of Law of Matej Bel University 2004, p. 23.

[56] They followed among others the unification process in France, Italy, Austria, Romania, but in particular in Poland and Yugoslavia as historically closest Slavonic states.

[57] The contribution of the Ministry of Unification in the supplement to *Právny obzor* from 1925 only mentions six panels – on civil law, on state and administrative law, on financial law, on political issues, on civil procedure and on criminal law – the panel on commercial law is missing (its members were not appointed and instead of the panel on socio-political legislation it mentions a panel on political issues. See About work of the Ministry of Unification in the last government period (1922 – 25) : Speech of the minister Dr. Ivan Markovič departing from the Ministry of Unification of 11 December 1925. In *Publications of the Ministry of unification of Laws and Organisation of Administration : Journal : Special supplement to Právny obzor*, Volume VIII, 1925, no. 10, p. 10.

[58] KINDL, V.: Slovak unification initiatives from the period of 1935-37 and their legislative outcome. In ŠOŠKOVÁ, I. (ed.) *To 75th birthday of professor Hubenák: Proceedings of the international legal history conference held on this occasion*. Banská Bystrica: Faculty of Law of Matej Bel University, 2004, pp. 23-25.

[59] LAŠTOVKA, K.: Republication of pre-revolution legal norms. In *Právny obzor*, Volume XIX, 1936, pp. 373-378; NERMUTH, A.: Unification and republication of adopted legal regulations. In Ibidem, pp. 473-478; HEXNER, E.: Publication of some adopted Austrian regulations. In Ibidem, pp. 36-46.

least publication of official translations according to the Polish model, when authentic wordings of laws could not be published. Although a draft Constitutional Act on Republication of Legal Norms was already under preparation, it finally was not discussed by the government. The last step, i.e. elaboration of a fixed unification plan, raised the most opposing views, when its authors could not agree even on the subjects of unification and the order of their unification; some even proposed to authorise the government for implementation of the unification of regulations (like in case of the region Hlučínsko), but this plan, too, was not implemented and unification continued at the slow rate.[60]

Finally we will take a brief look at the process of unification of civil, commercial and criminal law and its results.

In the branch of substantive civil law, including family law, the unification process was implemented within five subcommittees. Whereas the subcommittee on general part of the civil code and the obligation law subcommittee terminated their work already in December 1920, the family law subcommittee [61] worked until 1923 and published its proposal in 1924.[62] The Super Review Committee of the Ministry of Justice examined results of work of the subcommittees[63] at 321 meetings held between February 1926 and 4 November 1931. In 1932 the draft was printed and submitted for interministerial discussion, which however was very lengthy and therefore the draft was negotiated at verbal interministerial meetings held between June 1934 and July 1935. Finally, in 1937 the Government draft act, issuing the civil code, appeared in type. It was based on the draft from 1931, but from Section I on personal law and family law only the norms on persons were adopted to the government bill (Titles 2 to 5 of the draft from 1931, regulating family law, specifically marital law, legal relationship between parents and children, adoption, guardianship and support were not adopted in the bill). In 1937 the government bill was submitted to the National Assembly[64] (stenographic records of speeches of individual deputies and senators from the first reading were conserved), but because of the international political situation the government bill did not go through the whole legislative process.[65] Partially were unified in the area of personal law the Act on Reduction of the Age of Majority (447/1919 of the Collection of Laws and Regulations),

[60] KINDL, V.: Slovak unification initiatives from the period of 1935-37 and their reflection in legislation. In ŠOŠKOVÁ, I. (ed.) *To 75th birthday of professor Hubenák: Proceedings of the international legal history conference held on this occasion*. Banská Bystrica: Faculty of Law UMB, 2004, pp. 25-30.

[61] To unification of family law See ŠORL, R.: Marital property law in Slovakia a ABGB in 1848–1949. In: *Development of legal codifications*. Brno: Masaryk University, 2004, pp. 165-186.

