BOOK OF ABSTRACTS

6TH BIENNIAL

Conference Of The European Society For Comparative Legal History

Centro de Investigação de Direito Privado

Iuris Instituto de Investigação Interdisciplinar

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FACULDADE DE DIREITO UNIVERSIDADE DE LISBOA

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Cidade Universitária
1649-014 Lisboa
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ESCLH
EUROPEAN SOCIETY for COMPARATIVE LEGAL HISTORY

6TH BIENNIAL CONFERENCE
OF THE
EUROPEAN SOCIETY FOR COMPARATIVE LEGAL HISTORY

IURIS – UNIVERSITY OF LISBON, PORTUGAL
22-24 JUNE 2022

SUMMARY OF ABSTRACTS
Faculdade de Direito da Universidade de Lisboa
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SESSION 1	DAY 1 22 JUNE 2022
1.1	***A Spasm of Change: Profession and Professionalization of Law in China, Japan and Ottoman Empire in the 19th and 20th Century*** **Murat Burak Aydin** | Max Planck Institute for European Legal History **ABSTRACT:** Attorneys and Notaries were the legal novelties of the 19th-century Ottoman Empire legal scene. In particular, the attorney profession was unprecedented in the Empire. On the contrary, the judgeship was based on the long tradition of Qadi before it went through some changes in the 19th century. I will first generally introduce the underlying narrative of the transformations that took place in the 19th-century Ottoman legal professions. Following this, I will illustrate the changes in the education and training paths leading to becoming a lawyer. Conducting a case study on the career of a lawyer in the period of such changes will help to illustrate the transformation of the legal landscape and the career path. My paper will develop an indigenous look into the transformation rather than employing terms such as rationalization, modernization, and professionalization which are actually posing an anachronism risk to historical legal research. Through looking at the legal profession in the Empire, I will question the above-mentioned concepts and their applicability to the late 19th-century transformation of the Ottoman legal profession. **CURRICULUM VITAE:** Murat Burak Aydin is a PhD student in Max-Planck-Institut for the European Legal History in Frankfurt am Main. He currently works on the late 19th century Ottoman local court practice with a particular interest on the proof and evidence.
1.2	**From British Extra-territoriality to Local Legal Actors in China, Japan and the Ottoman Empire: A Pluriversal Comparative Legal History** **Zülâl Muslu** | University of Vienna **ABSTRACT**. The consular courts are usually studied under their imperial or colonial aspects grounded on the principle of extraterritoriality at the core of these institutions. A well-known example of this privilege of extraterritoriality among historians of international law is provided by the British Supreme Court and the memoirs of one of its most famous Chief judges, Sir Edmund Grimany

	Hornby. More than the illustration of extraterritoriality, my paper intends to highlight an original side of this very material. Namely, it will be considered for its pedagogical value and its contribution to the professionalization of local legal actors. The paper is based on the example of three regions, which were ruled under a regime of hypocolony via the extraterritorial rights, namely the Ottoman Empire, China and Japan, where Sir Edmund Hornby successively undertook his task as Chief judge of the Supreme court. While the consular courts are commonly looked as imposing unilaterally Western law and 'modernity', my paper emphasizes the encounters. Examining both the standardization process of local trainings and legal though to which the Court led, as well as the local judicial practices, resistance and vernacular consideration for legal professions, the paper aims at offering further methodologic and paradigmatic frames to the studies in comparative legal history. The pluriversal approach of this work proposes thus to dismantle the Eurocentric modernity and universality that still often confine comparative works within colonial epistemics. **CURRICULUM VITAE**: **Education.** Ph.D. in Law Paris Nanterre University (2018) Supported by the European Commission's Marie-Curie Fellowship; Max-Planck Institute; Goethe University-Frankfurt; French Ministry for Higher Education and Research; Master's Degree (Master II professionnel) in 'Public Governance and Diplomacy' Clermont Auvergne University (2006); Master's Degree (DEA cum laude) in 'History and Anthropology of Law' Paris Nanterre University (2005). **Academic Work:** From December 2019 on Head of the Research group of the Max-Planck Institute for Legal History 'Legal Practice in the 19th-century Japan, China, and the Ottoman Empire'. November 2019 Short-term visting scholar at IFEA (Institut Français d'Etudes anatoliennes, Istanbul) January - October 2019 Independant researcher and Volunteer in NGO for refugees in Turkey (Istanbul and Izmir) 2016-2018 Assistant Lecturer in Legal History (Paris Nanterre University) 2010-2014 Research Fellow at Max-Planck Institute for European Legal history (Frankfurt am Main). **Selected Publications: Manuscript (supported by Forty-nine Thirteen Foundation Grant 2019)**: Mutations à la Maison des Roses: Souveraineté ottomane et tribunaux mixtes de commerce dans le long XIXème siècle [Changes at the House of Roses: Ottoman Sovereignty and Mixed Commercial Courts Throughout the Long Nineteenth Century], Global Perspectives on Legal History, MPIeR, Francfort/Main, 2020, Accepted for publication. **Handbook – Education for Development geared toward Regional and Local Authorities:** Dossier pays Turquie. Regard sur l'histoire et l'actualité politique, économique et sociale en Turquie [Look at the history and at the current political, economic and social situation in Turkey], with Astrid Frey, 'Groupe-Pays' Collection, Cités-Unies France, Paris, November 2008, 89 pages. **Articles (latest):** - "Länderforschungsbericht: Geschichte der Konfliktlösung: Osmanisches Reich/Türkei (19.-20. Jahrhundert)" [Regional Research Report: History of Conflict Resolution: Ottoman Empire/Turkey (19th-20th C.)], in P.

	Collin (ed.), Handbuch der Geschichte der Konfliktlösung in Europa, IV, Berlin, 2019, publication in process. - "Language and Power: The Dragoman as a Link in the Chain Between the Law of Nations and the Ottoman Empire", in Journal of the History of International Law, Special issue, Brill, 2020, in process.
SESSION 2	
2.1	***Women and legal professions in Finland, Sweden and Estonia*** **Merike Ristikivi** | University of Tartu / **Mia Margareta Korpiola** | University of Turku / **Sanita Osipova** | University of Latvia **PANEL ABSTRACT:** This panel brings together Finland, Estonia and Latvia. Historically, these three neighbouring countries have had strong connections, still the principles concerning the understanding of the legal professions, their work and role in society have developed partly in parallel, partly in different ways. From the 18th century, the territories of all three countries became a part of the Russian Empire. However, until declaring the independence in Finland in 1917 and in Estonia and Latvia in 1918, the Swedish influence was strongly present in Finland, just as the Baltic-German conservative traditions in Estonia and Latvia. On this basis, we will explore in our presentations the professionalization of the first female lawyers in historical and comparative perspective. We will take a look at the regional peculiarities and local factors in North-Eastern Europe (e.g., conflict between the modern views in the sphere of public law (e.g., right to vote), versus the archaic concepts in family law), analysing the main conditions of the professionalization process of female lawyers in each country in the period before the WWII. Each paper answers three sets of research questions. Firstly, on the training and educational requirements for the professional career in law. Secondly, on the evaluation of the professionalization process: what kind of career prospect did women lawyers have? Were there some fields of the legal profession that were considered inappropriate for women or where women were not considered welcome? The third group of questions focuses on the legal and social context: what were the societal factors enabling or hindering women's professional success? What were the expectations in society to the female working capacities, especially in legal professions, and how did law regulate it? Was there any change in legislation and what was the role of women lawyers in drafting the new laws? **Mia Korpiola** **CURRICULUM VITAE:** Professor of Legal History (2014→). Research interests: history of family law, reception of learned law, legal history of vehicles, history of legal literacy; history of legal profession. Books, e.g.: *Between Betrothal and Bedding: Marriage Formation in Sweden, 1200–1600* (2009); *Regional Variations in Matrimonial Law and Custom in Europe, 1150-*

	1600 (ed., 2011); *The Svea Court of Appeal in the Early Modern Period: Historical Reinterpretations and New Perspectives* (ed., 2014); *Dying Prepared in Medieval and Early Modern Northern Europe* (ed. with Anu Lahtinen, 2018); *Planning for Death: Wills and Death-Related Property Arrangements in Europe, 1200-1600* (ed. with Anu Lahtinen, 2018); *Legal Literacy in Premodern European Societies* (ed., 2019). **Merike Ristikivi** **CURRICULUM VITAE:** Associate Professor of Legal History. Research interests: professionalization of the Estonian female lawyers, legal linguistics and discourse analysis, Latin legal terminology, law journals and periodicals, Roman law and its reception. Numerous articles on legal language, legal education and women in law. Books: *Latin for Lawyers* (2000, 2003 2nd ed., 2006 3rd ed., 2009 4th ed., 2019 5th ed.); *Latin terms in the Estonian legal language: form, meaning and influences* (2010); *Latin-Estonian Legal Dictionary* (2005); *Latin-Estonian Dictionary* (2002); *Studia Latina* (2002, 2004 2nd ed., 2014 3rd ed.); *Juristernes latin. Suum cuique* (2019); *Fontes iuris Romani* (2019); *Restoration of the rule of law. Reforms in the Estonian Ministry of Justice in 1992-2002* (2022) **Sanita Osipova** **CURRICULUM VITAE:** Professor of Legal History, Legal Sociology and Legal Ethics. Research interests: history of independence of the judiciary 19/20th century, history of family law in the 19/20th century, history of notary, women right. Numerous articles on legal culture, legal language, legal education and women right. Last publications: Convicted Individuals as a Group Stigmatised by the State in the Case Law of the Constitutional Court of the Republic of Latvia", *ICL Journal*, vol. 16, no. 1, 2022, pp. 153-169; Valdemārs Kalniņš (1907-1981); The founder of Soviet legal history in Latvia. In: *Socialism and Legal History: The Histories and Historians of Law in Socialist East Central Europe*. Ed. V. Erkkilä, H.P. Haferkamp. Routledge: London, New York, 2021, pp. 136-147. 62. Sowjetische Ehe – und Familienrecht von den Ersten Dekreten 1917 bis zum letzten Gesetzbuch 1968 vom Standpunkt der Lettischen Sozialistischen Sowjetrepublik. In: *Pràvněhistorické studie*. Nr. 49/1. Praha: Univerzite Karlova Nakladatestvi Karolinum, 2019, S. 119-139.
SESSION 3	
3.1	***A cosmopolitan 'judicial family'. European models and mixed courts in Egypt (1875-1949)*** **Elisabetta Fusar Poli** | Università degli Studi di Brescia **ABSTRACT**: This paper deals with the specific and extraordinary experience of "mixed justice" in Egypt. The semi-colonial Egyptian space, between the

	nineteenth and twentieth centuries, subjected to western control and protection and at the same time to the suzerainty of the Ottoman Empire, has been crossed by traditionally European models, and has become a veritable laboratory of institutional, regulatory, jurisdictional solutions for Europeans. Indeed, Egypt has become a sort of artificial juridical space, shaped by diplomacy and agreements with Western powers (mainly European ones): signed in 1875, a Regulation provides for mixed courts that apply to mixed disputes (those involving at least one foreign, non-Egyptian party) a mixed law, which widely draws on the European codifying experience. Six codes modelled on the French Napoleonic prototype, hence without historical and political roots *in loco*. The first issue that I'm going to face is the keeping of European models in a non-European contexts and in particular, within this frame, the role of case law translating the anomalous legal system into effective rules. The mixed judiciary mediates between norm and reality, helping to re-contextualize the reference normative model, in order to pragmatically grant the necessary elasticity and adaptability, therefore the life of the 'artificial' system, created by a supranational and composite will notwithstanding any local juridical tradition and sidestepping any kind of legislative *iter*. Then, I'm going to focus on the role of the jurist-interpreter, especially the judge, who actualizes and gives life to the norm (and to its silence: the *lacunae legis*) in a legal mixed context, where the formal legal tradition embedded in the set of codes that rules the mixed disputes is that of 'civil law' countries. But this peculiar law system has to be applied by a cosmopolitan body of judges coming from different legal systems. Consequently, the issue of the 'precedent' in an increasingly abundant case law (especially in commercial law matters) seem to be crucial, as well as the difficulties of common law judges applying civil law instruments and means of interpretation. Through the way of its daily activity, this 'judicial family' finds out its own way, independent and autonomous from its origins, deeply conditioned by French law experience, and is compelled to find homogeneity, passing over differences in cultures and systems. This paper links to a complex research that is still ongoing, focused on Egyptian mixed courts jurisprudence. **CURRICULUM VITAE**: Academic informations: Associate Professor of Legal History at University of Brescia, Law Department: Education: November 2014: associate professor of 'Medieval and Modern Legal History', in charge at the University of Brescia, Department of Law ; October 2010: experienced researcher of 'Medieval and Modern Legal History' : July 2007: researcher of 'Medieval and Modern Legal History'; July1997: graduation in Law with honors (cum laude) at University of Brescia with an essay dissertation in medieval legal history . scientific and teaching activities: Teachings: Medieval and Modern Legal History; European Legal History; Contemporary Legal History; Times and places in law; Law and culture: sources and itineraries; History of Commercial Law. Research groups present memberships: Centro Interuniversitario per la Storia delle Università italiane (CISUI), Management Board, University of Bologna; Brixia Accessibility Lab (BrAL) – Accessibilità

	al Patrimonio Culturale & Benessere - Interdepartmental research laboratory of the University of Brescia; LOG - Laboratorio Osservatorio sugli studi di Genere of the Department of Law at University of Brescia; Centro Ricerca e Servizi per la Pace dell'Università di Brescia (U4P) - Interdepartmental research center of the University of Brescia. Historians associations memberships European Society for Comparative Legal History (ESCLH); Società Italiana per lo Studio della Storia contemporanea (SISSCO). Società italiana di Storia del Diritto (SISD); Donne e diritti. Osservatorio di storiografia giuridica. Main pubblications (books): Relativo e plurale. Dinamiche, processi e fonti di diritto in Terraferma veneta (secc. XVI-XVIII), Giappichelli, Torino, 2020; Centro dinamico di forze. I giuristi e l'innovazione scientifico-tecnologica fra liberismo e autarchia, Milano, Giuffrè, 2012;"La causa della conservazione del bello". Modelli teorici e statuti giuridici per il patrimonio storico-artistico italiano nel secondo Ottocento, Milano, Giuffrè, 2006. Main research interests: Her main research trajectories concern the themes of art and cultural heritage from a legal, historical and current perspective; the interrelations between innovation and law in the modern and contemporary European legal context; the profiles of interference between morality and criminal law in XIX-XX cent.; legal pluralism in the modern age with a focus on the Venetian Terraferma; the 'spatial turn' in legal history perspective.
3.2	***The Emergence and the Evolution of the Justice of the Peace in France, Belgium and the Netherlands*** **Emanuel van Dongen** | Utrecht University **ABSTRACT**: In the second year of the French Revolution (1790), 'the year of hope' (G. Walter, *La révolution française vue par ses journaux*, Paris 1948), a new Decree on the organization of the judiciary on national level was adopted by the *Assemblée nationale constituante*, the Decree of 16-24 August 1790. One of the renewals was the introduction of the *juge de paix*. From the start, in France this Justice of the Peace was invested with a dual capacity: on the one hand the judicial authority to take decisions and on the other hand the mediatory and conciliatory role. Although the *juge de paix* was also introduced in Belgium and in the Netherlands, the development of the institution was different. In the Netherlands, the justice of the peace was abolished and only recently new interest in this judge emerged, the Dutch government having started a research, in order to investigate the possibility of reintegration of the Justice of the Peace. In this presentation, I will discuss the origin, as well as the later development of this institute in France, Belgium and the Netherlands. The description covers both the legal design and information on the practical functioning of proceedings before the Justice of the Peace, from historic material available, including data on accessibility, lead times, costs, results, user satisfaction, etc. The research was carried out in a functional manner: all Justices of the Peace' installed since the foundation of the *juge de paix*, are investigated and represented chronologically. The research also includes the recent experiments

	conducted in the Netherlands with alternative forms of accessible and easily accessible jurisdiction ('community courts' or 'Neighbourhood Justices'). **CURRICULUM VITAE**: **Education**: 2005 – 2007 Research Master in Law (Tilburg University); 2002 – 2005 Doctoral Dutch Law, specialization: legal history (Tilburg University, Tilburg and courses History of Canon Law, Radboud University, Nijmegen) cum laude; 2001 – 2002 Propaedeutic phase Dutch law (Tilburg University): 1995 – 2001 VWO (Mill Hill College, Goirle); additional exam Latin (certificate 2011). **Training and courses (selection)**: 2014 – 2018 Senior Teaching Qualification (Universiteit Utrecht); 2010 – 2011 Basic Teaching Qualification (Maastricht University); 2009 Studientage Paläografie und Philologie der juristischen Texte des lateinischen Mittelalters (Max Plank, Frankfurt am Main); 2008 Corso "The Philological and Historical Investigation of the Sources and the Categories of Law in the Ius Commune" (Ettore Majorana, Erice (It.)); 2007 – 2009 Training programme (Ius Commune Certificate); 2007 Course English speaking skills; 2006 Academic writing, Legal English (Tilburg University); 2005 Corso Intensivo di "Lingua Italiana come Lingua Straniera" livello Elementare (Solemar Sicilia, Cefalù (It.)). **Current positions**: Assistant Professor, Molengraaff Institute for Private Law, Utrecht University (2013-today). Researcher, Utrecht Centre for Accountability and Liability Law (2013-today) and the Montaigne Centre for Rule of Law and Administration of Justice (2017–today), Utrecht University. Visiting Professor, Università degli Studi di Torino (2019, European History of Law). **Previous positions (selection):** Visiting Professor/Scholar, LUISS Università di Guido Carli (2017), Università degli Studi di Torino (2018), LUISS Università di Guido Carli (2019), Università degli Studi Roma Tre (2019). Researcher, Department Foundations and Methods of Law, Maastricht University (2013). Stipendiat, Max Planck Institut für europäische Rechtsgeschichte, Frankfurt am Main 2013). Junior researcher (promovendus), Department Metajuridica, Maastricht University (2007-2013). Dissertation: *Contributory Negligence. A Historical and Comparative Study* (2013). Supervisors: prof. dr. C.H. van Rhee (Maastricht University) and prof. dr. J. Hallebeek (Free University Amsterdam). **Other**: Member of the editorial board of the international journal *Comparative Legal History* (copy editor). Member of the editorial board of the international interdisciplinary journal *Rivista Politica.eu*. Collaborator of the journal Innocent III International Chair of Research called *Vergentis*.
3.3	***Justice of the peace in countryside of the Duchy of Warsaw*** **Piotr Pomianowski** | University of Warsaw **ABSTRACT**: The institution of judges of the peace has got English roots. In medieval and early modern England they were both judiciary and administrative officials (and now they still aren't typical judges in the continental understanding of judiciary). During the revolutionary period that institution was transferred – with many modifications – to France. In 1807 Napoleon

	established the Duchy of Warsaw in western provinces of former Poland. It was a new state dependent on France. The administration and legal system of the Duchy were modeled in French manner. Also institution of judges of the peace was transferred to Polish territories. But in Polish conditions it was complicated for them to do their duties in the same manner as it was in France. Among obstacles there was a strong position of landlords, who in many villages, were nominated as *wójts* (officials of local administration). It must be noted that during the French Revolution numerous acts of Parliament dismantled the *seigneurial* system. The following decrees and the practice of selling the land taken from the Church and *émigrés* at auctions, resulted in the fact that many peasants achieved the entire property of fields. In Poland the situation was different. There was no social revolution before the introduction of the French legal system and the majority of peasants were not the owners of fields which they cultivated. In my presentation I will describe some problems involved with functioning of the judges of the peace in the Polish reality: 1) organisation of courts of the peace in the countryside, 2) social position of parties of trials, 3) relations between courts of the peace and other jurisdictions like *wójts* who in some regions imposed penalties for misdemeanor and village courts, which still existed in some localities (mostly as conciliation courts). Thus, my paper will show how this French institution with English roots functioned in Poland. **CURRICULUM VITAE: Education and work experience:** 11.2018 Habilitation in Law 2018, University of Warsaw, Faculty of Law and Administration. 10.2012 – Adiunkt (assistant professor) in the Institute of the History of Law, Faculty of Law and Administration, University of Warsaw. 03.2012 PhD in law, University of Warsaw, Faculty of Law and Administration. 2009 – 2012 postgraduate practice as an attorney of Regional Bar of Legal Advisors in Warsaw. Bar exam, admitted to the bar. Till now practising legal advisor. 2007 – 2012 PhD law studies, Faculty of Law and Administration, University of Warsaw. 2004 – 2008 Faculty of Journalism and Political Science, University of Warsaw, MA degree in political sciences. 2002 – 2009 Faculty of Applied Social Sciences and Resocialisation, University of Warsaw, MA degree in social sciences. 2002 – 2007 Faculty of Law and Administration, University of Warsaw, MA degree in law. **Publications, papers and scholarships:** More than 20 scientific articles (6 in English), 3 books. More than 30 conference papers (10 in English). 2 Scholarships of Ministry of Science and Higher Education (Republic of Poland), 1 of Masovian Voivodship, and 1 of City of Warsaw. **Academic projects financed by the National Science Centre:** 1. The beginnings of Polish law journals – first series of "Themis Polska" (2010 – 2011). 2. The Napoleonic divorce regulation in the practice of Polish courts (2015 – 2018). 3. National Codification - a Phantasm or a Realistic Alternative? In the Circle Debates over the Native Court Law System in the constitutional Kingdom of Poland (2016 – 2021). 4. Relations between the nobility and the peasantry on the central Polish lands: from the abolition of serfdom to the emancipation in light of legal practice records (2019 – 2022).

	Scientific interests: Civil law and legal culture in the territory of the former Commonwealth of Both Nations in the 19th century.
SESSION 4	
4.1	***Legal professions and the use of foreign literature: a comparative approach*** **Heikki Pihlajamäki** | University of Helsinki / **Georges Martyn** | University of Gent / **Laura Beck Varela** | Autonoma University Madrid / **Airton Ribeiro da Silva Jr.** | University of Helsinki **PANEL ABSTRACT:** Today, legal rules and concepts of foreign, international, or supranational origin emerge often in national cases. This was different in the nineteenth century, when in most European legal orders law had turned into a product of national history. However, "foreign" influence enjoyed considerable authority during the early modern and modern periods. Many legal professionals used "foreign" legal literature comparatively, as mere inspiration or as subsidiary legal source. Lawyers, for example, used foreign law as an argument in support of their clients' claims, whereas judges used foreign literature to reinforce the *rationes decidendi* of their decisions or even to find legal solutions when local law did not provide clear answers. **PANEL CHAIR: Georges Martyn.** Studied Law (1984-1989) and Medieval Studies (1989-1991) in Leuven. PhD in 1996 (Leuven) on early-modern legislation on private law in the Southern Low Countries, doctoral thesis awarded by the Royal Belgian Academy. Professor of Legal History and Legal Theory at Ghent University. Member of the editorial board of *Pro Memorie*; member of the royal Commission for the Publication of ancient laws of Belgium; editor in chief of *Studies in the History of Law and Justice* (Springer). Main research topics: History of the legal professions, historical legal iconology, history of the sources of the law. ***…. Un delirio jurídico*: *Translating Vinnius in 1850 Mexico City*** **Laura Beck Varela,** Universidad Autónoma de Madrid **ABSTRACT:** In 1850, the Mexican lawyer Joaquín Martel translated into Spanish the first part of the commentaries to the Institutes written by the Dutch jurist Arnoldus Vinnius (1588-1657), originally published in Leyden in 1642. As the author announced from the very beginning of his work, which remained unpublished, his scope was "to translate and to extract", "to annotate and to illustrate" Vinnius' pages with the national law ("derecho patrio") of the new Mexican Republic. In his words, it would be "delirious" ("un delirio jurídico") for law students and professionals not to take into account both the Roman law foundations and the old Spanish legislation in their daily practice. Martel's Mexican Vinnius was not alone. He was surrounded by abundant reprints and compendia of the old legislations and old commentators, which continued to

flourish even years after the promulgation of the civil codification, such as the several editions of the Sala Mexicano, of the Nuevo Febrero Mexicano, of the Curia Filipica Mexicana, the Pandectas hispano-megicanas, and even an adaptation of Everard Bronchorst's Rules as late as in 1868. Invoking authorities of past centuries, all of these reprints, stuffed with (often anonymous) appendices and notes, pursue the same agenda of guiding the Mexican lawyer through the confusing jungle of laws and institutions. As recent scholarship has shown, despite the political rupture with the former European colonizers, continuity in the legal sphere endured, and the new national law was not necessarily meant to replace the old one. Rather, it had to be integrated within the old European law. The new legislation, lacking constitutional direction and a formal system for the publication of laws, developed according to the logic of the old jurisprudential tradition and thus helped expand the uncertainty instead of reducing it. The aim of this paper, focusing on Martel's effort to present "El Vinio en su derecho romano, traducido y extractado, anotado e ilustrado con arreglo al derecho patrio de la República Mexicana", discusses how nineteenth century Mexican lawyers used old and "foreign" legal authorities to tackle new societal challenges.

CURRICULUM VITAE. Studied Law in Porto Alegre (Universidade Federal do Rio Grande do Sul), Brazil (1994-1999), where she also obtained her Master in Law's degree in 2001. PhD in 2008 at the University of Seville (dir. Bartolomé Clavero). She was also Postdoctoral Fellow (Spanish Ministry of Education) at the École des Hautes Études en Sciences Sociales, Paris, in 2012. Associate Professor of Legal History at the Universidad Autónoma de Madrid (Spain) since 2013. Author of Literatura Jurídica y Censura. Fortuna de Vinnius en España (Valencia, Tirant lo Blanch, 2013) and Das Sesmarias à Propriedade Moderna. Um estudo de história do direito brasileiro (Rio de Janeiro, ed. Renovar, 2005). Main research topics: History of legal education, censorship and book studies, gender and law, history of estate law.

Comparing colonial law libraries: the circulation of normative knowledge in Iberian empires

Airton Ribeiro da Silva Jr., University of Helsinki

ABSTRACT: Books played an important role in the formation of Ibero-American legal spaces, as they were one of the main means by which legal ideas have been transmitted. This object ensured that normative information reached the most distant locations at the fringes of Iberian domains. Hence, knowing which law books were on the shelves of colonial libraries may shed valuable light on how the global circulation and translation of normative knowledge took place within colonial spaces. In this way, the main objective of this research is to compare law libraries of the Portuguese and Spanish empires of the 17th and 18th centuries and then, verify to which extent those empires engendered similar legal regimes. The research will focus on libraries owned by agents of the administration of justice, either established permanently overseas or nominated

for rotative judicial posts. This perspective would take into consideration the dissimilarities of each justice system while examining the composition of these colonial law libraries. The idea is to compare magistrate's libraries from different regions of Iberian America, using social network analysis, to measure similarities and dissimilarities, how did they relate with each other. The literary genres and titles the libraries had in common would reveal how these empires were interconnected through law. Furthermore, the outcome may support a background hypothesis about the reach of the *ius commune* beyond the European borders, prevailing as the general legal framework in the Iberian colonial spaces.

CURRICULUM VITAE: Studied Law in Santa Maria, Brazil (*Universidade Franciscana*), 2008-2013. Obtained his Master's degree in Florianópolis, Brazil (*Universidade Federal de Santa Catarina*), 2013-2015. Holds a PhD in Legal History obtained in Florence (*Università degli Studi di Firenze*), 2015-2018. Had been a postdoctoral researcher in Frankfurt at the *Max Planck Institute for Legal History and Legal Theory*, 2020, and lecturer of Legal History and Legal Theory in Recife at the *Universidade Federal de Pernambuco*, 2021. Currently, he is a postdoctoral researcher at the University of Helsinki in the Project *Comparing Early Modern Colonial Laws: England, the Netherlands, Portugal, and Spain,* led by Heikki Pihlajamäki.

Philipp Crusius: Translating Early Modern Swedish Law to German
Heikki Pihlajamäki, University of Helsinki

ABSTRACT: In the 1560s, Sweden had annexed the Duchy of Estonia. The German-speaking elite kept its court invaded and incorporated in 1629. Both Estonia and Livonia kept their legal orders based on local customary laws and *gemeines Recht.* In 1608, King Charles IX confirmed the Law of 1442 for Sweden proper. No serious attempts, however, were made to translate Swedish laws into German before the 1640s. In 1648, Philipp Crusius, a German-born judge at that time in the Castle Court of Reval (Tallinn) translated the Land Law of 1442 into German. The other major translation that will be discussed is the German translation of "Swedish land and town law" of 1709. It is also a translation of the Land Law of 1442, although seemingly independent from Crusius's work. The presentation brings on the following problems into discussion. First, why were the translations needed? Second, what – if any – is the relationship between the two translations and what are the major differences between them? Third, on a more general note, what do these translations teach us about legal languages in multilingual conglomerate states such as seventeenth-century Sweden?

CURRICULUM VITAE: Studied law in Helsinki (1982-87). LL.D. in Helsinki (1996) on the comparative history of evidence law in the nineteenth

	century. *Dr. honoris causa* (2019, Lund). Professor of Comparative Legal History at the University of Helsinki. Editor of *Comparative Legal History*; member of the Finnish Academy of Science and Letters. Main research topics: History of criminal, procedural, and administrative law; history of colonial law, theory and method of comparative legal history.
SESSION 5	
5.1	***Diversi sed non adversi. Professional expectations and legal careers from Italy to Europe (XIII-XIX cent.)*** **Maria Teresa Guerrini** / **Damigela Hoxha** / **Alessia Legnani** | University of Bologna ***Legal science and professional skillness: the arms of the medieval advocate*** **Nicoletta Sarti** **ABSTRACT:** In the first half of the 13th century the legal science, expressed by the glossators, was enriched by a new litterary genre, intended to provide for the aspiring lawyers with a training aimed at the concrete exercise of the profession. The Liber cautele et doctrine of the Legum doctor Uberto da Bobbio (m. 1245), active between Parma Modena and Vercelli, which followed for about a decade the Libellus instructionis of the Bolognese Jacopo Balduini, undoubtedly constitutes the most original and interesting example of such a genus in terms of breadth and depth. During a season in which the detachment of the Kingdom of England from Roman Catholicism was perceived as a political fact that little or nothing had yet changed from the juridical experience of a Romanist common matrix to the European continent and the British peninsula, and the same remained the elective places and the circuit of scientific and practical training of jurists. Primarily the Bolognese school of glossators where, in the first decades of the century, Riccardo and Alano had studied and taught, both 'anglicates' and the minor and 'alternative' realities: Reggio Emilia, Modena, Parma, Cremona, briefly Vercelli, that Uberto himself had helped launch. It shouldn't be a surprise the fact that from the turbulent complaints of a student from across the Channel, Maurizio Anglico the great drunker (optimus potator), bored of the learned exegesis that the dominus used to draw up in his lessons, Uberto decided to compose a Liber with a highly practical edge, functional to how many of his socii, who, once back home, wanted to try themselves at the courts of justice, longing for success and rich earnings. The professionalism of the thirteenth-century lawyer required science and shrewdness in equal measure and did not recognise frontiers: the Liber cautelae of Uberto provides us with a split at the same time learned and unconventional. **CURRICULUM VITAE**: Nicoletta Sarti is a full professor of History of medieval and modern law in the Department of legal studies – Faculty of law in tha University of Bologna, where she still tesaches. She had been Dean of the

School of law from 2012 until 2018. Among her publications there are remembered: N. Sarti, *Un giurista tra Azzone e Accursio*, Milano 1990; N. Sarti, *Maximum dirimendarum causarum re medium. Il giuramento di calunnia nella dottrina processualistica dei secoli XI-XIII*, Milano 1995; N. Sarti, *Inter vicinos praesumitur aemulatio. I rapporti di vicinato nelle dinamiche del diritto comune*, Milano 2005; N. Sarti, *L'avvocato medievale tra mestiere e scienza giuridica. Il Liber cautele et doctrine di Uberto da Bobbio (…1211-1245)*, Bologna 2011; N. Sarti, *Tre itinerari di storia giuridica*, Torino 2008; N. Sarti, *Scuole, Studium, Ateneo. I primi nove secoli dell'Università di Bologna*, Bologna 2018

The training of Bolognese lawyers between Bologna and Rome during the early modern age
Maria Teresa Guerrini

ABSTRACT: The paper aims to compare the different professional perspectives available to law graduates (in civil and canon law) in Bologna and Rome Studia during the early modern age (XVIth -XVIIIth centuries). In particular the study will analyze the careers of lawyers from Bologna in a period when the city was closely linked to the papal political power (it was the second city of the Papal State). So, why a young man from Bologna chose to train in Rome, at the Studio controlled by the Avvocati Concistoriali, and another made the choice to stay in Bologna? The choice depended on numerous factors (family tradition, patronages …) but on all weighed the different career prospects that could be opened depending on the preference given to places of study. The present contribution will try, with some examples, to outline this trend especially starting from the second half of the XVIIth century.

CURRICULUM VITAE: Maria Teresa Guerrini is an Associate Professor of the Department of History and Cultures, where she still teaches Modern History. Actually she also directs the MEUS (European Museum of the students: sma.unibo.it). Main publications: M.T. Guerrini, M. Malatesta, R. Lupi, *Un monopolio imperfetto. Titoli di studio, professioni, università (secc. XIV-XXI)*, Bologna 2016; M.T: Guerrini, *Collegi dottorali in conflitto. I togati bolognesi e la Costituzione di Benedetto XIV (1744)*, Bologna 2012; M.T. Guerrini, *Cattedra, tribunale e altare. Le carriere dei giuristi bolognesi in età moderna*, Bologna 2008; M.T. Guerrini, *"Qui voluerit in iure promoveri...". I dottori in diritto nello Studio di Bologna (1501-1796)*, Bologna 2005.

Lawyers of the Napoleonic age between Italy and France
Damigela Hoxha

ABSTRACT: During the Napoleonic age the training and the recruitment of legal practitioners radically changed. The colleges and the corporations

	disappeared, replaced by professional associations; the structure of the Faculty of Law was completely transformed with mainly technical aims; The methodology, particularly of lawyers in the exercise of their profession, could only change in depth. It will be, in fact, with the Napoleonic legislation that this process of professionalization of the forensic class in modern key will be consolidated together with the state control on the same. The fundamental stages of this reorganization, modeled on the coeval French legislation that led to the restoration of the écoles de droit (law of March 13, 1804) and to the legal title of lawyer, resulted in the decree of 14 December 1810, which reconstituted the professional order, reaching the final and original arrangement of the advocacy only in 1811, with a decree that established the Bar Association also in Bologna, chaired by Carlo Riari Masi. This paper aims to compare these three issues between the Napoleonic Kingdom of Italy and the French model. For this purpose, it will be exploited archival and printed sources concerning lawyers active in Bologna in those years. **CURRICULUM VITAE**: Damigela Hoxha is a Senior assistant professor of the Department of Legal Studies in Bologna and she teaches History of Modern and Contemporary Law and History of Commercial and Maritime Law in Ravenna. She has published, among others,: D. Hoxha, *Dialogando di duello, pace e giustizia al tramonto del Rinascimento. Del Duello (1573) di Giovanni Vendramini*, Bologna 2018; D. Hoxha, *L'amministrazione della giustizia criminale napoleonica. A Bologna fra prassi e insegnamento del diritto penale*, Bologna 2016; D. Hoxha, M. Cavina, B. Ribemont, *Le donne e la giustizia fra Medioevo ed età moderna: il caso di Bologna a confronto*, Bologna 2014.
5.2	***The Career Paths of Legally Qualified Hungarian Nobles during the 17th-18thCenturies in a Comparative Perspective*** **Zsuzsanna Peres** | National University of Public Service – Budapest
SESSION 6	
6.1	***A Quest for Heritage and Comparative Law: The Role of the Louisiana Bar Association in the Frustrated 1908 Revision of the Civil Code*** **Agustin Parise** | Maastricht University **ABSTRACT:** This presentation will explore the efforts of the Louisiana Bar Association (LBA) to strengthen the use of foreign and comparative law in that southern state during the first decades of the twentieth century. The presentation will show how a frustrated attempt to revise the Louisiana Civil Code in 1908 gave the LBA an opportunity to voice those efforts. The revision built on the previous text of the code and incorporated local legislation and court decisions. Members of the LBA reacted against the proposed text since they sensed that drafters had neglected attention to foreign and comparative law. The

	presentation will be divided into three parts. **Firstly**, the presentation will contextualize the need for revision of the civil code during the first decades of the twentieth century. There was a need for a revision of the code, since conditions had been altered, and the prevailing conceptual framework had proved to be analytically deficient. **Secondly**, the presentation will address the revised text of 1908, its authors, sources, and main changes. The place of foreign and comparative law will be analyzed, since it would have offered an opportunity for dialogue with other sister civil law jurisdictions. **Thirdly**, the presentation will describe the role of the LBA in rejecting the draft and the motivation for that approach. Those efforts of the LBA ultimately paved the way for other developments that triggered a revival of the civil law tradition in Louisiana. A look into the scenario in Louisiana will illustrate how members of the legal profession were able to shape the unique practice and methods as developed in that mixed jurisdiction. The presentation, above all, will aim to show that both heritage and comparative law can be deemed of value by members of the legal profession, as depicted in the experience in Louisiana. **CURRICULUM VITAE:** Agustín Parise is Associate Professor at the Faculty of Law of Maastricht University (The Netherlands). He received his degrees of LL.B. and LL.D. at Universidad de Buenos Aires (Argentina), where he was a lecturer in Legal History during 2001-2005. He received his degree of LL.M. at Louisiana State University Law Center (USA), where he was research associate at the Center of Civil Law Studies during 2006-2010. Agustín further received his degree of PhD at Maastricht University, where he was researcher at the Department of Foundations and Methods of Law during 2011-2015. Agustín has been visiting fellow and visiting researcher at the Max-Planck-Institut für ausländisches und internationales Privatrecht, the Max-Planck-Institut für europäische Rechtsgeschichte, the Institute of European and Comparative Law of University of Oxford, the École normale supérieure in Paris, the Ibero-Amerikanisches Institut in Berlin, and Columbia Law School in New York. Agustín is articles editor of the journal Comparative Legal History and executive editor of the Journal of Civil Law Studies. He is director of scientific studies of the International Association of Legal Science. His research interests fall in the areas of Legal History and Comparative Law. He published more than 90 academic pieces, including books and articles in English, French, and Spanish. He has taught, lectured, and/or published in Argentina, Austria, Belgium, Canada, China, England, France, Germany, India, Italy, Mexico, Peru, Poland, Puerto Rico, Scotland, South Africa, Spain, Sweden, Taiwan, the Netherlands, United States, and Uruguay.
6.2	***Law Reforms through the use of Foreign Models. How Legal Comparison concerned the Creation of the Latin-American Civil Codes*** **Filippo Rossi** | Università degli Studi di Milano

ABSTRACT: Throughout the course of the 19th Century, the vast majority of Latin-American countries had been actively engaged in the creation of their own Civil codes, in the light of the specific role they played in constructing national identities. As the idea of national laws was helpful in the construction of national-state, many able Judges, skilled Lawyers and eminent Professors were occupied by their respective Governments with the challenging tasks of drawing a complete legal system, especially regarding the field of private law. But by which legal tools and methods these South-American legal professionals fulfilled the demanding duty? According to the traditional view, scholars usually accept that for Civil Codes, and for the law of contracts and obligations especially, Latin-American lawmakers blindly followed in the footsteps of the French Codification of 1804. Tough is right to regard the *Code Napoléon* as the worldwide source of inspiration for generation of scholars–at least for the whole Eighteen Hundreds–a cursory glance at the *codígos* reveals, instead, that Latin-American codifications of private law were a real exercise in comparative legislation. At the core of these exercises in comparison, indeed, a pervasive mobility of ideas and institutions helped 'Ibero-American' legal professionals find the 'right books' to develop a new civil law for their countries. Undoubtedly, historical roots, governing principles, and legal models was in the European *ius commune* tradition, as it had evolved from Modern to Contemporary Era, through a whole body of supra-national juridical sources, suitable to any domestic requirement. My purpose, hence, is to bring light on the way in which legal methods and legal professions across Europe and the world influenced the development of Latin American private law, as the outcome of a constructive integration between different legal traditions, beside and beyond French codification. To demonstrate my point, I will focus on two South-American countries which, more than any others, showed a great degree of eclecticism–a 'Latin-American style', we may say–when dealing with legal comparison in creating national civil law: Argentina, through the *Civil Code* of 1869, by Dalmacio Vélez Sársfield, and Brazil, through Augusto Teixeria de Freitas' masterpieces: the *Consolidation of Civil Laws* of 1857 and the *Draft Code* of 1864.