[62] VESELÁ, R., SCHELLE, K.: Development of family law in the Czech Republic until 1945. In ŠOŠKOVÁ, I. (ed.) *To 75th birthday of professor Hubenák: Proceedings of the international legal history conference held on this occasion*. Banská Bystrica: Faculty of Law UMB, 2004, p. 193.

[63] Minutes of meetings of the Slovak Commission for Civil Law, published by Fr. Rouček. See ROUČEK, F.: *Revision of the Civil Code I*. Prague: Ministry of Unification of Laws and Organisation of Administration, 1923. 80 pp.

[64] See the draft in the form of senate press no. 425 from 1937. [quote 30.10.2018]. Available on the Internet: <www.psp.cz/eknih>.

[65] For details see ŠORL, R., GÁBRIŠ, T.: Civil law in Slovakia and unification of the legal system in the period of the first Czechoslovak Republic (1918-1938). In *Czechoslovak law and legal science in the interwar period (1918-1938) and their place in Central Europe. Volume 2*. Prague : Karolinum, 2010, pp. 646-718.

in family law the Act on Adoption (56/1928 of the Collection of Laws and Regulations), but especially so-called "marital amendment" (Act 320/1919 of the Collection of Laws and Regulations), in intellectual property law the Act on Copyright (218/1926 of the Collection of Laws and Regulations), or the Act on Publisher´s Contract (106/1923 of the Collection of Laws and Regulations) and others.

The Ministry of Unification of Laws and Organisation of Administration worked on unification of the Civil Procedure Code since 1922. The preliminary draft special Act on Jurisdiction was finalised already in 1923 and started to be discussed within the Prague Procedural Committee in October of the same year (in the Bratislava Procedural Committee in May of the following year). Working meetings of the panels on the unified legal system started in Prague in February 1926, in Bratislava in October 1926, and were successfully terminated first in Bratislava in September 1929 and then in Prague in October of the same year. Two introductory acts were proposed to these two procedural drafts, but the Ministry of Unification finally decided to approve a joint introductory act to both procedural acts. The final text of the bill was discussed in the committee in Bratislava in September 1928 and in Prague in March 1929.[66]

The Ministry of Unification prepared the final text of the whole bill in 1931 and published it as a draft Act on Jurisdiction and Civil Procedure Code. Results of the comments procedure were discussed by the Central Committee on Formal Civil Law in April 1933 and the final version together with the draft Civil Code was submitted in 1937 to the National Assembly,[67] where however it ended as infamously as the draft Civil Code.[68] From partial unifications we can mention the Act on Basic Provisions of the Noncontentious Legal Proceedings (100/1931 of the Collection of Laws and Regulations), or the Act no. 161/1921 of the Collection of Laws and Regulations, which amended some provisions of the Acts on Jurisdiction and Civil Proceedings and on Estate Hearing, etc.

In the branch of commercial law the Ministry of Justice in 1929 set up the Committee on Unification of Commercial Law. However, result of its work in 1937 only included sections "traders" and "companies" – regulation of commercial acts was fully absent. Also this bill was published in 1937.[69] Partially unified norms were the extension of the Czech trade licensing system (Act no. 259/1924 of the Collection of Laws and Regulations), and Act on Limited Liability Companies (Act no. 271/1920 of the Collection of Laws and Regulations) to Slovakia. The Ministry also issued a regulation on foundation of limited liability companies and joint-stock companies, increase of the share capital and foundation of branch institutes (465/1920 of the Collection of Laws and Regulations), and others.[70]

[66] Speech of the minister Šrámek in the Chamber of Deputies of the National Assembly at 94th meeting on 22 April 1937.

[67] See senate press no. 431 from 1937. [quote 30.10.2018]. Available on the Internet: <www.psp.cz/eknih>.

[68] For details see ŠORL, R., GÁBRIŠ, T.: Civil law in Slovakia and unification of the legal system in the period of the first Czechoslovak Republic (1918-1938). In *Czechoslovak law and legal science in the interwar period (1918-1938) and their place in Central Europe. Volume 2*. Prague : Karolinum, 2010, pp. 646-718.