CURRICULUM VITAE: **Teaching Activities** - A.Y. 2019/2020, History of Human Rights; - A.Y. 2018/2019, History of Medieval and Modern Legal History. Publications. 1) Books: - 2017, *La costruzione giuridica del licenziamento. Dottrina e prassi tra XIX e XX secolo*, Milano, Giuffrè, pp. IX-330, peer reviewed; - 2013, *Il cattivo funzionario fra responsabilità penale, amministrativa e disciplinare nel Regno Lombardo-Veneto*, Milano, Giuffrè, pp. VIII-408, peer reviewed: 2) Selected Essays and Articles: - 2019, *Un nuovo modo di sciogliere i contratti bilaterali. Augusto Teixeira de Freitas e la circolazione dei modelli tra Europa e America Latina nel XIX secolo/A new way of terminating bilateral contracts. Augusto Teixeira de Freitas and legal models between Europe and Latin America during the 19th Century*, in *Revista da*

	Faculdade de Direito da Universidade Federal de Minas Gerais – Dossiê História do Direito: "História do direito para além das fronteiras: circulação internacional do direito na modernidade", 74 (2019), pp. 185-231, peer reviewed; - 2019, *'Depurare' e 'selezionare' le correnti migratorie. Il* Proyecto de Ley Nacional del trabajo *argentino (1904) e i lavoratori stranieri*, in *Historia et Ius, rivista di storia giuridica dell'età medievale e moderna*, 15 (2019), paper 16, (ISSN 2279-7416), pp. 32 - 2018, Filippo Rossi, *The changing structure of labour law: judiciary courts and termination of contract in Italy between 19 and 20 Century*, in *Journal on European History of Law*, 9.1 (2018), pp. 72-79, peer reviewed; - 2017, Tra Europa e America Latina. Il 'ripudio' della *condición resolutoria implícita* nel *Código Civil* argentino (1869): radici, modelli, convergenze e divergenze, in *Historia et Ius, rivista di storia giuridica dell'età medievale e moderna*, 12 (2017), paper 11, pp. 38; - 2016, *Children of a lesser God. The Legalized Exploitation of Child Labour as Revealed by the Liberal Era Judicial Records (Late 19th-Early 20th Century)*, in *Family Law and Society in Europe from the Middle Ages to the Contemporary Era* (ed. Maria Gigliola di Renzo Villata), pp. 283-312, peer reviewed. Visiting Experiences: - September 20-October 20, 2016: Universidad Complutense de Madrid, Madrid, Spain: Visiting Scholar, September-October 2017, invited by Prof. Laura Masson Gutierrez to participate in the project *La 'construcción del despido. Perfiles extintivos de la prestación de obras en la historia juridica moderna y contemporánea*. **Membership of Scientific Societies**: - Società italiana di Storia del diritto; - Association of Young Legal Historians; - European *Society for Comparative Legal History*.
6.3	***Quebec Jurists and the Civil Code of Louisiana: a Study of an Evolving Approach*** **Asya Ostroukh** | University of the West Indies, Barbados **ABSTRACT**: Quebec legal community has always been interested in the Civil Code of Louisiana. A common historical past, societal similarities, the shared political and cultural background of codification, the common sources used in drafting both codes, and the bilingualism of the Louisiana code have all contributed to the interest Quebec legal professionals have taken in the codification of Louisiana's law. This paper studies the references to the Civil Code of Louisiana made by the Quebec legal professionals (legislators, judges, and practicing lawyers) in order to show how the understanding of the Louisiana Civil Code by the Quebec legal community changed over time, and the relevance of such changing perceptions to the legal history of both territories. At the period of the first codification, the Louisiana Code was used as an important comparative model, providing both legal solutions and possible translations of articles into English. It was perceived as a civil code based on French law, written in French and translated into English and, therefore, a rich source of inspiration for drafting the Civil Code of Lower Canada of 1866. During the years of growing nationalist school of law in the first half of the

	twentieth century, Quebec jurists started to refer to the Louisiana Code in their reflections on the future of the Civil law in Quebec. They developed an understanding of the Louisiana Code as kindred to the Civil Code of Quebec, due to a common origin and a similar social and cultural environment. From this perspective, the two codes shared a common past and arguably had the same aim – the preservation of Civil law on the North American continent. The jurists of this period were concerned with the decline of the French language and the French legal tradition in Louisiana. Some tried to establish professional ties with colleagues in Louisiana, while others warned Quebec lawyers about Louisiana's frustrating example. These efforts were finally superseded by an approach that treated the Louisiana Code as one of many comparative legal sources that were used for drafting the new Civil Code of Quebec (1994). This paper attempts to explain such an evolving attitude. An important aspect of this paper is the study of libraries of Quebec legal professionals which reveals who of the most important Quebec lawyers owned copies of the Louisiana Civil Code. **CURRICULUM VITAE:** POST-SECONDARY EDUCATION 2010-2017 School of law of the University of Edinburgh: PhD in Law. 2014 – 2016 University of the West Indies (Cave Hill Campus, Barbados), Postgraduate Certificate in Excellence in Teaching and Learning. 1998-2002 Institute of State and Law of the Russian Academy of Sciences: Ph.D. in Law. 1993-1998 Kuban State University Law School, (Krasnodar, Russia): Specialist (law). EMPLOYMENT 2014- present Senior Lecturer, Faculty of Law, Cave Hill Campus, University of the West Indies 2011-2013 Tutor, Edinburgh University, School of Law, Edinburgh 2002-2010 Associate Professor, Kuban State University Law School, Department of Legal Theory and Legal History (Krasnodar, Russia). 2000-2002 Assistant Professor, Kuban State University Law School. MAJOR COMPETITIVE RESEARCH FUNDING 2011-2012 University of Fribourg Research Scholarship (Switzerland). 2010 Fulbright Program Faculty Research Scholarship (USA). . 2008-2009 Scholarship of the Swiss Confederation (Switzerland). 2007 Government of Canada Award (Canada). MOST IMPORTANT PUBLICATIONS "Bentham and Bentham Studies in Russia", 14: 2 (2019) Journal of Comparative Law, pp. 89-108. "Exclusion and Inclusion of the French Law on Neighboring Plots of Land in the Civil Codes of Francophone Switzerland, Louisiana, and Quebec: Reflections on the Relation between Law and Society" in J. C. Tate, J. R. de Lima Lopes, A. Botero-Bernal (ed.), Global Legal History: A Comparative Law Perspective (London: Routledge, 2018) pp.143-157. "Challenges and Rewards of Teaching Comparative Law in the Commonwealth Caribbean" 76 (2016) Louisiana Law Review, pp. 1165-1182. "The Mystery of the Mixité around the Title of the Louisiana Digest of Civil Laws of 1808", 62 (2016) Loyola Law Review, pp. 725-748. "Russian Society and its Civil Codes: a Long Way to Civilian Civil Law" 6 (2013) Journal of Civil Law Studies, pp. 373-400.

6.4	***Putting the Old Laws in Order: Method of Consolidation as Instrument for Systematization of Laws of the Russian Empire and Local Laws of Baltic Governorates in 19th Century*** **Valdis Bluzma** | Turiba University, Riga **ABSTRACT:** This topic is devoted to comparative analysis of systematization of two significant legal sources of the Russian Empire – monumental Digest of Laws of the Russian Empire (DLRE; in effect from 1835) and considerably less voluminous Digest of Local Laws of Baltic Governorates (DLLBG; Part I and II in force from 1846, but Part III - from 1865). The author analyses common features and differences in the process of consolidation of compared digests of laws, noting the problems which the consolidators had to solve and the virtues and weak points of both digests of laws. DLRE, as well as DLLBG were created applying the method of consolidation of laws and other legal sources which were in force in time of their adopting. This technique of law-making was fundamentally different from the technique of codification of main branches of law which was developed in continental Western Europe in the same epoch, as no new rules were incorporated in the consolidated texts of digests. The systematization of both digests was based on popular in that time ideas of German Historical School of Jurisprudence, which were supported by Russian emperor Nicholas I, whose aim was stabilizing absolutism regime by forming a solid legal order. The method of systematization of Russian law by consolidation of the laws in effect was based on the principles formulated by English philosopher of 17th century Francis Bacon in his essay "*De dignitate et augmentis scientarum*. DLRE was structured in 8 main parts according to the number of the branches of law identified by the famous codifier of DLRE Mikhail Speransky. The main objective of the systematization of Baltic local laws initiated by Baltic German elite and performed by prominent Baltic German lawyers Reinhold Samson von Himmelstiern and Georg Friedrich von Bunge was strengthening of administrative and legal autonomy in Baltic Governorates and codification of privileges of upper estates. This work was under strict control of the 2nd Department of Emperor's Chancellery which made decisions on principal form and structure of code, on acceptable sources of law for this systematization, and controlled their consistency to fundamental laws of the Russian Empire. From political viewpoint DLRE and DLLBG were conservative systematizations which aim was to preserve *status quo* in political and social life. Looking from the legal aspect, replacing ancient, scattered and often conflicting laws by both digests of laws modernized legal system of Russia and its Baltic region, making the existing law more understandable and accessible to the public. Yet later these digests began to slow down the implementation of the necessary legal and social reforms.

	Keywords: systematization of law, consolidation of laws, codification, digest of laws, legal autonomy, particularism of law
SESSION 7	
7.1	***Facing Authoritarianism: Lawyers, Legal Method and the Demise of Democracy, 1918-1953*** **Cosmin Sebastian Cercel** | Lazarski University of Warsaw / **Peter Curos |** University of Oslo / **David Fraser** | University of Nottingham / **Petra Gyöngyi** / Simon Lavis Open University
SESSION 8	
8.1	***History and the Shaping of Legal Professions (South America and Europe, late nineteenth and esarly twentieth centuries)*** **Jean-Louis Halpérin** | École Normal Supérieur, Paris / **Fatiha Cherfouh-Baïch** | Université de Paris Descartes / **Ricardo Sontag** | Universidade Federal de Minas Gerais / **Mariana de Moraes Silveira** | Universidade Federal de Minas Gerais ***The use of history in front of the dramatic increase of legal students and of the legal profession in Europe around 1900*** **Jean-Louis Halpérin** **ABSTRACT**: In many European countries, notably in Germany, in France and in Italy, the turning point of the 19th and 20th century is characterized by a dramatic increase of the number of legal students (from example, a ten-years progress from 9 000 until 16 000 in France) and of the members of legal profession (the number of advocates has doubled in Italy or in Germany from the years 1880s to the years 1910s). Corresponding to an extension (if not a true democratization) of higher education and to a situation of growing economies inside national markets, this increase has also raised concerns about an overcrowding of the legal profession, as synonymous of exacerbated competition and lowering of the traditional standards defended by the "elites" of jurists. What was the role of legal history in shaping the legal professions in such a context? The enquiry will use the texts written about the reform of legal education (as Glasson's paper *La crise des facultés de droit* in 1902, Zitelmann's book *Die Bildung der Juristen* in 1909 or Bonfante's discourse in 1912 about *La riforma universitaria*) to study the concerns of law professors in front of the increase of law students. In some cases, the knowledge of Latin, the importance given to an historical rooting were arguments to limit the number of lawyers and to maintain an "aristocratic" conception of legal education. But legal history could be also associated with legal sciences, as sociology and psychology (as in Erlich's report before the *Deutsche Juristentag* in 1912), to promote new conceptions of the "modern jurist" that were open to an

enlargement of the recruitment of legal profession. What was the importance of "historical arguments" inside the legal professions to restrict or on the contrary to grant access for new apprentices? The enquiry will use books and papers about legal deontology at the turning point of the two centuries to identify the use of history as a conservative defense of old standards or as a ground for supporting the extension of the legal profession.

CURRICULUM VITAE: Law professor (exceptional class) at the *École Normale Supérieure* (Paris). Senior member of the *Institut Universitaire de France* (2013-2018). Director of the "*Unité mixte de recherche 7074* – Centre for Legal Theory and Analysis" (CNRS-University Paris X-ENS and EHESS). Director of the "Centre of Legal Theory and Analysis" (UMR 7074 CNRS – University Paris Ouest – Ecole Normale Supérieure) since 2015. Member of the Scientific Council of the *École Normale Supérieure* since 2011. Director of the redaction board of the electronic review Clio @ Thémis since 2009. Member of the European Society for Comparative Legal History and of the *Société de Législation comparée*. Member of the editorial board of the review *Genèses*. Expert for evaluation of research projects in Italy and in Belgium. State Doctorate (Ph. D.), mention "*très honorable*", University Paris II, 1985, thesis price from University Paris II. Master in Legal History, University Paris II, 1982. Master in Public Law, University Paris II, 1982. Bachelor in Law (*Licence en Droit*), University Paris I, 1981. Bachelor of Arts (*Licence ès Lettres*), University Paris IV, 1980; Master in History, mention "*très bien*", University Paris IV, 1981. Degree of specialized studies "*Histoire et civilisation de l'Antiquité*" (Ancient History), University Paris IV, 1982. Degree of the *Ecole Pratique des Hautes Études*, IVth section, 1984. Publications: 15 books (14 in French, one in English). 12 directions of collective Works. 214 articles and contributions to collective volumes (among them 109 papers since 2008, and among these 109 papers, 22 written in English) (titles on www.sciences-sociales.ens.fr).

The role of history in the jurists' training. An illustration with introduction to law textbooks
Fatiha Cherfouh-Baïch

ABSTRACT: The combination of law and history is not always obvious. The astonishment of some first-year students about the existence of historical courses in law schools would be enough to convince us of this. It was not always the case. Indeed, for many French jurists of the nineteenth and twentieth centuries, history had a role to play in their legal career journey. The beginning of the Third Republic (1870-1920) is remarquable because it marked the institutionalization of the history of law and gave a key role to the latter within university education. Remarkably, there is no chronological break : there are authors in the nineteenth and twentieth centuries who, in the selected textbooks, celebrate history and others who try to reduce it to the bare minimum. When it

comes to demonstrating to students the virtues of history and justifying its study, two main arguments are put forward with remarkable historical durability : history allows first a better understanding of the positive law; hence it can help reestablish it, especially because it is key to the evolution and future of law. However, these arguments promoting history have not convinced all jurists and have not been conveyed by all authors of textbooks, some of which have minimized the role of history. If no one is in a hostile position towards history, there are several comments tending to minimize the importance of this discipline, by qualifying it willingly as secondary or even incidental. Moreover, if one goes beyond the professions of faith to take an interest in the effective use of history, then it appears that even authors recognizing its qualities make only a limited use of it.

"*Alienigenismo originário do nosso direito*" [Originary foreignness of our law]? History of national law versus "influences" between Brazil and Europe in the 19th century or questions for the writing of Brazilian legal history

Ricardo Sontag

ABSTRACT: Was there in Brazil, between the end of the nineteenth century and the beginning of the twentieth century, within the legal professions, the 'legal historian'? Since the foundation of the first Law Schools in Brazil in the early nineteenth century, legal history was sparsely in the curricula connected with other disciplines. Later, in the 1890s, the chair named "History of National Law" was created. The hypotheses that I would like to explore in this paper are as follows: i) the existence of the aforementioned chair was not enough to form the figure of the legal historian, as happened, around the same time, in Europe (France, Italy, Germany, for example); ii) from the methodological point of view, the apparent alignment between the chair's designation and the first books on Brazilian legal history with the nationalism of European legal historiography of that time is misleading. In the first hypothesis, the autonomous chair did not last long enough to foster the autonomy of the field; in the second hypothesis, European historiography had to overcome nationalism in different ways in the last decades, but Brazilian historiography was born under the sign of transnational comparison, because a very important concept for those first books was "influence", which served to withdraw historiographical narrative from the difficulties in defining the Brazilian character of Brazilian law. For this reason, I would like to propose that the meaning of the dialogue of the current Brazilian historiography with contemporary methodological debates on comparative legal history is not to overcome nationalism, but to open possibilities of articulating local and global issues differently, beyond the sender-centrism of the "influence" concept.

CURRICULUM VITAE: *Professor* of Legal History at the Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, *Brasil*). Coordinator of the *Studium Iuris* – History of Legal Culture Research Group at the Federal

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https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3414844 SONTAG, Ricardo. 'Escola positiva' e a construção da identidade científica de João Vieira de Araújo (1884-1889). **Revista de Estudos Criminais**, v. 12, p. 115-144, 2014. SONTAG, Ricardo. "Curar todas as moléstias com um único medicamento": os juristas e a pena de prisão no Brasil (1830-1890). **Revista do Instituto Histórico e Geographico Brazileiro**, v. 177, p. 45-72, 2016. Available at: https://ihgb.org.br/revista-eletronica/artigos-471/item/108296-curar-todas-as-molestias-com-um-unico-medicamento-os-juristas-e-a-pena-de-prisao-no-brasil-1830-1890.html

"New forms of legal art": professional ideals, comparative law, and uses of history in the American Juridical Congress (Rio de Janeiro, 1900)

Mariana de Moraes Silveira

ABSTRACT: In May 1900, the Institute of Brazilian Lawyers (IAB, in the Portuguese acronym) held the American Juridical Congress in Rio de Janeiro, amid celebrations of the fourth centennial of the first Portuguese fleet's arrival on what would become Brazilian territory. In the prospectus, the organizing committee referred to "law conferences" and "the science of comparative legislation" as "new forms of legal art". This justification for holding a conference that was continental in scope parallel to a patriotic festivity conveyed Brazilian lawyers' desire to participate in increasingly prestigious forms of cross-border legal debate, and to play a part in the transnational modernization of jurisprudence. The American Juridical Congress took place a couple of months before the International Congress of Comparative Law gathered in Paris, and its proposal was partially inspired by the conference held in Spain in 1892 to commemorate the fourth-hundredth anniversary of Columbus's arrival in America. In the national realm, sponsoring the congress was likely a strategic move, since the IAB faced a critical moment in its trajectory. Founded in 1843 by a group of prominent lawyers, the association had functioned as a sort of semi-official institution during Imperial times. Even though the IAB never achieved the key goal of regulating the profession, it developed its activities under the auspices of Emperor Dom Pedro II and managed to be heard in crucial moments of decision-making. The institution had to reinvent itself in the wake of the proclamation of the Republic in 1889. The 1900 conference can thus be seen as part of an effort to build a novel place for the IAB in the public scene. By analyzing the congress's proceedings as well as press coverage of the meeting, this paper discusses how the defense of professional ideals, the search to advance studies in comparative law, and the political uses of historical arguments intertwined to shape the complex intellectual intervention that the American Juridical Congress represented. On a theoretical and methodological level, this research aims to exploit the heuristic potentialities of variations of scale within legal history. In that regard, the paper argues that a proper understanding of the 1900 conference demands both a careful assessment of the local intentions that drove such initiative and an

	apprehension of the cross-border dynamics through which international conferences and comparative approaches became central arenas of scholarly exchange at the turn of the twentieth century. **CURRICULUM VITAE**: Associate Professor of Theory of History and History of Historiography at the Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, Brazil), since 2019. Member of *Studium Iuris* – History of Legal Culture Research Group (since 2016) and of *Brasiliana* Project – Research Group in Intellectual and Editorial History (since 2008), both housed at the Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, Brazil). Ph.D. in Social History, University of São Paulo (*Universidade de São Paulo*, Brazil), 2018. M.A. in History, Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, Brazil), 2013. LL.B, Milton Campos Law School (*Faculdade de Direito Milton Campos*, Brazil), 2011. B.A in History, Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, Brazil), 2010. Exchange undergraduate student, Paris 1 Panthéon-Sorbonne University (France), 2009. Received scholarships from the Max Planck Institute for European Legal History (Frankfurt am Main, Germany) as a post-doctoral researcher (December 2018-January 2019) and as a visiting Ph.D. candidate (April-June 2016). My research interests lie in the intersection of legal history, intellectual history and book history, with an emphasis on cross-border academic exchanges, professional associations, and public uses of history. I have mostly worked on the Brazilian and Argentinian cases during the first half of the twentieth century. Selected publications: SILVEIRA, M. M.. Bar associations and the circulation of legal knowledge: Argentina and Brazil, 1917-1943. In: TATE, J. C.; LOPES, J. R. L.; BOTERO BERNAL, A. (editors). **Global Legal History:** a Comparative Law Perspective. Abingdon: New York: Routledge Press, 2019, p. 67-83. SILVEIRA, M. M.. La Revista del Colegio de Abogados de Buenos Aires: entre proyecto profesional e intervención en la vida pública. **Historia y Justicia**. v. 12, 2019. Available at: https://journals.openedition.org/rhj/2117; SILVEIRA, M. M.. The history and historiography of the book in Brazil: present conditions and future directions. **Lingua Franca**. v. 4, 2018. Available at: http://www.sharpweb.org/linguafranca/wp-content/uploads/2018/06/Brazil.pdf; LYONS, M.; PICKFORD, S.; SILVEIRA, M. M. Emerging histories of the book (Editorial). **Lingua Franca**. v. 4, 2018. Available at: https://www.sharpweb.org/linguafranca/issue-4-2018/; SILVEIRA, M. M.. Técnicos da legalidade: juristas e escrita das leis (Argentina e Brasil, primeira metade do século XX). **Estudios Sociales Contemporáneos**. n. 17, p. 86-102, 2017. Available at: http://bdigital.uncu.edu.ar/app/navegador/?idobjeto=10040 ; SILVEIRA, M. M.. Direito, ciência do social: o lugar dos juristas nos debates do Brasil dos anos 1930 e 1940. **Estudos Históricos**. v. 29, n. 58, p. 441-460, 2016. Available at: http://bibliotecadigital.fgv.br/ojs/index.php/reh/article/view/61135.
SESSION 9	