[69] *Bill of the Commercial Code*. Prague: Ministry of Justice, 1937. 222 p.

[70] See GÁBRIŠ, T.: Commercial law in the process of unification of law in 1918-1938. In *Acta historico-iuridica Pilsnensia 2006*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2007, pp. 215-233. Also see:

The draft General Part of the Criminal Code, entitled "Preliminary draft of the general part of the Criminal Code", was elaborated under the auspices of the Ministry of Justice and published in 1921. It contained classification of crimes to serious and minor offences and introduced detention centres for adults, prohibition of the death penalty (except for recidivism of persons sentenced to life in prison and duration of martial law), suspended sentence (already introduced by the Act no. 562/1919 of the Collection of Laws and Regulations) and others. Works on the special part of the Criminal Code were terminated in July 1924 and the result together with General Part was published by the Ministry of Justice in 1926 as "Preparatory Bill of the Criminal Code on Serious and Minor Offences and of the Act on Offences". The bill of another, revised draft was published in 1936 and contained more than 400 paragraphs – it distinguished tripartition (serious offences, minor offences and misdemeanours). However, it should have been submitted to the parliament only after unification of civil law, which was not implemented before the outbreak of World War II. However, the matters of substantive criminal law were partially unified by numerous criminal acts (against oppression – 309/1921 of the Collection of Laws and Regulations, for protection of the republic – 50/1923 of the Collection of Laws and Regulations and others).

From the area of procedural criminal law a draft Criminal Procedure Code appeared in type in 1929. Procedural unification was partially implemented e.g. by the Act no. 48/1931 of the Collection of Laws and Regulations on criminal justice over youth, Act no. 123/1931 of the Collection of Laws and Regulations on state prison, Act no. 91/1934 of the Collection of Laws and Regulations on imposition of the death penalty and life sentences, and other acts. In 1937 the Ministry of Justice was still working on the draft Act on execution of punishments and security measures.

Of course, some partial issues were unified also in other branches (e.g. in financial law), but all major unification attempts failed and had to be postponed until the period after World War II, but under completely changed circumstances of a regime that did not put stress on scientific discussions any more.

Conclusion

The issue of establishment of the legal system is hardly addressed at present, because it is related to foundation of new states or to the gain of a territory from another state, and to the problem of reception of law hitherto valid within the territory, which is currently not as extended phenomenon as after the world wars. Although it is partially a practical problem, in which "non-legal" factors play an important role, this problem also has many theoretical aspects – especially as regards the kinds of reception, the relation of reception to legal continuity, and to unification and codification of law. After foundation of Czechoslovakia in 1918, the centenary of which we celebrate in 2018, all these aspects

SKŘEJPKOVÁ, P.: Attempts at unification in the area of commercial law in the period of 1918-1938. In *Czechoslovak law and legal science in the interwar period (1918-1938) and their place in Central Europe. Volume 2*. Prague: Karolinum, 2010, sp. 974-994.

had long resonated in the law community – at least until 1950, since when most of the legal system in Czechoslovakia could finally be considered as unified and codified, even though intentionally discontinuous, both in substance and in form, with previous ”bourgeois” law.