9.1	***What does it mean to be interpreted as interpreter? A Hermeneutical Analysis of a 17th Century German Jurisprudent's effect on 18th Century Criminal Case Law of a Hungarian Free Royal City*** **András Biczó** | *University of Debrecen*
9.2	***Legal Scholarship and Criminal Procedure in the Brazilian First Republic in a Comparative Perspective (1889-1930)*** **Régis J. Nodari** | Federal University of Minas Gerais
9.3	***Law and the Birth of the Irish Free State in 1922*** **Thomas Mohr** | University College Dublin **ABSTRACT**: This paper will examine legal issues connected to the secession of the south and west of the island of Ireland from the United Kingdom in 1922. It will examine the legal issues that dominated the year of transition that began on 6 December 1921 with the signing of the document popularly known as the "Anglo Irish Treaty" in London. The year of transition concluded on 6 December 1922 with the formal birth of the Irish Free State. This paper will examine British legislation regulating the handover of power and the final fate of British courts operating on the territory of the future Irish Free State. It will also examine the fate of the legislation and court system established in Ireland by revolutionary authorities during the preceding years of conflict. This paper will also consider the drafting of the future Constitution of the Irish Free State which required difficult British-Irish negotiations. The position of the Irish provisional government during this year of transition will also be considered. The provisional government faced serious challenges during the year of transition but often lacked adequate legal means to tackle them. These challenges included the consequences of the partitioning of the island of Ireland. The provisional government also faced a drift towards civil war without formal powers to pass emergency legislation or create military forces to deal with the civil war that eventually erupted on 28 June 1922. The paper will conclude by considering the long-term implications of the legal challenges facing the embryonic Irish Free State during this difficult year of transition. It will examine the impact of the events of 1922 on Irish law and on British law in the years that followed.
9.4	***The punishment of poverty under the social defense discourse: A Comparative Study between the Law of Vagrants and Thugs (Ley Relativa a Vagos y Maleantes, 1933), in Spain, and the Law of Penal Contraventions (Lei de Contravenções Penais, 3688/41), in Brazil***

	Jonatan de Jesus Oliveira Alves | University of Valencia
SESSION 10	
10.1	***The Tramways Case of 1912 and the Birth of Constitutional Adjudication in Romania – between Legal Acculturation and Legal Cultural Autonomy*** **Manuel Guțan** | Lucian Blaga University of Sibiu **ABSTRACT**: In 1912, the Romanian Supreme Court *(Curtea de casație)* decided, for the first time in his history, that a law enacted in 1911 by the Romanian parliament is contrary to the provisions of the 1866 Constitution. Thus, it confirmed the judgement of Ilfov Tribunal that previously reached the same verdict. Fallowing, the North-American type of *a posteriori* constitutional review has been established in Romania by way of legal precedent. Soo after, the Romanian Constitution of 1923 enshrined the *a posteriori* constitutional review and entrusted it only to the Supreme Court. The Tramway case of 1912 did not remain an isolated one. Until the Second World War, many other judgements of unconstitutionality has been issued by the same Supreme Court. The Tramways case of 1912 had a huge eco in Romania and abroad, especially in France. The constitutional review, its necessity and its doctrinal opportunity were intensively debated at the beginning of the 20th century by the scholars of Public Law across the European continent. However, the Romanian case is special not only for the pioneers of the constitutional review but also for the historians of legal professions (especially for those interested in the law professors and judges). The Romanian courts' competence to review the constitutionality of the laws enacted by the parliament split the Romanian scholars, lawyers and judges in two very vocal sides. The very strong cultural influence coming from the French constitutionalism prevented many Romanian legal professionals to accept any interference of the judiciary in the legislative process. This is why the Tramway case of 1912 marked and important change in legal mentality, especially among judges. My presentation aims to highlight the process of the Romanian judiciary gaining legal-cultural autonomy from the French constitutional model. This endeavour is not an easy one, as long as, paradoxically, the decisive intellectual work behind the famous Romanian judgement of 1912 belonged to the French law professors and lawyers Joseph Berthelemy and Gaston Jeze, which assisted the Bucharest Tramway Society's Romanian lawyers in court. **CURRICULUM VITAE**: **CURRENT ACADEMIC POSITIONS:** 2016 National Habilitation : conducting PhDs at LBUS Doctoral School**;** 2014-present: Professor, Lucian Blaga University of Sibiu, Faculty of Law, Public Law Department**. PREVIOUS POSITIONS:** 2001 Van Calker Fellow of the Swiss Instiute of Comparative Law, Lausanne**. OTHER POSITIONS:** 2010 – prezent: Editor-in-Chief of the Romanian Journal of Compatative Law**. EDUCATION:** 2003 – PhD in History of Law, Babeș-Bolyai University of

	Cluj-Napoca; 1996 – Masteral studies in Judicial Law, Lucian Blaga University of Sibiu; 1995 - BSc. Law, Lucian Blaga University of Sibiu; **TEACHING:** 2017 Erasmus professor, University of Sofia**;** 2016 Erasmus professor, University of Valencia**;** 2015 Erasmus professor, University Carlos III of Madrid**;** 2014- present Professor (Reader), Courses in: History of Law, History of Public Administration, Comparative Law, European Legal Thinking; 2006 – 2014 Associate Professor (Reader), Courses and seminars in: History of Law, History of Public Administration, Comparative Law, European Legal Thinking; 2006 Visiting Professor, Philipps Universitaet Marburg, Germania - Master in European Studies; 2004 – 2006 Lecturer in Law - Courses and seminars in: History of Law, History of Public Administration, Comparative Law, European Legal Thinking; 1995 – 2004 Assistant Professor - Seminars in: History of Law, History of Public Administration, Comparative Law, European Legal Thinking. **RESEARCH STAGES:** 2016 research stages, Heidelberg, Max Planck Institute for Comparative Public Law and International Law; 2013 – 2015 research Fellow at the University of Trento, Faculty of Law**;** February 2013 research stage, Institute of European and Comparative Law, Oxford University, UK**;** February; July 2012 research stages, Heidelberg, Max Planck Institute for Comparative Public Law and International Law; June 2011 research stage, Frankfurt am Main, Max Planck Institute for European Legal History; August 2006 research stage, Lausanne, Swiss Institute for Comparative Law; April 2000 research stage, Rennes, Faculte de droit et science politiques. **ARTICLE REFEREE:** Revue de droit international et de droit compare, Journal of Constitutional History, Glossae. European Journal of Legal History, Romanian Journal of Comparative Law, Studia Politica, Acta Universitatis Lucian Blaga. Seria Jurisprudentia, Pandectele Romane, Dreptul, Revista de drept public. **EDITORIAL, SCIENTIFIC BOARDS:** Romanian Journal of Comparative Law – Editor-in-Chief**;** Acta universitatis cibiniensis. Seria Jurisprudentia – Scientific Board, member**;** Diritto Pubblico comparato ed europeo – Scientific Board, member**;** Glossae. European Journal of Legal History, Scientific Board, member iaduer.ro. Revista afaceri juridice europene, Scientific Board, member**. PROFESSIONAL AFILIATION:** Institutul de Ştiinţe Administrative *Paul Negulescu*, member**;** Swiss Institute of Comparative Law Alumni Association, member**;** European Society for Comparative Legal History, member**. ADMINISTRATIVE, MANAGEMENT AND OTHER EXPERINCE:** 2017 – Responsible with the Law doctoral domain of the LBUS Doctoral School**;** 2004 – present Member of the LBUS Senate**;** 2004 – 2012 Member of the Law Faculty's Council**;** 2008 – 2012 Scientific Director within the Distance Learning department of the LBUS; 2004 - 2008 Vicedean of the Law Faculty; 1999 – 2002 Member of the managerial team of the project TEMPUS JEP 14215-99.
10.2	***Between Erudition and Safety: Writing Practices of Judges and Lawyers and International References in Brazilian Administrative Law Investigated Through Bibliometric Data (1873-1930)***

Arthur Barreto | Università degli Studi di Firenze

ABSTRACT: This research aims to identify the different references and writing practices of Brazilian jurists in 1873-1930. I consider specifically the citations of foreign authors, as they could yield a solid foundation for a *histoire croiseé* of legal scholarship in an international context. My sample were texts on expropriation drawn from 12 law journals published in Brazil; I could select 453 court rulings and 42 other texts, comprising legal opinions and other manifestations within law suits. They provided 1133 citations, which I organized in 5-years periods. This initial analysis allowed me to identify two distinct periods regarding the international influences mobilized by Brazilians. In the first one, between 1873 and 1897, foreign references dominated ca. 90% of citations. Among them, the most important were the Portuguese (especially in civil procedure) and French jurists. A second period, from 1898 on, saw the Brazilians as the most important source (around 40%). Among foreign citations, the most important were almost always the French, followed by the Italians. The USA and Portugal disputed the third and fourth places, and Germany usually came in fifth. After this initial analysis, I divided the texts in thee kinds, related to specific professions: court rulings, which were written by judges; other manifestations, usually written by lawyers, and doctrinal writing, of mixed origin. Court rulings cited Brazilians more than 50%, which can be explained by the fact that they needed more security and relied more heavily on authors that directly discussed Brazilian law; besides, they were usually smaller. Other manifestations within lawsuits had in Brazilians fewer than 20% of citations, which can be related to a need of erudition to impress judges. Doctrinal writing was in the middle. But scholarly writing cited any text in a much higher mean (11,6 citations/text) that court rulings (0,8), and around the same time as legal opinions (10); probably judges were more worried to quote statutory law, and relegated legal science to a smaller role. The data allowed me to conclude that different legal professions, especially when writing specific literary genres, had different methods: judges, in their rulings, wrote smaller pieces and cited sporadically, and used Brazilian authors, revealing a value for safety. Lawyers otherwise wrote lengthier texts, with abundant citations from authors from many nationalities, which means they valued erudition. Moreover, French legal culture yielded constant influence over Brazilian jurists of all professions; Italian and American ones only became relevant after the turn of the 20th century.

CURRICULUM VITAE: **EDUCATION**: **PhD in Theory and History of Law** (*Università degli Studi di Firenze*) – 2019 – Current. Title: Legal Status of the Military Personnel and Legal-Institutional Pluralism: Social Rights, Administrative Discipline and Social Role of the Armed Forces Between Europe and Brazil (1870-1942). Supervisor: Bernardo Sordi: **Master in Law (**Universidade Federal de Minas Gerais**) -** 2018-2019. Title: "The other side of property: expropriation between administrative efficiency and propertary

	absolutism in Brazil (1826-1930)". Supervisor: Prof. Ricardo Sontag; **Bachelor in Law** (Universidade Federal de Minas Gerais) - 2013-2017. Title: "The most beautiful prerrogative of the crown: pardon in the Brazilian legal culture (1823-1924)". Supervisor: Prof. Ricardo Sontag. **OTHER COURSES:** Summer Academy 2018 – Max Planck Institut für europäische Rechtsgeschichte**;** Paleography – Universidade Federal de Minas Gerais. **PAPER IN LEGAL HISTORY:** COSTA, Arthur Barrêtto de Almeida. Pardoning and Punishing in Times of Transition: The Pardon Appeal (Recurso de Graça) on the Brazilian Council of State (1828-1834). *Revista Direito e Práxis*, n. 10, v. 02, abr. 2019. **PRESENTATIONS IN INTERNATIONAL LEGAL HISTORY CONGRESSES**: 25th Forum of Young Legal Historians (Université Libre de Bruxelles); Author's Workshop of "Administory: Journal for the History of Public Administration" (Max Planck Institut für europäische Rechtsgeschichte); X Jornadas de Jóvenes Investigadores em Historia del Derecho (Universidad Nacional de Córdoba); 5th Biannal Conference of the European Society for Comparative Legal History (Ecole Normale Superieure); XV Encontros de História do Direito (Universidade Federal de Minas Gerais); XIV Encontros de História do Direito (Universidade Federal de Minas Gerais); XIII Encontros de História do Direito (Universidade Federal de Minas Gerais); XII Encontros de História do Direito (Universidade Federal de Minas Gerais); X Encontros de História do Direito (Universidade Federal de Minas Gerais). **OTHER ACADEMIC POSITIONS**: 2015 - Current: Member of the Study Group on the History of Legal Culture; 2015 – Current: Member of the project "Organization and dissemination of the rare books of the Museum of the Legal Book Assis Chateaubriand"; 2017: Editorial assistent at the law journal "Revista da Faculdade de Direito da Universidade Federal de Minas Gerais"; 2014-2017: Editor of the Student's law journal "Revista do CAAP"; 2014-2017: Editor of the Student's law journal "Alethes: periódico dos graduandos e graduandas em direito da UFJF"
10.3	***Literary genres and legal practice: the accommodation of Portuguese literature in legal practice to the Brazilian courts in the 19th century*** **Gregório Schroder Sliwka** / **Alfredo Flores** | Universidade Federal do Rio Grande do Sul (UFRGS) / Pontifícia Universidade Católica do Rio Grande do Sul (PUCRS) **ABSTRACT:** This paper examines the Brazilian reception of Portuguese literature in legal practice during the second half of the 19th century considering mainly its representation in a literary genre defined as 'accommodation' ('acomodação'). The accommodations were seen as a form of adapting foreign legal literature to the Brazilian practice, making it accessible for Brazilian practitioners and intermediating their contact with foreign texts. For this paper, the main hypothesis is that this form of adaptation of Portuguese legal practice handbooks to Brazilian courts by Brazilian authors represents and incorporates some practices of cultural translation of normative information from Brazilian

	legal practice in the 19th century. To work with this genre of legal literature, the construction of the corpus began with books that explicitly adopted the generic label 'accommodado' but went on to identify other books that drew on the same generic repertoire. After constructing the corpus, some samples were selected and deeply examined considering (a) relevant material elements, especially those related to the production and circulation of Portuguese and Brazilian books, and (b) the textual relations established with other texts, such as previous editions and sources. Finally, some theoretical remarks related to the circulation of normative information in space and time, as well as to the normative premises and consequences of 'accommodating', were constructed. This investigation is part of a larger research project dedicated to the history of Brazilian legal literature and draws on three different theoretical (or methodological) approaches: theory of literature, supporting the definition of genres and of the relations between texts; history of books, for describing the production and circulation of the material support as well as other bibliographical elements that influence meaning; and legal history, considering here the fertile dialogue with the history of knowledge proposed by Thomas Duve when working with pragmatic normative literature. **CURRICULUM VITAE: Alfredo de J. Flores** is Ph.D. in Law and Philosophy from the University of Valencia, Spain. Currently holds a position as Associate Professor of Legal Methodology, and as Permanent Professor of Legal Methodology and Legal History on the Graduate Law Program (Master and Doctorate) both at the *Universidade Federal do Rio Grande do Sul* (UFRGS – Porto Alegre, Brazil). He is a Corresponding Member of the *Instituto de Investigaciones de Historia del Derecho* (IIHD – Buenos Aires, Argentina), a Member of the *Instituto Brasileiro de História do Direito* (IBHD – Brazil), an Associate of the *American Society for Legal History* (ASLH), and a Member of the *Asociación de Historiadores Latinoamericanistas Europeos* (AHILA). E-mail: ajdmf@yahoo.com.br. **CURRICULUM VITAE: Gregório Schroder Sliwka** is a master's student in Legal History at the Federal University of Rio Grande do Sul (UFRGS), where he also received his B.A. degree in legal and social sciences. E-mail: ggsliwka@hotmail.com.
SESSION 11	
11.1	***Transformative constitutionalism –history in the making*** **Andre Mukheibir** / **Joanna Botha** | Nelson Mandela University **ABSTRACT**: The South African constitution departs from "a liberal depiction of constitutions as representing a view of state and society that is fixed in time" to a constitution that is both forward and backward looking and is aimed at the

	transformation of society. Instead of a yard-stick for the status quo, the constitution itself has to change the status quo. The courts, and in particular the Constitutional Court, have a duty to develop the common law "and when developing the common law" must "promote the spirit, purport and objects of the Bill of Rights" (section 39(2) of the Bill of Rights). The duty, or imperative, to develop the common law was described by the Constitutional Court in *Carmichele v Minister of Safety and Security*. The court, reading together certain sections of the Constitution, concluded that "…it follows implicitly that where the common law deviates from the spirit, purport and objects of the Bill of Rights the courts have an obligation to develop it by removing that deviation." The courts have, since the advent of the Constitutional dispensation, on numerous occasions developed the common law to conform with the "spirit, purport and object" of the Bill or Rights. Through the development of the common law, the courts are changing the very fabric of South African legal landscape to conform with the post-amble of the interim Constitution: "This constitution provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex. The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society." The courts, and in particular the judges, have become vehicles for change and the Constitution, instead of being a static document prescribing an existing status quo, is a blueprint for the change of the status quo and changing the history of South Africa. **CURRICULUM VITAE**: André Mukheibir is a Professor of Private Law in the Faculty of Law at the Nelson Mandela University, Port Elizabeth, South Africa. She holds the following qualifications: B Mus B Juris LLB BA (Hons) D Juris. She successfully defended her doctoral thesis entitled "The Wages of Delict: Compensation, Satisfaction, Punishment" on 29 May 2007. She delivered her inaugural professorial lecture, entitled "Transformative Constitutionalism and Reconciliation – Balancing the Interests of Victims and Beneficiaries" on 8 September 2016. She has lectured the law of contract, the law of delict and human rights law and has published extensively in the law of delict.
11.2	***Edmund Burke across the Atlantic: The reception and employment of his constitutional ideas by Joseph Story (1779-1845) and Bernardo Pereira de Vasconcelos (1795-1850)*** **Rodrigo Couto Gondim Rocha** ***Constitutional Review in Estonia and Germany between the World Wars***

11.3	**Marelle Leppik** | University of Tartu / **Hesi Siimets-Gross |** University of Tartu
SESSION 12	
12.1	***The revision of Gaius' iuris divisio in Second Scholastics' legal thought and the methodological renovation of the definition of dominium and ius*** **Ana Caldeira Fouto** | University of Lisbon **ABSTRACT:** The use of the division *ius in re / ius ad rem* is well documented in Second Scholastics texts on the definition of *ius*. We intend to explore, however, the use of that division associated to the modern systematic division *dominium / obligatio* in the particular characterization of *restitution* on three manuscripts from the 1580's: Simões' *De Restitutione*, dating from 1585; Perez' *De Restitutione*, dating from 1587; and Magalhães' *De Restitutione* written between 1586 and 1589. The influence of these authors – whose manuscripts *De Restitutione* have been subject to a critical edition and are to be presently published – is to be analysed, particularly from the use of their authority in *De Restitutione* texts, since it is fundamental to determine the impact of the adopted defining *formulae* and their meaning to the methodological renovation under way in this particular context. The reception of the modern systematic association of *ius in re* to *dominium* and *ius ad rem* to *obligatio* is not only relevant to understand the modern scholastic definition of *ius*, but it is also an important testimony of methodological innovation, particularly meaningful considering the reception by the Catholic School of the critical reinterpretation of the traditional *division iuris* present in Justinian's *Institutes* – a critical reinterpretation in which Protestant hermeneutics played an important role, as Apel's *Methodica* demonstrated. We intend to explore the way in which the division propagated by Apel is being pacifically received in the 1580's and, most of all, articulated with an apparently traditional methodological use of Roman law sources in Catholic legal thought developed in these three manuscripts *De Restitutione.* **CURRICULUM VITAE:** Professor at the Faculty of Law, University of Lisbon, Legal History Department (teaching Roman Law, History of Portuguese Law, History of Political Ideas, History of Juridical Thought, History of International Relations, International Public Law and Cybersecurity Law). Researcher at IURIS – Research Centre of the University of Lisbon. Preferential research comprises medieval and early modern legal and political thought, with emphasis on the history of scholastic legal and political discourse.
12.2	***Early Eighteenth Century Jurists and the Challenge of Defining the Legal Status of the Sea in the Age of Mercantilism*** **Stefano Cattelan** | Vrije Universiteit Brussel

ABSTRACT: This paper addresses the role played by jurists and legal professionals in the development of the law of the sea between the end of the seventeenth century and the beginning of the eighteenth century. Two opposing principles had emerged in the previous centuries, mare clausum (the closed seas) and mare liberum (the freedom of the seas). The doctrinal debate centred on whether states could exercise exclusive control over pelagic areas and to what extent. It culminated with the publication of Hugo Grotius's Mare liberum (1609) and John Selden's Mare clausum (1635). What was at stake was the definition of the legal status of the sea as well as the regulation of its use regarding trade and fisheries exploitation. Only in the closing years of the seventeenth century there were signs that the era of claiming exclusive sovereignty over extensive pelagic spaces was passing away; and that, instead, the policy of fixing exact boundaries for special purposes, either by international treaties or national laws, was taking its place. During the recurrent conflicts of the long eighteenth century, jurists began to shift their attention to the rights of neutrals regarding navigation and trade during times of war, as shown by Johann Gröning's Navigatio libera (1693). At the same time, mercantilist policies and the "jealousy of trade" heavily affected the freedom of the sea in practice, as clearly shown by the Ostend Company affair (1722-1731). In this context of transition, the Dutch jurist Cornelius van Bynkershoek proposed a compromise between the ideas of freedom and dominion over the sea in the treatise De dominio maris dissertation (1703). Taking inspiration from novel trends emerging in state practice, he suggested that coastal states should be entitled to hold sovereign rights over a strip of coastal waters (cannon shot rule). The remaining pelagic spaces would lie beyond state jurisdiction, hence the long-lasting dichotomy between territorial sea and high seas.

CURRICULUM VITAE: Professional experience: Jan 2022-currently Postdoctoral Researcher at Vrije Universiteit Brussel, Faculty of Law and Criminology (Belgium) JURI-Department of Interdisciplinary Studies of Law (Metajuridica) Research Group: Contextual Research in Law (CORE) Promotor: Associate Professor Frederik Dhondt Research fields: Legal History, History of Public International Law, Law of the Sea. Postdoc project: "In the Shadow of the Great Powers: Freedom of the Sea and Neutrality in the 18th Century" Nov 2020 - May 2021 Research Assistant to Associate Professor Thomas Neumann at Aalborg University, Department of Law (Denmark) Sept 2017 - Sept 2020 PhD Fellow at Aarhus University, Department of Law (Denmark) Supervisor: Professor Per Andersen PhD dissertation: "Mare Clausum in Legal Argumentation: Claiming the Seas in the Early Modern Age" (defended on 4th December 2020) Teaching activity: 2018-2020: Lecturer, master level course: International Law (40 hrs) 2018-2019: Examiner, master level course: International Law (oral exams) Jan 2020 - currently Blogger, European Society for Comparative Legal History (ESCLH) Oct 2019 - Dec 2019 Visiting Researcher at Tilburg Law School (the Netherlands). Department

	of Public Law and Governance - Institute for the History of International Law (i-HILT). Host: Professor Randall Lesaffer Aug 2019 - Sept 2019 Visiting Researcher at University of Bergen, Faculty of Law (Norway). Legal History Research Group. Host: Professor Jørn Øyrehagen Sunde 2 Education Jul 2021 - Jul 2021 Rhodes Academy of Oceans Law and Policy Intensive summer course on contemporary law of the sea with lectures delivered by leading experts and practitioners in the field. Sept 2011 - Mar 2017 University of Trento, Faculty of Law (Italy) Master's degree in Law, five-year program Final grade: 110/110 with Honour Master's Thesis: "The Sovereignty over the Oceans, from the Treaty of Tordesillas (1494) to Hugo Grotius' Mare Liberum (1609)". Thesis advisor: Professor Diego Quaglioni; co-advisor: Associate Professor Giuliano Marchetto. Sept 2006 - Jul 2011 High School Diploma - Liceo Classico Marco Foscarini, Venice Ancient Greek, Latin, Philosophy. Member of the chess team. Languages Italian: native-speaker English: fluent French: advanced Spanish: working knowledge Latin: working knowledge (written sources) Portuguese: working knowledge (written sources) Memberships and societies - Association of Young Legal Historians (AYLH) - European Society for Comparative Legal History (ESCHL) - Société d'histoire du droit et des institutions des pays flamands, picards et wallons - Standen & Landen - Selden Society - International Postgraduate Port and Maritime Studies Network (IPPMSN) - The Northern Early Modern Network - Società italiana di storia militare.
12.3	***Shaping a Mixed Jurisdiction: The Methods of Israeli Professors and Judges*** **Nir Kedar** | Sapir Academic College - Bar-Ilan University **ABSTRACT**: Israel's legal system is heavily influenced by both the Anglo-Saxon and Romano-Germanic traditions, but Israelis are also devoted to creating their own law, jurisprudence and legal system, in accord with their rich legal heritage and their independent values, interests and needs. But what are the methods by which this dynamic legal system is shaped, and who are the professional who shape it? The paper will strive to answer these questions by looking at two groups of jurists: law professors and judges; and analyzing how, by means of comparison with other legal systems, borrowing from other places and innovative creation, they fostered an original legal system. Comparing Israel to other jurisdictions, I will analyze inter alia these Jurists' background and training, legal reasoning and methodology, style and social role. Israeli law professors and judges personify this dynamic legal mixture. Using methods and legal reasoning from both Western legal cultures, Supreme Court Justices and law professors led two important (albeit controversial) revolutions in Israeli legal history: An Anglo-American-like revolution in public law, heavily influenced by North-American constitutional thinking; and a European-like revolution in private law. The "constitutional revolution" of the 1990s declared Israeli Basic Laws as forming a comprehensive constitution, that grants the

	courts the power of judicial reviews over acts of the Israeli Parliament. The "codification revolution" consolidated the different civil laws enacted during the 1960s and 1970s into a comprehensive civil code. In leading these "revolutions" Israeli law professors and judges maneuvered between different legal traditions in order to shape an Israeli unique and independent legal system. **CURRICULUM VITAE**: Nir Kedar is the Vice President for Academic Affairs at Sapir College (where he previously served as the Dean of the Law School), and a professor of law and history at Bar-Ilan University Faculty of Law, Israel. He graduated from Tel-Aviv University (history and law) magna cum laude, clerked for the President of the Israeli Supreme Court Prof. Aharon Barak, and received his S.J.D. from Harvard. He is a former member of the editorial staff of Comparative Legal History (CLH). His main fields of interest are modern legal history, comparative law, and legal and political theory. In these fields he has published numerous articles and five books in Hebrew and English. Among his works: "I'm in the East but my Law is from the West: The East-West Dilemma in Israeli Mixed Legal System," in V. Palmer (ed.), Mixed Legal Systems, East and West, Ashgate 2014; "Law, Culture and Civil Codification in a Mixed Legal System" 17 Canadian Journal of Law and Society (2007) 177; "The Political Origins of the Modern Legal Paradoxes" in O. Perez & G. Teubner (eds.) Paradoxes and Inconsistencies in Law, Hart 2005, 101-119. His most recent book, Law and Identity in Israel: A Century of Debate (2019), appeared with Cambridge University Press.
SESSION 13	
13.1	***The Art of Dispute Resolution in Civil Matters: Venetian Lawyers in the Age of Ius Commune*** **Claudia Passarella** | University of Padova **ABSTRACT**: My research project focuses on legal professions and methodologies in the administration of civil justice in Venice and its territorial State in modern times. From a comparative perspective, the Venetian experience between the XVI and the XVIII centuries is a perfect example of multiple legal cultures and traditions. In the modern age, indeed, the Republic of Venice was characterised by a strong legislative and judicial pluralism. In the lagoon city, the civil trial procedure was based on the adversary system and the principle of orality: lawyers on both sides used to discuss the case orally without having previously prepared written allegations, as happened in other European countries. Venetian lawyers, therefore, had to learn and improve the art of dispute resolution, by imitating Greek and Roman orators. On the contrary, the method of arguing cases in the courts of the Venetian mainland was based on different rules and practices. Here the lawyers used to prepare written defences and studied authoritative doctrinal opinions, as required by the tradition of ius commune. These two methodological approaches came into contact whenever

	a decision issued by a local judge was appealed to a supreme court of justice. The most important Venetian court in civil matters was the Council of Forty members, also known as the Quarantia civil. Before the Quarantia, the lawyers must demonstrate all their eloquence and oratory qualities. Their performances usually attracted a large crowd of spectators. The sources reveal that sometimes distinguished personalities sat in the audience. In July 1769 Joseph II visited Venice and attended a trial which took place in the Ducal Palace: the Emperor listened to the speeches of the best Venetian lawyers of the time, whose reputation crossed national boundaries. Seventeen years later Goethe too attended a trial in a Venetian court of justice. The German author was strongly impressed by the lawyerly style used before judges, so different from the "traditional" approach. In his Italian Journey, Goethe claimed to prefer the «neat, natural and unostentatious» Venetian method to the one adopted in his own country, characterized by writing and formalities. **CURRICULUM VITAE**: Dr. Claudia Passarella graduated in Law cum laude from the University of Padova in March 2011. She received her Ph.D. in Legal Sciences (History of Medieval and Modern Law) from the University of Milan in January 2015. From July 2015 to June 2016 she was Postdoctoral Fellowship at the Fondazione Fratelli Confalonieri in Milan. Since July 2016 she has been Post Doctoral Researcher at the University of Padova, Department of Private Law and Critique of Law. Membership: Italian Society of Legal History and Irish Legal History Society. RECENT CONFERENCE CONTRIBUTIONS: - Family Crimes in Venice and Surroundings: The Intimacy of Domestic Life in front of the Jurors – International Conference Family and Justice in the Archives: Histories of Intimacy in Transnational Perspective, Concordia Unversity, Montreal, Quebec, Canada, 5-7 May 2019 - Professional judges and laypersons in criminal trials: a comparative and historical perspective –British Crime Historians Symposium, Edge Hill University, 31 August – 1 September 2018 - The reform of the Assize Courts in Italy put to the test of real life: the difficult cohabitation between professional judges and laymen assessors - XXIV Association of Young Legal Historians, Norms and legal practice: there and back again, Warsaw, 14-17 June 2018 - La procedura civile veneziana tra istanze di giustizia ed esigenze di riforma - III International Conference Universidad Catolica de Murcia, Justice and Judicial Process. Evolution and development in the History of Law, Murcia, 28 November – 01 December 2017. RECENT PUBLICATIONS: 1. Claudia Passarella, The juries' wisdom in the administration of criminal justice: Irish jurisdiction and the Italian justice system in the late nineteenth and early twentieth centuries, in Comparative Legal History, 7, 2 (2019), in press. 2. Claudia Passarella, Law Justice and Architecture in Modern Venice: the Rectors' Palaces and the Government of the Mainland, in Virginia Amorosi e Valerio Massimo Minale (eds.), History of Law and Other Humanities, Carlos III University of Madrid, 2019, pp. 167-179. 3. Claudia Passarella, Interessi di parte e logiche del processo. La giustizia civile a Venezia in età moderna, Torino, Giappichelli, 2018. 4. Claudia Passarella, La

	procedura civile veneziana tra istanze di giustizia ed esigenze di riforma, in Vergentis, 6 (2018), pp. 279-317.
13.2	***The Office of Logothete in Medieval Serbia*** **Andreja Katančević** | University of Belgrade
13.3	***Profession of judge in People's Poland*** **Marcin Łysko** | University of Bialystok **ABSTRACT**: At the beginning of the People's Republic of Poland (1944-1989), the communist authorities endeavoured to subordinate the justice system, which was based solely on pre-war judicial personnel. In the Second Republic of Poland (1918-1939), the condition for taking up the position of a judge was to complete legal studies and a judicial practice. The judge was independent, as during his ruling he was subject only to legal acts. The guarantees of independence were the irrevocability of the judge, the ban on belonging to any political parties, and their judicial immunity. The first step towards subordinating the judiciary to the new authority was the lifting of the ban on judges belonging to political parties in 1944. A decree was soon issued authorising the Minister of Justice to dismiss or retire politically "uncertain" judges. In January 1946, the criterion of "warranty" of proper performance of judicial duties was introduced. The warranty was strictly political in nature, as it was expressed in the acceptance of the principles of the political system and the issuance of court rulings in accordance with the current policy objectives of the communist authorities. A decree enabling taking up the position of a judge in spite of the lack of graduation form a law school served the purpose of an extensive introduction of obsequious judges to the judiciary. According to the decree of January 1946, the guarantee of proper performance of judicial duties was provided by the completion of one of the six secondary legal schools run by the Ministry of Justice. The education in these schools lasted from 6 to 15 months, and the condition for admission was an appropriate recommendation from the ruling party. In 1948, a nationwide Central School of Law was opened, of a rank equal to university law faculties, which, according to the authorities, did not provide with proper ideological preparation. Fully obsequious school leavers were appointed to about 500 managerial positions in common courts, treating courts as a component of the state apparatus implementing the policy of the ruling party. The judges obsequious to the authorities committed "court murders" in the majesty of law. During political show trials, they imposed the death penalty or long-term imprisonment despite the lack of sufficient evidence of guilt of those accused of anti-state activities. The year 1956, which definitely ended the Stalinist period in the history of Poland, would bring a reduction in the communist party's interference in the work of courts, which would be used to fight economic crime. In 1957, the requirement to graduate from higher legal studies was introduced as a necessary condition for the appointment of a judge. Legislative acts issued after 1956 stressed the importance of the principle of

	judicial independence and the associated judicial immunity. The practical significance of these declarations was weakened by the warranty provision, which was in force until the end of the People's Republic of Poland, and which provided for the possibility of dismissing a judge for political reasons.
SESSION 14	
14.1	***Struggling with the Polish republican tradition and foreign impact: On judges in the protoliberal concepts of the Kingdom of Poland (1815-1830)*** **Michał Gałędek** | University of Gdańsk / **Anna Tarnowska** | Nicolaus Copernicus University **CURRICULUM VITAE:** Professor of University of Gdańsk; Head of the Chair of Legal History; Faculty of Law and Administration. **RESEARCH ACTIVITY: Monograph in English**: *National Tradition or Western Pattern? Concepts of the New Administrative System for the Constitutional Kingdom of Poland,* Leiden-Boston: Brill-Nijhoff [forthcoming]. **Recent monograph in Polish:** *Koncepcje i projekty nowego ustroju administracji dla Królestwa Polskiego* [Concepts and Projects of the New Administrative System for the Kingdom of Poland], Sopot: Arche 2017. **Recent other publications**: *Modernization, National Identity, and Legal Instrumentalism: Studies in Comparative Legal History*, eds. Michał Gałędek & Anna Klimaszewska, vol. I-II, Leiden-Boston: Brill-Nijhoff; 'The monarchical sovereignty and the ministerial responsibility in the course of works on the constitution for the Kingdom of Poland, 1814-1815', *Giornale Storia de Costituzionale* 2019, vol. 37/1; 'Dreams of 'moving from the Napoleonic code to the new era of the judiciary' on the eve of establishment of the Kingdom of Poland (1814-1815)', *Rechtskultur. Zeitschrift für Europäische Rechtsgeschichte* 2019, heft 8; 'A Controversial Transplant? The Debate on the Adaptation of the Napoleonic Code on Polish Territories in the Early Nineteenth Century', *Journal of Civil Law Studies*, 2 (2018). **Recent project in progress:** 2019-2022 Principal Investigator in the project funded by Polish National Science Centre: *Dispute over the interpretation of the constitution of Kingdom of Poland as a formative element of Polish political liberalism.* **Recent achievements**: 2013-2016 Scholarship of the Ministry of Science and Higher Education for Outstanding Young Scientists; 2018 Rector of University of Gdańsk 1st Degree Award for the Monograph: *Koncepcje i projekty nowego ustroju administracji dla Królestwa Polskiego*.
14.2	***Her Stepdaughter: portrait of family law*** **Markéta Štěpáníková** / **Ondřej Glogar** | Masaryk University, Brno **ABSTRACT:** There are times or situations in the history of each nation when official sources or platforms such as academia or politics fail to see or

communicate what problems the society struggles with. In such circumstances, it is the art that provides a stage for criticism. When trying to identify and understand such parts of our history, we need to analyze works of art instead of treaties or laws.
This paper examines how the literature of the late 19th century shaped the concept of statehood of the Czech Republic (or Czechoslovakia) and its legal system. Using the example of Gabriela Preiss's drama, Her Stepdaughter shows what themes resonated in the literature of the time. At the same time, it examines how the law is portrayed in them.
Methodologically, it is a case study of one particular novel and uses a content analysis method and usual methods of interpretation of the text. This paper is a part of the long-term research project focused on Law and Literature in the Czech legal culture, in particular at the end of the 19th and the beginning of the 20th century in Central Europe.
This paper aims to discuss the connections between the representation of legal issues in the literary works of the time, their then legal regulation by the Austrian monarchy, and the regulation in the newly formed Czechoslovakia. The interpretation of these contexts is partly based on legal studies from the time of the First Republic and partly on contemporary critical legal studies and theater studies.

CURRICULUM VITAE: Markéta Štěpáníková. Department of Legal Theory, Faculty of Law Masaryk University Žerotínovo nám. 2 602 00 Brno Czech Republic. Assistant Professor at the Department of Legal Theory, Faculty of Law. Multidisciplinary issues concerning legal thought, especially Law and Humanities (e. g. Interdisciplinary Methods in Legal Education, Impact of Arts on Law, Impact of Art on Legal Consciousness, Use of Books of Fiction as Arguments in Judicial Decisions, Law as Ritual Theatre, Theatre in Legal Education).