Bibliography

Topical issues of the theory of law. Bratislava: Wolters Kluwer, 2018.
BAŘINKA, C.: Foundation of “Slovak Lawyer´s Society”. In *Právny obzor*, volume III, 1920.
BEŇA, J.: Continuity in law. In *Právny obzor*, volume 64, no. 4, 1981.
BEŇA, J.: Development of the Slovak legal system. Banská Bystrica: Matej Bel University, 2001.
Documents of Slovak national identity and statehood I. Bratislava: National Literary Centre, 1998.
Second Congress of Slovak Lawyers in Bratislava, held on 30 and 31 October 1920. In *Právny obzor*, volume III, 1920.
EÖRSI, Gy.: Comparative Civil (Private) Law: Law Types, Law Groups, The Roads of Legal Development. Budapest: Akadémiai Kiadó, 1979.
FAJNOR, V., ZÁTURECKÝ, A.: Outline of private law valid in Slovakia and Ruthenia. 3rd edition, Šamorín: Heuréka, 1998.
FRITZ, J.: Unification problem elsewhere and in our country. In *Právny obzor*, volume IX, 1926, pp. 411-431.
FUNDÁREK J.: Unification of commercial law. In *Právny obzor*, volume XX, 1937, pp. 609-620.
GÁBRIŠ, T.: Commercial law in the process of unification of law in the period of 1918-1938. In *Acta historico--iuridica Pilsnensia 2006*. Plzeň: Vydavatelství and nakladatelství Aleš Čeněk, 2007, pp. 215-233.
HEXNER, E.: Publication of some adopted Austrian regulations. In *Právny obzor*, volume XIX, 1936, pp. 36-46.
HEXNER, E.: Common law in the Czechoslovak Republic. In *Právny obzor*, volume IX, 1926, pp. 497-502, 529-535, 561-570.
HOETZEL, J., WEYR, F. (eds.): Dictionary of Czechoslovak public law, Volume V. Reprint. Prague: Eurolex Bohemia, 2000.
HORÁK, J.: Some questions regarding the sources of civil law in the practice in Slovakia and Ruthenia. In *Právny obzor*, volume VIII, 1925.
HORÁK, O.: Issue of reception and civil codes. In SCHELLE, K. (ed.). *Development of legal codifications*. Brno: Masaryk University, 2004, pp. 150-164.
HORÁK, O.: Foundation of Czechoslovakia and reception of law. To the legal nature and importance of the Act no. 11/1918 of the Collection of Laws and Regulations, taking into account the issue of reception of the legal system. In *Právněhistorické studie*, volume 38, 2007, pp. 153-169.
KINDL, V.: Slovak unification initiatives in the period of 1935-37 and their reflection in legislation. In ŠOŠ-KOVÁ, I. (ed.) *To 75th birthday of professor Hubenák: Proceedings of the international legal history conference held on this occasion*. Banská Bystrica: Faculty of Law of UMB, 2004.
KNAPP, V.: Two ways of Czechoslovak law: continuity and discontinuity (1918, 1945). In *Právník*, volume CXVIII, no. 3, 1979.
LACLAVÍKOVÁ, M.: Process of codification and unification in the Czechoslovak Republic in the context of development of interwar Central Europe, taking into account the area of private law. In *Private and public law of the present days: Proceedings of the scientific conference of doctoral students of the Faculty of Law of Trnava University*. Trnava: PF TU, 2005, pp. 210-228.
LACLAVÍKOVÁ, M.: Reception of common law and law of curia decisions in first ČSR (contribution to the history of private law in Slovakia). In *Acta Universitatis Tyrnaviensis, Iuridica*. Trnava: Faculty of Law of Trnava University in Trnava, 2005, pp. 149-167.
LACLAVÍKOVÁ, M.: Solution of the problem of unification and codification of private law norms in interwar Czechoslovakia and Poland. In: SCHELLE, K. (eds.) Development of legal codifications. Brno: Masaryk University, 2004, pp. 187-219.