CURRICULUM VITAE: Ondřej Glogar. Ph.D. programme., Legal Theory, Masaryk University, 2020–current. Main scientific and research focus: legal language, pragmatics, Law and Humanities, Law and Literature. Dissertation: *Use of Legal Language in Legal Practice.* Dissertation Advisor: doc. JUDr. Mgr. Martin Škop, Ph.D. Project GA19-12837S *Law in Literature: Qualitative Analysis of the Image of Law in Literary Fiction at the Turn of the 19th and 20th Century*, 2020–2021. Publications: GLOGAR, Ondřej. The Concept of Legal Language: Law is Language. In Terezie Smejkalová, Michał Araszkiewicz, Onřej Glogar, Linda Tvrdíková, Jana Stehlíková, Markéta Štěpáníková. *Argumentation 2021: International Conference on Alternative Methods of Argumentation in Law*. Brno: Masaryk University Press, 2021, p. 51–68; GLOGAR, Ondřej. The Image of Defendants as Protagonists of Czech Court Stories. In *Critical Legal Conference 2021*; GLOGAR, Ondřej. Zásada přímosti v kontextu narativní teorie (Principle of directiveness in the context of narrative theory). In Petr LAVICKÝ, Jan HOLAS, Michal

	JANOVEC. *COFOLA 2019 Zásady civilního procesu*. Brno: Masarykova univerzita, 2019. p. 28-42.

	DAY 2 – 23 JUNE 2022
SESSION 15	
15.1	***Ars avvocandi or advocacy as a forensic art, a legal-historical analysis of the law in the Portuguese and Spanish legal systems (17th-20th centuries)*** **Isabel Graes** |Universidade de Lisboa / **Pablo Abascal Monedero** | Universidad Pablo de Olavide / **João Andrade Nunes** | Universidade de Lisboa **ABSTRACT:** Among the many legal professions committed to effectively applying the law, advocacy has a special place. Holder of a millennial pool of knowledge, legal advocacy whether in Portugal or in Spain was always associated to an ethical code, or, to use the medieval and modern classification, a conglomerate of requirements of theological-moral nature that, next to an unpolluted magistrate, designed the figure of a model-*advocate*, a consideration that has earned the classification among some authors as the *mediator of truth and justice between the judge and the client*. Taking as a reference the relevance of advocacy since early modernity, the panel wishes to share some of the characteristics that best portray the exercise of this profession, where the adopted lexicon and methodology are vital, especially when it concerns the period where the study of domestic law was not a concern of University *curricula*, and the collections of legal decisions and forensic practice formularies were in many cases done by lawyers, who had a paramount importance. Additionally, attention will be given to the requirements in training its members, and whether these professionals conducted their business in continental Europe or overseas, or if they acted with superior courts or smaller courts, distinctions which can't be ignore. The same is to be said to the care taken in defending those who had lesser means, namely overseas. ***The Perfect Lawyer*** **Isabel Graes** **CURRICULUM VITAE:** Auxiliary Professor of the Lisbon Law School; lawyer; jurist in the Portuguese Court of Auditors and researcher of the Institute of Interdisciplinary Research —IURIS, and member of the Institute of History of the Law and Political Thought. Participation in several domestic and international colloquia and conferences. Author of several monographies, chapters, and articles in domestic and foreign publishers. Organizer and co-

organizer of publications, conferences, and colloquia. Member of international research projects. Collaboration with scientific journals.

The Defense of the disadvantaged citizen
Pablo José Abascal Monadero
CURRICULUM VITAE: Law Degree, from the University of Seville. Promotion, 1982-1987. The average grade of the degree was that of Notable High. In 1996 he enrolled in the third cycle studies in the program "Person and Contract" of the Department of Civil and Private International Law of the University of Seville, whose director was D. Angel López López. Research proficiency was obtained on October 22, 1998 with the achievement of the 32 mandatory credits referred to in Royal Decree 185/1985 and the complementary regulations of the University of Seville. The doctoral thesis has been carried out at the University of Córdoba , in 2001 in the Department of Civil, Criminal and Procedural Law under the direction of Professor Dr. D. José Manuel González Porras, obtaining the qualification of SOBRESALIENTE CUM LAUDE, unanimously of the Court. He has several degrees of University specialist. Title of specialist in Community Civil Law by the UNED after following a course of 35 credits and 350 Hours. And Title of University specialist in the European Higher Education Area by the Pablo de Olavide University. After following a course of 32 credits and 320 Hours. He is a professor at various Universities Pablo de Olavide (History of Law), Unir (Master in Intellectual Property Law and Master in Family Law and collaborates at the University of Seville in the Master of Law. Professional experience: Dedication to the free exercise of the profession of Lawyer for 2 5 years (19942019) in which I have brought lawsuits in almost all judicial orders but mainly in Private , Family and Criminal Law. Coordinator of the Protection of the Minor Illustrious Collector or Lawyers of Seville from 2015 to 2017 when it became the Social Assistance Shift. Coordinator of the Social Assistance Shift Co legio de Abogados de Sevilla from 2016 to the present.

The Lawyer's role in the special courts-martial (1993)
João Andrade Nunes
ABSTRACT: Military justice has been applied, uninterruptedly, in its own jurisdiction and in the name of the king from the earliest days of nationality until the establishment of the Republic, its governance underwent changes throughout the centuries. In 1778, it was determined that defendants could request a lawyer during times of peace. Later, since the 19th century, the presence of a lawyer in the military jurisdiction became mandatory, whether in times of peace or war. In addition, a similar situation was observed in the special/extraordinary courts-martial, in the 20th century. What was the lawyers' role in these courts-martial?

	CURRICULUM VITAE: Guest lecturer at Faculdade de Direito da Universidade de Lisboa since 2015, has taught subjects on Portuguese Law History and Introduction to Law. Earned his Master's degree in Law in 2019 from Faculdade de Direito da Universidade de Lisboa, after completing his undergraduate studies in 2015. Has a degree in Music by Escola Superior de Música de Lisboa (2011). Is currently a PhD candidate in Law – specialization in History of Portuguese Law. Researcher of History of Military Justice, History of Portuguese Law and History of Justice. Among others, published "Some considerations on portuguese military jurisdiction at the end of the 1st Republic", *in Actas do XXVIII Colóquio de História Militar - Comissão Portuguesa de História Militar*, Lisboa, 2020; *The portuguese military jurisdiction in the nineteenth century. Considering problems and solutions*, AAFDL, Lisboa, 2019; "The closing years of the Court of Conscience and Orders:1821-1833" *in e-Legal History Review 29, IUSTEL - RI§421108*, Madrid, 2019.
SESSION 16	
16.1	***Non-legal professions and legal discourse on trade and empire*** **Frederik Dhondt** | Vrije Universiteit Brussel / **Inge Van Hulle** | University of Tilburg / **Florenz Volkaert** | University of Gent **ABSTRACT**: The first generation of international economic lawyers? The most-favored-nation clause in late 19th- and early 20th-Century legal doctrine. The first specialised academic writings on international economic relations started to appear only around 1900. In this paper, I reconstruct the epistemic trade law community -insofar there was one- of the late 19th- and early 20th-century using network analysis and prosopography. The analysis results suggest that an epistemic trade law community did not yet exist. The construction of knowledge about international trade law was embedded within the framework of public international law, which is illustrated by the disproportionate influence of Friedrich Fromhold von Martens on the scholarly debate, despite the interdisciplinary background of the actors involved. **CURRICULUM VITAE**: Florenz Volkaert is a PhD Fellow at the Research Foundation – Flanders, currently working on his PhD on treaties of commerce in the second half of the nineteenth and early 20th century at Ghent University. ***Trade and Empire at the Congress of Soissons (1728-1730)*** **Frederik Dhondt** The Congress of Soissons assembled in 1728 to accommodate various pending claims between European sovereigns and prevent an all-out war. It was cited by Emer de Vattel's *Droit des Gens* as an "*ennuyeuse comédie*", because the multilateral talks did not generate a formal treaty. When we abandon the perspective of a peace treaty between states and focus on the sources produced

by the ministers plenipotentiary and their secretaries, we are able discern a precious testimony of legal argumentation involving private interests in an imperial and global context. My paper focuses on two contentious issues: the protection of French, British and Dutch assets on Spanish galleons sailing back from the Americas (I) and the fate of the suspended Imperial East India Company founded in Ostend (II), which provided the *ius ad bellum*-justification at the heart of the former quarrel. Inspired by the recent work of Ed Jones Corredera, Martti Koskenniemi and the new diplomatic history of Lucien Bély, the legal discourse on competing commercial interests in the European culture of peace engineering (Stella Ghervas) or peace-keeping (Johannes Burkhardt) at the dawn of the Age of Enlightenment can become visible. My full article (107 p.) can be consulted on https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4140705.

CURRICULUM VITAE: Frederik Dhondt is associate professor of legal history at the Vrije Universiteit Brussel (Research Group CORE) and voluntary associate at the Ghent Legal History Institute and the Gustave Rolin Jaequemyns Institute of International Law. He publishes on international legal history and the history of public law in the 18th and 19th centuries. ORCID 0000-0001-9999-5658.

Legal vernacular and imperial law-making on the Gold Coast
Inge Van Hulle

ABSTRACT: Historians of empire and scholars working on law in imperial and colonial contexts have highlighted the importance of individuals such as colonial governors, naval officers, merchants, pirates and missionaries for the creation and development of law. This amalgam of intermediate officials and actors has been variably described as 'men on the spot', 'imperial bridgeheads' or 'mediate power'. While none of these individuals formed part of the official canon of legal professionals, the often conflicting legal actions of this diverging set of imperial agents invariably and profoundly shaped imperial law. This paper elaborates on this process with respect to the hitherto often neglected African context and takes as a case study the career of Captain George Maclean, governor of the British forts on the Gold Coast (1830-1844). Without legal training, nor official sanction from the metropole, Maclean set up courts in the British headquarters at Cape Coast Castle where he adjudicated civil and criminal cases between British and African subjects. In doing so he laid the legal foundations for Britain's extraterritorial jurisdiction and protectorate regime on the Gold Coast.

CURRICULUM VITAE: Inge Van Hulle is a Max Planck Research Group Leader at the Max Planck Institute for Legal History and Legal theory in Frankfurt and, from October 2022 onwards, Research Professor of Legal History at KU Leuven, Belgium. She specializes in the history of international law and empire.

SESSION 17	
17.1	***Common law as the economic legal panacea? Comparatism and influence of the common law commercial doctrine on the nineteenth century civil codifications*** **David Gilles** | University of Sherbrooke / **Peter Johnstone** | UNT / **Gwenael Guyon** / **Stéphane Baudens** ***British and American Common Law promotion as a Colonial Path to Mixed Commercial Law in Quebec and Louisiana 1774–1866*** **David Gilles** **ABSTRACT:** Focusing on colonial legal politics and laws and the interrelation of local and indigenous cultural contests and institutional change, this paper uses 'case law studies' to trace a shift in plural legal orders – from the ancient law of the French empire to the state-centred law of the colonial English Lower-Canada. One major trend in North American history in this period, including in the history of post-conquest New France, 'is towards transnational histories, whether framed as the new imperial history, as Atlantic history, or as the history of borderlands'. The case of imperial transplantation of foreign legal systems to unreceptive territories is a difficult one to resolve for legal historians, especially in Quebec and Louisiana, country marked by civilian codifications. We will examine the ways in which commercial questions were shaped by social engineering efforts, legal initiatives and political expectations, and the consequences of these influences for the commercial law of Quebec as codified in 1866, and in Louisiana as codified in 1808 and 1825. **CURRICULUM VITAE:** Law full Professor, Sherbrooke University. Judiciary Legal History expertise. Main Legal History Publications: David GILLES, « How to 'Mash Up' Lex Mercatoria from Civil Law to Common Law: The Genesis of *Lex Mercatoria* in Lower-Canada History 1760-1866 », S. Dauchy, H. Pihlajamäki, A. Corded, D. De Ruysscher, *Colonial Adventures: Commercial Law and Practice in the Making*, Leiden, Boston, Brill Nijhoff, 2021, pp. 84-127; David GILLES, « Jean Domat », *Great Christian Jurists in French History*, O. Descamps, R. Domingo (ss. dir.), Cambridge, Cambridge University Press, 2019, pp. 234-278; David GILLES et LANCTOT Sébastien, "Risk in Fire Insurance Law as a Empowerment Tool for the State during the Construction of Colonial Canada", *Risk and the Insurance business History*, R. Pearson and J. Pons Pons (ed.), Mapfre Foundation, Sevilla, 2020, pp. 87-109; David GILLES, « The Little Parliament » : Le jury de common law, un outil de contestation et d'affirmation des libertés dans les colonies anglaises d'Amérique du Nord, É. Roulet (éd.), *Les colons contre l'Empire. Les contestations dans l'Amérique franco-anglaise du XVIIe et du XVIIIe siècle*, Shaker Verlag, 2019, pp. 169-199; David GILLES, « La souplesse et les limites

	du régime juridique seigneurial colonial : les concessions aux Abénakis durant le régime français », Grenier, Morrissette (dir.), *Nouveaux Regards en histoire seigneuriale*, Sillery, Septentrion, 2016, pp. 28-61; David GILLES, « Polygamy an the Law : The Historical bases of western civilization and cultural Clash in the 19th century », David Koussens, Stéphane Bernatchez et Marie-Pierre Robert, dir., *Of Crime and Religion: Polygamy in Canadian Law*, Sherbrooke, Éditions R.D.U.S., 2014, pp. 5-35; David GILLES, *Essais d'Histoire du droit. Introduction à l'histoire du droit de la Nouvelle-France à la Province de Québec*, éd. RDUS, 2014; David GILLES, *Thémis et Dikè. Introduction aux fondements philosophiques du droit.* éd. Yvon Blais, 2012; Arnaud DECROIX, David GILLES, Michel MORIN, *Les Tribunaux et l'arbitrage en Nouvelle-France et au Québec de 1740 à 1784*, éd. Thémis, 2012.
SESSION 18	
18.1	***Law reporting in England and Continental Europe during the Early Modern Period: a Comparison reappraised*** **Dolores Freda** | Federico II University of Naples **ABSTRACT:** In 1981 the Journal of Legal History published the essay "*A 'Revisiting' of the Comparison between 'Continental Law' and 'English Law' (16th-19th Century)*" by Prof. Gino Gorla and Dr. Luigi Moccia. The article challenged, for the period under consideration, the traditional view of a marked contrast between Continental and English legal systems, highlighting that common juridical patterns and close resemblances existed between them. In particular, the authors pointed out that, during the 16th-19th centuries, powerful and independent Great Tribunals existed both in England and on the Continent, that a doctrine of judicial precedent was recognised and applied by Continental judges, and that a most important and authoritative part of legal literature was made up of collections of "law reports" written by lawyers (judges and advocates) on both sides of the Channel, concluding that the two legal traditions met on the ground of their common judicial character. The essay was followed by extensive research on the European Supreme Courts and the collections of their judges' decisions carried out by legal historians all over Europe. Prof. Gorla's and Dr Moccia's first suggestions were confirmed by the following studies in many respects: Italian legal historians, in particular, acknowledged the high authority of the powerful European Great Tribunals and the tendency on the part of their judges to follow a doctrine of judicial precedent, emphasizing the role of real sources of law played by the collections of their *decisions* (case-law). They highlighted, at the same time, the fundamental role played, in the *jus commune* system, by the wide interpretation powers of the judges, especially taking into consideration the absence of a general duty to express the motives (the *ratio decidendi* or legal grounds) of their judgments. Nevertheless, the most recent legal historians, going deep and clarifying some of the data coming from the first studies in the matter, have showed a few of

	their limitations, questioning the existence of a real binding force of the judges' decisions in practice and highlighting the prevailing doctrinal character of the *jus commune*. The paper points out that, in the light of the most recent research, Gorla's and Moccia's views need partial revision. At the same time, it emphasizes that comparative-historical research on lawyers reporting considered as a "European" phenomenon is still at an initial stage and that the initial interpretations and hypothesis formulated by English and Continental European historiography still need to be verified and deepened. **CURRICULUM VITAE**: Professore Associato of Storia del diritto medievale e moderno at the Dipartimento di Giurisprudenza of the Università degli Studi di Napoli "Federico II". She teaches Storia della giustizia and Storia del diritto medievale e moderno. In 2018 she has been awarded the Abilitazione Scientifica Nazionale as Professore Ordinario of Storia del diritto medievale e moderno. Since 2009 she has been teaching Storia del diritto penale and since 2016 Storia della giustizia at the Dipartimento di Giurisprudenza of the Università degli Studi di Napoli "Federico II". Since 2006 she has been Ricercatore in Storia del diritto at the same Dipartimento. In 2004/05 she has been awarded the Dottorato di Ricerca in Storia del Diritto at the Università degli Studi di Macerata. In 2002/03 she has attended the *International Research School for Comparative Legal History*, Max-Planck-Institut für Europäische Rechtsgeschichte, Frankfurt am Main. In the same year she has attended the *Sommerkurs* in Storia del Diritto Europeo, Max-Planck-Institut für Europäische Rechtsgeschichte, Frankfurt am Main. She has taken part in many national and international research projects: since 2013 in the international research project "*The Comparative History of Central Courts in Europe and the Americas*", financed by Gerda Henkel Stiftung Berlin; since 2012 in the international research project "*Comparative Legal History: Methodology & Legal Sources, Institutions & Codifications*", financed by Olin Foundation of Legal History Stockholm; in 2007 in the Progetto di ricerca PRIN 2007 "*Giurisdizione ed assetti dell'economia pubblica e privata tra antico e nuovo regime*", Università degli Studi di Napoli "Federico II"; since 2017 in the research project "*La l. 124 del 2015 e l'attuazione del progetto di dar vita ad una nuova amministrazione*", Dipartimento di Giurisprudenza dell'Università degli Studi di Napoli "Federico II". She has been Assistant Editor of *Comparative Legal History* (2012-2014), she is member of the editorial committee of *Comparative Legal History*, of the Collana di Storia del diritto medievale e contemporaneo *Ius Regni*, of the Società italiana di Storia del diritto, of the *Selden Society*, of the *European Society for Comparative Legal History* (ESCLH), of the Centro interdipartimentale internazionale di ricerca dalla tarda antichità all'età moderna (CIRTAM) of the Università degli Studi di Napoli "Federico II", of the Accademia "*Diritto e Migrazioni*" (ADiM) of the Università degli Studi della Tuscia. In 2007/08 she has been awarded a *Fellowship* at Clare Hall, University of Cambridge. She is now *Life Member* of the same university. In 2007-2013, 2015, 2018-2019 she has been awarded monthly fellowships at the

	Max-Planck-Institut für Europäische Rechtsgeschichte, Frankfurt am Main. She has published, between the main works, the volumes *Governare i migranti. La legge sull'emigrazione del 1901 e la giurisprudenza del Tribunale di Napoli*, Giappichelli, Torino 2017; *Una dispotica creazione". Il precedente vincolante nella cultura giuridica inglese dell'Ottocento,* Giappichelli, Torino 2012; *La dottrina dei lawyers. Le raccolte di giurisprudenza nell'Inghilterra dei Tudor*, Pubblicazioni del Dipartimento di Diritto Romano e Storia della Scienza Romanistica dell'Università degli Studi di Napoli "Federico II", Satura Editrice, Napoli 2009; and many articles on national and international reviews as "Journal of Legal History", "Rechtsgeschichte", "Quaderni Fiorentini", "Forum historiae iuris", "Historia et ius", "Scienza e Politica", "Rivista di diritto civile". She has given many papers in national and international conferences. Between the most recent: "*Le origini culturali della Magna Carta e l'eredità del presente: un possibile «dialogo» tra* common law *e diritto continentale*", "*The legacy of Magna Carta*", 17 may 2019, British Embassy, Roma; "*La legislazione sulle migrazioni italiane fino al 1901*", "*Dal dibattito del 1888 sulla legge Crispi per l'emigrazione a oggi*", 17 december 2018, Centro Studi Emigrazione, Roma; "*The Italian "Emigration Code" of 1919*", "*Fifth Biennal Conference of the European Society for Comparative Legal History: Laws across Codes and Laws Decoded*", 28-30 june 2018, Ecole Normale Supérieure, Paris; "*The recurring myth of the justice of the peace: from the English justice de la pees to the Italian* conciliatore", Convegno internazionale "*XXIII British Legal History Conference*", 5-8 july 2017, University College London; "*The Supreme Courts of the Reign of Naples: from the Sacro Regio Consiglio to the Consiglio Collaterale*", "*The Comparative History of Central Courts in Europe and the Americas*", 4-7 june 2014, University of Edinburgh; *"Italian emigration laws and courts' interpretation between the XIX and XX centuries"*, "*XXI British Legal History Conference*", 13-15 july 2013, University of Glasgow; "*Legal Education in Europe between the Middle Ages and the Early Modern Period: two experiences in comparison*", "*Second Biennal Conference of the European Society for Comparative Legal History*", 9-10 july 2012. She has been awarded scholarships by the Max-Planck-Institut für Europäische Rechtsgeschichte, Frankfurt am Main (2002-2003, 2007-2013, 2015, 2018-2019), the Università degli Studi di Napoli "Federico II" (2008); the Fondazione Centro Studi sulla Civiltà del Tardo Medioevo di San Miniato, Siena (2005); the Università degli Studi di Macerata (2001-2004); the *Maitland Memorial Fund Grant* (2003).
18.2	***Judging according to evidence or according to personal knowledge? Conrad Hornejus (1590-1649) and Heinrich Hahn (1605-1668) on the duties of the judges*** **Paolo Astorri** | University of Copenhagen

18.3

Attorneys of the High Court of Appeal: learning, living and litigating in 16th century Portugal
Jorge Veiga Testos | University of Lisbon

18.4

Professional Qualification of Judges in 16th–17th Century Poland-Lithuania, France, England, and Castile
Przemysław Gawron | Cardinal Stefan Wyszyński University Warsaw/ **Jan Jerzy Sowa** | University of Warsaw

ABSTRACT: The aim of our paper is to compare the models of judges' careers in 16th–17th century Poland-Lithuania, France, England and Castile. This comparison allows not only to point out the characteristic features of the solutions applied in the Polish-Lithuanian Commonwealth, but also to underline the variety of different European models, because there is significant contrast between continental judiciary and that on the other side of the English Channel. Having analysed the careers of nobility courts judges in the Polish-Lithuanian Commonwealth we were able to distinct the typical elements decisive for getting an appointment as a judge. Among them we can indicate: birth status, family links, economic status, parliamentary or military experience, support of a powerful patron. A formal legal training or even an university education were not the factors particularly favourable to becoming a judge in Polish-Lithuanian noble courts. However, the lack of formal education did not mean that people completely unacquainted with law were appointed judges. Closer look on the nominee's careers indicates that many of them performed earlier some functions in justice system. In Western Europe high and middle level judicial positions were available only for people with formal legal training: acquired during studies at the university (France, Castile, civil law courts in England) or at special legal schools (inns of court in the case of common law courts in England). Informal factors: support of a powerful patron or considerable wealth could accelerate someone's legal career but did not lead to complete abolition of the formal criteria. The essence of the differences between judges' careers in Polish-Lithuanian Commonwealth and Western Europe is the necessity to acquire a formal education. However, we can observe some similarities in the context of local courts' judges, especially in England. Learning the causes of these dissimilarities requires further studies, but they seem to be deeply rooted in the distinctiveness of the whole legal systems and broadly defined legal cultures in particular.

Przemysław Gawron
CURRICULUM VITAE: Work experience: 2006 – 2009 University of Warsaw, Institute of History, PhD candidate, classes in early modern history. 2001 –Cardinal Stefan Wyszyński University in Warsaw, Faculty of Law and Administration, lecturer, classes in the history of European and Polish law and

	political systems (from antiquity to to the twentieth century). Education and training: 2009 –PhD, University of Warsaw, Department of History, PhD theses: Crown hetman as an element of political system of Commonwealth of Both Nations 1581 – 1648; 1996 – 2002 University of Warsaw, Institute of History, Master's degree, history of warfare. 1995 – 2000 University of Warsaw, Faculty of Law and Administration, Master's degree, *summa cum laude*, criminal law. **Jan Jerzy Sowa** **CURRICULUM VITAE: Education: 2013–2019** University of Warsaw, Faculty of Law – beginning of postgraduate studies; planned subject of doctoral thesis: *Sądownictwo hetmańskie na tle przestępczości wojskowej w Koronie przełomu XVII i XVIII wieku* [Hetman's Judiciary on the Background of Military Delinquency in the Crown of Poland at the Turn of the 17th and 18th Centuries], supervisor: Professor Adam Moniuszko; **2008–2013** – University of Warsaw, Faculty of Law – graduate studies; M.A. in Law**; 2008–2012** – University of Warsaw, Institute of History – undergraduate studies; B.A. in History**; 2012** – Freie Universität Berlin, Friedrich-Meinecke-Institut (LLP ERASMUS, history), summer semester.**Work experience**: **2015–2017** University of Warsaw, Faculty of Law, head of research project *Dysycplina i sądownictwo wojskowe w Koronie końca XVII wieku* [Military Discipline and Judiciary in the Crown of Poland in the Late Seventeenth Century] sponsored by National Centre of Science (Pre-doctoral Research Grant PRELUDIUM); **2014 –** University of Warsaw, Faculty of Law, PhD candidate, classes in history of Polish law and constitution, classes in general history of law and constitution. **2013–2016** – National Library in Warsaw, librarian in Department of Scientific Information, Unit for Bibliography of Foreign Polonica and Department of Early Prints. **Awards: 2018 –** August Cieszkowski Foundation Scholarship; **2015** – Rector of the University of Warsaw Scholarship for PhD candidates for outstanding achievements in the academic year 2014/2015; **The most important publications:** 1. *„W czym vertitur powaga moja hetmańska…": Organizacja i procedura sądu hetmańskiego w Koronie, 1683–1699* ['On which my Hetman's authority *vertitur*: Organisation and Procedure of the Hetman's Court in the Polish Crown, 1683–1699, „Czasopismo Prawno-Historyczne" [Journal of Legal History], t. LXV/1 (2013), pp. 203–228. 2. *Od towarzysza jazdy do wojewody podolskiego: Przebieg służby wojskowej Nikodema Żaboklickiego w latach 1656–1706* [From a Towarzysz of the Cavalry to the Voivode of Podolia: Nikodem Żaboklicki's Course of Military Service in the Years 1656–1706], „Res Historica: Czasopismo Instytut Historii UMCS" [Res Historica: Journal of the Institute of History, Maria Curie-Skłodowska University in Lublin], nr 42 (2016), pp. 127–181 – co-author: Zbigniew Hundert. 3. *Military Law, Justice and Discipline in the Early Modern Owlglass*

	Literature from Central Europe, [in:] *History of Law and Other Humanities*, ed. V. Amorosi, V.M. Minale, Madrid 2019, pp. 287–298.
SESSION 19	
19.1	***The Role of Judiciary and Case Law in the Criminal Law Development (1870-1940)*** **Aniceto Masferrer** | University of Valencia / **Ricardo Sontag** | Federal University of Minas Gerais / **Michele Pifferi** | University of Ferrara / **José Franco-Chasán** | University of Valencia **PANEL ABSTRACT**: This panel is part of a research project dealing with the Codification of criminal law from a comparative perspective. All panelists are legal historians specialized in the criminal law tradition. Constitutions and modern codes are inextrically related. One of the consequences of this relationship was the central role of the principle of legality in the modern criminal law. The French criminal codes of 1791 contained provisions that left no room for judicial discretionality in their application. This was notably changed in the Napoleonic penal code (1810) and its reform (1832). Nonetheless, judges and case law are regarded a secondary source, particularly in comparison with code provisions and legal doctrine. The panel will explore the role of judges and case in developing modern criminal law, particularly during a period in which the scope of legal reforms was quite limited. Papers will be dealing with three jurisdictions from a comparative perspective (Brazil, Italy and Spain). Ricardo Sontag will analyze the role of judges in Brazil when proposals of criminal law reform – connected to the demands of social defense –appeared in various places around the world; Aniceto Masferrer will explore the judicial application of legal provisions concerning crimes against honesty and against public morality in the late nineteenth-century Spain within a broader context; Michele Pifferi will focus on the changing role of the judiciary in criminal law between the 1870s and the 1920s; and José Franco-Chasán will study a key Spanish figure that made an important proposal concerning the judge's *arbitrium* in the so-called indeterminate sentence. ***The Role of the Judge and criminal Law Reforms in Brazil between 1890 and 1940 in Comparative Perspective*** **Ricardo Sontag** **ABSTRACT**: Between the end of the nineteenth century and the first half of the twentieth century, several proposals for criminal law reform appeared in various places around the world. The authors of many of these initiatives associated them with demands of social defense, which would require the break off some ties with criminal law models that had been forming since the end of the eighteenth century. The role of the judge, for example, should change.

Brazilian jurists became aware of such debates through Italian, German, French, Belgian and Spanish texts, therefore, the purpose of this paper is to map how Brazilian jurists and reformers translated into the local context European ideas about the role of the judge at a crucial time in the history of criminal law in Brazil, when a new penal code was enacted in 1890 and, after four attempts, another code was established in 1940. During this period, jurists of various theoretical frameworks (very traditional ones, supporters of the *scuola positiva* and technicists, for example) debated and participated in the reform process. All of them had to position themselves (so I'd like to consider their ideas as statements, in Quentin Skinner's sense) regarding proposals – such as dangerousness, security measures and so forth – tending to expand judicial *arbitrium* and judges' range of action. The hypothesis on which I'd like to work is: despite the expansion of judges' discretion and role, Brazilian jurists and reform proposals were prudent in comparison with *scuola positiva*'s *stricto sensu* models (such as the 1921 Ferri's draft code) and sought a compromise (albeit fragile) with the tradition of modern legality, unlike what would happen in the USA (Michele Pifferi). Methodologically, this kind of historical hypothesis will require comparative tools, such as translation (Peter Burke; Lena Foljanty), and comparative "blues" in order "to position the research object in an international context" (Heikki Pihlajamäki).

CURRICULUM VITAE: *Professor* of Legal History at the Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, *Brasil*). Coordinator of the *Studium Iuris* – History of Legal Culture Research Group at the Federal University of Minas Gerais (*Universidade Federal de Minas Gerais*, *Brasil*). Member of the *Ius Commune* - History of Legal Culture Research Group at the Federal University of Santa Catarina (*Universidade Federal de Santa Catarina*, *Brasi*l). Member of the Research Project "*L'influence de la révolte positiviste sur le droit pénal au tournant des XIXe et XXe siècles: un état de la discussion en Europe et en Amérique latine*", financed by the '*GERN – Groupe Européen de Recherches sur les Normativités*' coordinated by prof. Aniceto Masferrer and prof. Yves Cartuyvels. Member of the Research Project entitled "*Las influencias extranjeras en la Codificación penal española: su concreto alcance en la Parte Especial de los Códigos decimonónicos*" (ref. DER2016-78388-P), financed by the Spanish '*Ministerio de Economía y Competitividad*' and coordinated by prof. Aniceto Masferrer. Ph.D. in Legal Theory and History, University of Florence (*Università degli Studi di Firenze*, Italy). Master in Legal Theory and History, Federal University of Santa Catarina (*Universidade Federal de Santa Catarina*, *Brasil*). LL.B, Federal University of Santa Catarina (*Universidade Federal de Santa Catarina*, *Brasi*l). History BA, State University of Santa Catarina (*Universidade do Estado de Santa Catarina*, *Brasil*). My research concerns mainly Brazilian legal history between the 19th and 20th centuries in a comparative perspective, with special attention to criminal legal culture, academic/professional identities and codification. Main publications: PIHLAJAMÄKI, Heikki; SONTAG, Ricardo; VANO, Cristina (eds.). **Legal**

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The Role of Case Law in the Development of Spanish Criminal Law in the Late 19th Century
Aniceto Masferrer

ABSTRACT: That some criminal law offences hardly changed all over the nineteenth century in some European jurisdictions, it might not be surprising. It is not the case of other crimes as those against honesty, when mentality and moral values of society notably changed. How can it be explained that the legal provisions of criminal codes changed so little over time (sometimes, even a century and a half)? In many cases, just minor changes concerning the penalties for the commission of some crimes. How should this be interpreted? I believe

	that there may be two possible answers to this question: a) Even though the political, social, economic and cultural context changed considerably from the nineteenth to the middle of the twentieth century, *criminal offences do not change that much, and substantial reforms take a long time to be realized or implemented*; b) *Is it possible that legal doctrine and case law might play an important role in adjusting criminal law offences and provisions to the needs of each social context?* It has been demonstrated that case law played a very important role in the context of the absolutistic –or non-constitutional– period that started in 1823 until the promulgation of the 1848 SCC. Could it be possible that case law resumed its relevance from 1848 or 1870 onwards? To answer 'yes' would imply that criminal law did not comply with the principle of legality in the context of liberal or constitutional systems. Moreover, criminal offences and penalties are not supposed to be changed either by scholars or by judges. However, is it possible that they may play a role in developing criminal law during such a long period in which the scope of legal reforms was quite limited? My paper will explore this matter analyzing the judicial application of legal provisions concerning crimes against honesty and against public morality. In doing so, I'll study the role of case law in the late nineteenth century Spain within a broader context, using the recent outcomes on the field –see, for example, Heikki Pihlajamäki for Finland, or Michele Pifferri and Stefano Vinci (*La Giustizia Penale nelle sentenze della Cassazione Napoletana, 1809-1861*, Napoli 2019) for Italy–. **CURRICULUM VITAE**: He is Professor of Legal History and teaches legal history and comparative law at the Faculty of Law, University of Valencia, Spain. He has been a fellow researcher at the Institute Max-Planck for European Legal History (2000-2003), Visiting Professor at the University of Cambridge (2005), Visiting Scholar at Harvard Law School (2006-07) and at Melbourne Law School (2008), and Visiting Professor at the University of Tasmania (2010), Visiting Scholar at Louisiana State University – The Paul M. Hebert Law Center – (2013), Visiting Scholar at George Washington University Law School (as the Recipient of the ***Richard & Diane Cummins Legal History Research Grant for 2014*), and** Visiting Professor at the *École Normale Supérieure* – Paris (2015)**.** He has lectured at universities around the world (France, Germany, Belgium, The Netherlands, Malta, Israel, United Kingdom, Sweden, Norway, USA, Canada, Australia and New Zealand). He is the author of nine books (including his *Spanish Legal Traditions. A Comparative Legal History Outline*, Madrid, 2009; 2012, 2nd ed.) and the editor of ten (including *Post 9/11 and the State of Permanent Legal Emergency: Security and Human Rights in Countering Terrorism*, Springer, 2012; *Counter-Terrorism, Human Rights And The Rule Of Law. Crossing Legal Boundaries in Defence of the State*, Edward Elgar Publishing, 2013; *La Codificación española. Una aproximación doctrinal e historiográfica a sus influencias extranjeras, y a la francesa en particular*, Thomson Reuters-Aranzadi, 2014; and *Human Dignity of the Vulnerable in the Age of Rights: Interdisciplinary Perspectives*,

Dordrecht-Heidelberg-London-New York, Springer, 2016), and eighty book chapters/articles published in Spanish, European and American law journals. He has published extensively on criminal law from an historical and comparative perspective, as well as on the codification movement and fundamental rights in the Western legal tradition. He has participated in several international research projects (one of them under the direction of Profs. John Bell and David Ibbetson, University of Cambridge, whose results were published in several volumes under the title *Comparative Studies in the Development of the Law of Torts in Europe* (Cambridge University Press, 2010-2012). He has been the main researcher of several research projects (for example, on "Security and Human Rights in countering terrorism from a historical and comparative perspective," which involved more than thirty scholars from several universities (Spanish, European, Northern-American, Canadian and Australian universities), and whose results were published in three collective monographs, coordinated by himself (and edited by Aranzadi-Thomson Reuters 2011; Springer 2012; and Edward Elgar Publishing 2013). Currently, he is leading a research project (financed by Economics and Competitiveness Ministry) on the foreign influences in Spanish Codification of criminal law (ref. DER2012-38469; DER201678388-P). He also coordinates a collective monograph entitled "Comparative Legal History" (published by Edward Elgar Publishing, 2017), which involves a notable amount of scholars from a number of European and Anglo-American jurisdictions. He is author of four books for teaching purposes. He is now coordinating a casebook on comparative legal traditions (*Western Legal Traditions*, Hart Publishing, Oxford, 2017). In 2010 he received the award 'Teaching Excellence' (which is annually granted by the Valencian Government to the best university lecturer). He is a member of the advisory board of several Spanish, European, Anglo-American and Asian Law Journals, and the Chief Editor of *GLOSSAE. European Journal of Legal History* (http://www.glossae.eu). He is member of the *American Society for Legal History*, the current president of the *European Society for Comparative Legal History* (from 2010), and vice-president of the *Fundación Universitas* (www.fundacionuniversitas.org). He is also the Director of the *Institute for Social, Political and Legal Studies,* **member of the Spanish *Royal Academy of Jurisprudence and Legislation*, and board member of the *Valencian Committee for European Affairs*.** Full cv: http://www.uv.es/masdoa/cv-aniceto-masferrer.pdf

The new "Pillars of Hercules" of the criminal judge:
Rethinking judicial powers between criminological reformism and WWI
Michele Pifferi

ABSTRACT: The paper will be focused on the changing role of the judiciary in criminal law between the 1870s and the 1920s. In particular two factors will be analysed, which operated as engine of a transformation in the Italian legal culture. The first one is the rise of Lombroso's Criminal Anthropology and the

Positive School founded by Enrico Ferri, according to which the boundaries of the judicial activity in criminal proceedings had to be necessarily widened in order to evaluate the whole personality of the offender and therefore individualize punishment. Works such as Garofalo's *Ciò che dovrebbe essere un giudizio penale* (1882), Florian's *Sulla natura giuridica di talune nuove facoltà del giudice penale* (1910) and Franchi's *Il principio individualizzatore nell'istruttoria penale* (1900) are some examples of this reforming approach that will be scrutinized. The second factor is the impact of the WWI on judicial interpretation of the penal code of 1889 and its impact in adjusting the "sclerotic" criminal law system to the new and pressing social needs, so as Alfredo De Marsico clearly illustrated in his inaugural lecture of 1918 *La giurisprudenza di guerra e l'elemento sociale nel diritto*. Before the rise of fascism, this is the hypothesis that will be discussed in the paper, Italian criminal law had already change its fundamentals and the principle of legality, a flag of the 19th-century liberal model, had been deeply modified by the judicial erosion.

CURRICULUM VITAE. Law degree at the University of Ferrara (1999), PhD at the University of Macerata (2004). From 2003 to 2010 researcher, then Associate Professor and from 2017 Full Professor of legal history at the University of Ferrara, Law Dept. He has been visiting researcher at the Max-Planck-Institut für europäische Rechtsgeschichte in Frankfurt am Main (2002); Emil Noël Fellow (2009) at the Jean Monnet Center for International & Regional Economic Law and Justice, New York University School of Law; Robbins Fellow at Berkeley UC - School of Law (2012); Academic Visitor at the Oxford Centre for Criminology, University of Oxford (2014 and 2016). From November 2012 to December 2016 scientific coordinator of a research unit working on a national project (FIR) on *Migration Policies and Legal Transplant in the Mediterranean Area: Control Strategies between Colonialism and Post-Colonialis*m. From July 2015 to February 2017 Alexander von Humboldt Research Fellow at the University of Hamburg, Faculty of Law. He is currently the PI of a national research project (PRIN 2017) on *Legal History and Mass Migration: Integration, Exclusion, and Criminalization of Migrants in the 19th and 20th Century*. Member of the Editorial Board of the series *Rechtsgeschichte und Rechtsgeschehen – Italien* (LIT Verlag), and of *Quaderni fiorentini per la storia del pensiero giuridico moderno*. His research interests focus on comparative legal history of criminal law and criminology and history of migration law. He is currently working as editor of a book project on *The Limits of Criminological Positivism: The Movement for Criminal Law Reform in the West, 1870-1940* (to be published in 2020 by Routledge). Full cv: http://docente.unife.it/michele.pifferi/pubblicazioni

The indeterminate sentence in the 19th Century: a Proposal by Pedro Dorado
José Franco-Chasán

ABSTRACT: Shortly after the irruption of Italian positivism at the end of the 19th century many of its postulates spread around the western countries. The classical school of penal law was reluctant to accept the various criminal reforms held by the new positivist trend. Nevertheless, after the big initial clash many institutions and concepts were adopted. Even today certain 'benefits' that are part of our current conception of criminal law arise from legal positivism (e.g. mitigating circumstances). One of the main proposals concerning the judge's *arbitrium* was (still is indeed) the so-called indeterminate sentence. Its implications are so wide and can have such relevant effects affecting the rights of the convict that it has been heavily contested. Yet, one of the most important scholars in Spain, claimed for its implementation. Pedro Dorado Montero understood that sentences, as we traditionally think of them, should be abolished. Their definitive, indisputable character should be replaced but provisional, temporary sentences. If the penalty is actually supposed to prevent future crimes to take place, it has no longer a retributive end but rather a teleological one. To meet this penal end, the sentence must be indeterminate. Notwithstanding that, Dorado Montero was fully aware of all the dangers that such theory implied and he did analyse its disadvantages as well as the best way to deal with thereof in several works amongst which *El reformatorio de Elvira* or *La sentencia indeterminada* should be highlighted. Dorado Montero represents the main advocate for the implementation of the indeterminate sentence in late 19th century Spain. Though he has been wrongly identified as positivist, his view can shed some light into the progressive attempts to introduce this legal institution.