LACO, K.: Constitution of the Pre-Munich Czechoslovak Republic and constitution of the Czechoslovak Socialist Republic 1. Bratislava: Vydavateľstvo SAS, 1966.
LAŠTOVKA, K.: Republication of the pre-revolution legal norms. In *Právny obzor*, volume XIX, 1936, pp. 373-378.
LUBY, Š.: History of private law. Bratislava: Iura Edition, 2002.
LUBY, Š.: Continuity. In *Právny obzor*, volume XXVIII, 1945/46.
LUBY, Š.: Unification efforts in the area of Czechoslovak private law in the period of 1918 –1948. In *Právny obzor*, volume L, 1967, no. 6.
MILOTA, A.: First decade of Czechoslovak criminal legislation. In *Právny obzor*, volume XI, 1928, pp. 594-604.
NERMUTH, A.: Unification and Republication of adopted legal regulations. In *Právny obzor*, volume XIX, 1936, pp. 473-478.
About work of the Ministry of Unification in the last government period (1922–1925): Speech of the minister Dr. Ivan Markovič at departure from the Ministry of Unification on 11 December 1925. In *Publication of the Ministry of Unification of Laws and Organisation of Administration: Journal : Special supplement to Právny obzor*, volume VII, 1925, notebook 10.
Draft commercial code. Prague: Ministry of Justice, 1937.
OVEČKOVÁ, O., VOZÁR, J. et al.: A Centenary of the magazine *Právny obzor* 1917-2017. Bratislava: VEDA, 2017.
RÁTH, A.: Unification. In *Právník*, volume LIX, 1920, pp. 153-162, 193-203.
ROUČEK, F.: Civil law valid in Slovakia and Ruthenia. General part I. Kroměříž: J. Gusek, 1927.
ROUČEK, F.: *Revision of civil law I*. Prague: Ministry of Unification of Laws and Organisation of Administration, 1923.
Senate press no. 425 from 1937. [quote 30. 10. 2018]. Available on the Internet: <www.psp.cz/eknih>.
Senate press no. 431 from 1937. [quote 30. 10. 2018]. Available on the Internet: <www.psp.cz/eknih>.
SCHROTZ, K.: Civil law in the first ten years of the Czechoslovak Republic. In *Právny obzor*, volume XI, 1928, pp. 622-703.
SKŘEJPKOVÁ, P.: Successor states and further development of the General Civil Code. In: *Two hundred years of the General Civil Code*. Prague: Wolters Kluwer ČR, 2011, pp. 130-137.
SKŘEJPKOVÁ, P.: Attempts at unification in the area of commercial law in the period of 1918-1938. In *Czechoslovak law and legal science in the interwar period 1918-1938) and their place in Central Europe. Volume 2*. Prague: Karolinum, 2010, pp. 974-994.
STODOLA, E., ZÁTURECKÝ, A.: Draft Slovak legal nomenclature (Hungarian-Slovak legal terminology). Martin, 1919.
STODOLA, E.: About unification of law in the Czechoslovak Republic. In *Právny obzor*, volume XX, 1937, pp. 413-416.
STODOLA, E.: Private law acts 1-3. Bratislava: Universum, 1926, 1928, 1930.
ŠORL, R.: Marital property law in Slovakia and ABGB in the period of 1848–1949. In: *Development of legal codifications*. Brno: Masaryk University, 2004, pp. 165-186.
ŠORL, R., GÁBRIŠ, T.: Civil law in Slovakia and unification of the legal system in the period of the first Czechoslovak Republic (1918-1938). In *Czechoslovak law and legal science in the interwar period (1918-1938) and their place in Central Europe. Volume 2*. Prague: Karolinum, 2010, pp. 646-718.
VAVERKA, F.: Unification problem in legal systems of the states of post-war Central Europe. In *Právny obzor*, volume XX, 1937, pp. 337-365.
VESELÁ, R., SCHELLE, K.: Development of family law in the Czech Republic until 1945. In ŠOŠKOVÁ, I. (ed.) *To the 75th birthday of professor Hubenák: Proceedings of the international legal history conference held on this occasion.* Banská Bystrica: Faculty of Law of Matej Bel University, 2004.
VOJÁČEK, L.: First Czechoslovak act. An attempt at a late comment. Prague: Wolters Kluwer, 2018.
WEYR, F.: System of Czechoslovak state law. 2nd edition. Prague: Fr. Borový, 1924.
ZIEGLER, E.: Validity of decisions made at plenary sessions and decisions of "legal uniformity". In *Právny obzor*, volume XVIII, 1935.