CURRICULUM VITAE: WORK EXPERIENCE: 15/10/2018–15/10/2020 University lecturer (Wissenschaftlicher Mitarbeiter) Universität Augsburg, Augsburg (Germany); 08/05/2019–04/06/2019; Researcher Henri Rieben Fondation Jean Monnet pour l'Europe, Lausanne (Switzerland); 01/03/2016–30/06/2016 Comparative Study on Public European Law - Internship DEVSTAT (EUROSTAT); 01/06/2013–01/06/2016 European Journal of Legal History - Website Editor GLOSSAE, Valencia (Spain); 01/07/2016–01/08/2016 Internship holder Valencia City Hall, Valencia (Spain); 02/03/2015–13/03/2015 Internship holder Madrid City Hall, Madrid (Spain); 14/09/2013–14/09/2015 Co-manager of the University Forum on Social Analysis Foro Universitas de Análisis Social (FUAS), Valencia (Spain); 15/09/2013–15/09/2014 Constitutional Law Department - Students' Representative University of Valencia, Valencia (Spain). EDUCATION AND TRAINING: 07/2019 Moral Foundations of Law - Seminars University of Princeton - Witherspoon Institute, Princeton (United States); 15/10/2018–Present PhD in Law EQF level 8 Universität Augsburg / University of Valencia, Augsburg - Valencia (Germany

	- Spain); 08/11/2017–10/11/2017 Selfgovernment of the Valencian Region: past, present and future Valencian Review of Autonomic Studies, University Chair on Foral Law, Valencia (Spain); 11/09/2017–15/07/2018 Master in Human Rights, Peace and Sustainable Development EQF level 7 University of Valencia - Valencia Law School, Valencia (Spain) 2017 Course on International Law and International Relations University of the Basque Country, Vitoria (Spain); 14/09/2012–15/06/2016 Degree in Law EQF level 6 University of Valencia - Valencia Law School Avenue Tarongers, Valencia, 46022 Valencia (Spain); 2016 Human Rights Moot Court Competition Strasbourg (France); 14/09/2014–30/06/2015 Interdisciplinary seminars Grupo de Estudios Sociales e Interdisciplinares (GESI), Valencia (Spain); 14/09/2014–30/06/2015 Seminars on Law and legal theory Seminario Interdisciplinar de Derecho y Ética Social 2015 Course on European Union Studies European Documentation Centre, University of Valencia, Valencia (Spain); 04/02/2013–27/05/2013 Course «Gender relations, policies, citizenship and society» University of Valencia, Valencia (Spain); 2013 Debates on article 16 of the Spanish Constitution Universitas, Valencia (Spain).
SESSION 20	
20.1	***Between Scylla and Charybdis – Lawyers of the High Judge Conference in Hungary in 1861*** **Imre Képessy** | Eötvös Loránd University Budapest - Széchenyi István University Győr **ABSTRACT:** Lawyers were influential throughout the Hungarian history, but their role was perhaps most dominant in the 19th century. In the era of modern nation-building, when the concept of a constitutional monarchy, civil society and legal equality became more and more widely accepted, members of many legal professions became politically active. Lawyers living in the 1830s and 1840s became receptive to the most modern ideas conceived in Western Europe or even the United Stated, as opposed to many generations of jurists, who had been conservative not only in the political sense but who had also rejected for centuries the idea of adopting foreign legal instruments. In 1848, when the revolutionary waves of the Spring of Nations reached the Habsburg Empire as well, the Hungarian Parliament enacted 31 acts (the so-called April Laws) that transformed the country into a constitutional monarchy. Shortly after that, a War of Independence broke out that Hungary had lost. The Hungarian Constitution was suspended, and many elements of the Austrian legal order were introduced in the 1850s. Many legal instruments, that were envisioned by the April Laws originally, were realized by patents of the Emperor Franz Joseph. When Emperor Franz Joseph had opened up to restoring the Hungarian constitutional order in 1860, the Hungarian legal order had to go through fundamental changes again. As soon as the decision had been made that the Hungarian judiciary was to be revived, many newly formed courts of law began to base their judgements on Hungarian laws. The problem was, that the Austrian laws in effect in the

	1850s made such fundamental changes in the legal system that it was impossible to restore the Hungarian legal order of 1848. A conference was convened by the highest-ranking judge of the country, and its members had to resolve this seemingly impossible situation. Between Scylla (keeping the unconstitutionally introduced Austrian legal norms) and Charybdis (reinstating the Hungarian laws at the expense of most achievements of 1848), they had to reinstate the Hungarian laws in such way that it would not harm the rights of the citizens. Critics argue that this conference was conservative in nature. Yet, we find recurring people among its members who argued for radical changes just a decade prior. This paper aims to show how deeply the introduction of the Austrian legal norms changed the thinking of Hungarian lawyers their understanding about their profession and their approach to change between 1850 and 1860. **CURRICULUM VITAE:** Imre Képessy is an assistant lecturer at the Faculty of Law and Political Sciences of the Eötvös Loránd University in Budapest, Hungary as well as at the Legal Faculty of the Széchenyi István University in Győr. Since July 2019, he works as an assistant researcher in the Legal History Research Group of the Hungarian Academy of Sciences and Eötvös Loránd University. He studied at the Faculty of Law and Political Sciences of the Eötvös Loránd University in Budapest, where he is currently a Ph.D candidate at the Doctoral Institute. After graduating his J.D. summa cum laude, he received a scholarship for his Ph.D studies at the Department of History of the Hungarian State and Law. His area of research focuses on the High Judge Conference in 1861 and on the origins of judicial review. He is the supervisor of the Department's Academic Student Circle and the managing editor for the periodical called "Joghistória" (Legal History), wherein students may publish their academic scholarship. Recently, he became the Secretary of the Council of Student Research Societies at the Faculty of Law of the Eötvös Loránd University in Budapest.
20.2	***Struggling with the Polish republican tradition and foreign impact: On judges in the protoliberal concepts of the Kingdom of Poland (1815-1830)*** **Michał Gałędek** | University of Gdańsk / **Anna Tarnowska** | Nicolaus Copernicus University **ABSTRACT:** The late 18th and the early 19th century brought for the Polish lawyers a clash of two legal cultures. The Polish 18th-century legal system had been based primarily on customary law. The attempts at its codification were not successful. The collapse of the Polish state followed by its restoration in the form of the Napoleonic Duchy of Warsaw and then of the Kingdom of Poland under the reign of tsar Alexander meant a veritable revolution for the local legal professions. The transplantation onto Polish territories of Western European

	codes, primarily of the French Civil Code in 1808, coupled with the establishment of a modern School of Law in the same year, was tantamount to entering the orbit of positive law and to an almost complete break with the way that law had been practised in the previous era. The research objective of this paper is to comparatively evaluate the clash of the two legal cultures that took place on the Polish territories of the early 19th century. This objective will be attained by way of a source analysis of utterances made by the representatives of the erstwhile Polish legal elites. I intend to focus on the evaluation of the new legal reality as made by the representatives of the legal circles educated in the 18th century, that is by lawyers of the former age. I will analyze their opinions about the revolution that occurred almost before their eyes. On the other hand, the analysis will also encompass a retrospective evaluation made by representatives of the new legal elites, who were educated in line with the cult of codes and codified law, and who only knew the old system from books and from stories told by their fathers. This is how the Western European manner of thinking about the law, and the model of education focused on codes and positive law, violently clashed with the Old Polish culture, whose roots reached deep into the reality of a bygone era. **CURRICULUM VITAE: PROFESSIONAL DEVELOPMENT:** since 2019: Professor of University of Gdańsk; Head of the Chair of Legal History; Faculty of Law and Administration. **RESEARCH ACTIVITY: Monograph in English**: *National Tradition or Western Pattern? Concepts of the New Administrative System for the Constitutional Kingdom of Poland*, Leiden-Boston: Brill-Nijhoff [forthcoming]. **Recent monograph in Polish:** *Koncepcje i projekty nowego ustroju administracji dla Królestwa Polskiego* [Concepts and Projects of the New Administrative System for the Kingdom of Poland], Sopot: Arche 2017. **Recent other publications**: *Modernization, National Identity, and Legal Instrumentalism: Studies in Comparative Legal History*, eds. Michał Gałędek & Anna Klimaszewska, vol. I-II, Leiden-Boston: Brill-Nijhoff; 'The monarchical sovereignty and the ministerial responsibility in the course of works on the constitution for the Kingdom of Poland, 1814-1815', *Giornale Storia de Costituzionale* 2019, vol. 37/1; 'Dreams of 'moving from the Napoleonic code to the new era of the judiciary' on the eve of establishment of the Kingdom of Poland (1814-1815)', *Rechtskultur. Zeitschrift für Europäische Rechtsgeschichte* 2019, heft 8; 'A Controversial Transplant? The Debate on the Adaptation of the Napoleonic Code on Polish Territories in the Early Nineteenth Century', *Journal of Civil Law Studies*, 2 (2018). **Recent project in progress:**

	2019-2022 Principal Investigator in the project funded by Polish National Science Centre: *Dispute over the interpretation of the constitution of Kingdom of Poland as a formative element of Polish political liberalism.* **Recent achievements**: 2013-2016 Scholarship of the Ministry of Science and Higher Education for Outstanding Young Scientists; 2018 Rector of University of Gdańsk 1st Degree Award for the Monograph: *Koncepcje i projekty nowego ustroju administracji dla Królestwa Polskiego*.
20.3	***A historical-comparative study of legal education in Brazil, France and Germany in the 19th century*** **Ariel Pesso** | University of São Paulo **ABSTRACT:** The legal professions and methods of law enforcement have emerged as a result of the historical and cultural development of the various countries, which has necessarily been reflected in the way in which the law has been and is understood today. Although each system and each country have its own characteristics, it is true that judges, lawyers and jurists have a common origin: the law faculties. Unlike the other Latin American countries colonized by Spain and which had universities since the colonial period, higher education in Brazil was still dependent on Portugal when the country conquered its independence in 1822. Until then, only a few young people went to study law at the University of Coimbra and returned to the colony. The Faculties of Law in Brazil were created in 1827 in an effort to provide the basis for the newly founded State. From its foundation until the end of the 19th century, much was discussed about the curriculum, the teaching method, the exams, etc. It is possible to affirm that its evolution was linear and remained practically unchanged until the advent of the Republic, in 1889. Nevertheless, teachers and those responsible for modifying law faculties have always been attentive to the way in which law was taught in other countries, mainly European countries. In this sense, the objective is to make a historical and comparative analysis between the teaching of law in Brazil in the nineteenth century and the teaching practiced in France and Germany. These two countries revolutionized higher education by creating two university models: that of Napoleon (Paris) and that of Humboldt (Berlin). On this track, they were especially important for Brazil because the Brazilian jurists always used them as a model of improvement (or at least they tried to). This is not an exhaustive analysis, but rather an attempt to point out two common aspects: the curriculum and the teaching method (and, consequently, the structuring of the teaching career). Thus, it is possible to observe the aspects that brought legal education closer to or separated it from the three countries. Methodologically, we will use secondary sources that describe legal education in these countries in order to establish a complete (but not for that matter panoramic) picture. This picture is part of my doctoral

	research, which involves the relationship between Law Schools in Brazil and Slavery in the nineteenth century. **CURRICULUM VITAE: Education**: 2019 (currently), Ph.D., Law, University of São Paulo (Brazil), "*The Faculties of Law and Slavery in Brazil (1827-1888): natural law, Roman law and political economy in the theoretical foundation of the 'servile element'*"; 2019 B.A., Literature - Major in Portuguese and German, University of São Paulo (Brazil) 2018 M.A., Law, University of São Paulo (Brazil) "*The legal teaching in Brazil: from the free faculties to the Francisco Campos reform*"; 2014 B.A., Law, University of São Paulo (Brazil) "*The 'XI de Agosto' student society legal clinic: historical experience and perspectives for legal education*". **Scholarships and Awards**: 2019 (currently) PhD Fellowship, FAPESP – Fundação de Amparo à Pesquisa do Estado de São Paulo (Brazil); 2019 1st place in the contest "História da Comarca de Santos", IHGS and Ibrajus (Brazil); 2019 Hochschulwinterkurs Fellowship, DAAD – Deutscher Akademischer Austauschdienst (Germany); 2015-2017 M.A. Fellowship, CAPES – Coordenação de Aperfeiçoamento de Pessoal de Nível Superior (Brazil**). Articles and Book Chapters:** Forthcoming "Legislation, Code and Commercial law" in *Dicionário histórico de conceitos jurídico-econômicos* (Brasil, séculos XVIII-XIX), edited by Andréa Slemina, Bruno Aidar and José Reinaldo de Lima Lopes. Alameda Editorial. Scheduled to come out in 2020. Forthcoming "Legal Education", in *Dicionário histórico de conceitos jurídicoeconômicos* (Brasil, séculos XVIII-XIX), edited by Andréa Slemina, Bruno Aidar and José Reinaldo de Lima Lopes. Alameda Editorial. Scheduled to come out in 2020. 2017 The 'XI de Agosto' student society legal clinic: historical experience and perspectives for legal education. *Revista da Faculdade de Direito (USP)*, 111, p. 751-794; 2016 The Constitution of Cadiz between tradition and modernity. *Revista dos Estudantes de Direito da Universidade de Brasília*, 1, p. 91-102; 2016 The conciliation in Hebrew law and Canon law: a comparative approach. *Revista da Faculdade de Direito de São Bernardo do Campo*, 22, p. 111.
SESSION 21	
21.1	***The legal education at the Ottoman medreses and the European universities - the comparative view- [1450-1600]*** **Murat ÇELİK** | Ankara Yıldırım Beyazıt University
21.2	***A law student in Southern Europe: a comparative study between learning in the faculties of Law of Salamanca and Coimbra in the second half of the 18th Century*** **Carlos Alves** | ICS-UL - FCT - CHSC-UC

ABSTRACT: In the second half of the eighteenth century, Europe witnessed a wave of university reforms which transformed several universities. This third wave of reforms was more impressive in Southern Europe (but also Central Europe), and was a remarkable response to the new mentality where governments took responsibility for citizen' education. One of the fields in which this new outlook was evident was the teaching of Law. This presentation aims to make a comparison between two distinct University projects, always seeking to respect a Christian matrix, but at the same time seeking to introduce new ideas. In the faculties of law we witnessed a clear tension between the will to introduce and prevail the national and natural law, but with some resistance that ends up materializing in the continuity of the Roman Law in the new curricula. At the same time, natural law ends up being the most damaged during this tension. This work aims to make a comparative analysis of the curricula of laws, which were born after this tension. The historical contexts in which these reforms took place were marked by the affirmation of a strong, central state in need of affirmation for its own power. The introduction of a new law course was part of this plan of affirmation. Addressing multiple legal systems or cultures allows us to identify strategies that ended up being translated into the choice of a certain subject – *Direito Pátrio* - and not another; or of a certain author - Heineccio - and not others. Also, comparing the two study plans we can identify substantial differences in training, method, role and work required of all those who wanted to graduate in Laws. As sources I intend to analyse the various Study Plans (1771 to 1807) of both Faculties; minutes of cloisters; contributions of teachers and testimonies of students who studied in these new courses that emerged in the second half of the 18th century.

CURRICULUM VITAE: I am currently a PhD student in the Interuniversity Program in History: change and continuity in a global world, at the Institute of Social Sciences of the University of Lisbon. At the same time, I am a FCT scholarship holder, such as the PD/BD/128127/2016 identification and also a collaborator at the Centre for History, Society and Culture of the University of Coimbra. Already with some publications and participation in scientific meetings, I have been working on issues of teaching, science and politics: "D. Francisco de Lemos de Faria Pereira Coutinho, uma biografia (1735-1822)", rev. hist. (São Paulo), n.178, 2019, 1-27. (http://dx.doi.org/10.11606/issn.2316-9141.rh.2019.145431); "O intermediário entre o *arquitecto* e a sua *obra*. A actuação de D. Francisco de Lemos no seu primeiro reitorado (1770-1779)", in *Fragmenta Histórica*, 4 (2016), (141-177); "O segundo reitorado de D. Francisco de Lemos na Universidade de Coimbra: uma ação conjunta?", in *Revista HISTEDBR On-line, 16 , 70, 210-231;* "Cartas inéditas de D. Francisco de Lemos de Faria Pereira Coutinho paraSebastião José de Carvalho e Melo (1772-1773)" in *História Unisinos*, 22(1):140-148, Janeiro/Abril 2018. Unisinos – doi: 10.4013/htu.2018.221.12. I have also attended several national and international conferences: "Natural History and University. Recreation, interpretation and uses of the Nature and Natural Products in the Universities of

	Salamanca and Coimbra (1771-1813)", II International Meeting Histories of Nature and Environments: Shaping Landscapes, FLUL- Lisbon, 21-23 November 2019; "Two Faculties of Medicine in the South of Europe at XVIII Century. Coimbra and Salamanca, a Comparative Study", IV International Conference on Medical Humanities, London Centre for Interdisciplinary Research and Faculty of Health & Social Sciences, School of Applied Social Studies, University of Bedfordshire, London, United Kingdom, 16 March, 2019; "José Bonifácio de Andrade e a Faculdade de Filosofia: o plano para uma nova reforma do curso de Filosofia em 1811", I Encontro de Jovens Investigadores em História Contemporânea, Faculdade de Ciências Sociais e Humanas da Universidade Nova de Lisboa, 6, 7 e 8 de Novembro de 2018; The role of the religion in the university reforms in the second half of the eighteenth century: the case of Salamanca and Coimbra (1771-1772)", *Enchantments, Disenchantments, Re-enchantments: Religion, State, and Society through History,* Center of Religious Studies, Universidade Centro-Europeia, Budapeste, 29 de Junho a 1 de Julho de 2017.
21.3	**The localised nature of common law legal education: A tale of practical training for the professions** **Andra le Roux-Kemp** | University of Lincoln
SESSION 22	
22.1	***PANEL: Law Professors, Professionalization, Legitimization and Resistance. Methods and circulations across Europe, the British Empire and the United States*** **Annamaria Monti** | Bocconi University / **Assaf Likhovski** | Tel Aviv University / **David Rabban** | Texas University **PANEL ABSTRACT:** In this panel, we examine in a comparative perspective the complex nature of the work of law professors devoted to innovate legal methods and educate legal professionals in the late 19th and early 20th centuries in Continental Europe, in the British Empire and in the United States of America. We focus specifically on their methods, aims, works and textbooks: in particular, we examine the teaching of jurisprudence (in the English sense) in British India and the British Middle East, the historical studies of American law professors and the impact of the historical method on French scholars. Our papers reveal the interconnections and the reciprocal influences of Continental, British and American legal theories in a broad geographical perspective, which includes non-western legal systems. The panel relies on a "collaborative" basis and offers unique insights of the main features and circulations of legal methods in the European countries, in America and British colonial spaces. And this in

	a period of time marked by profound changes of legal methods, in the legal education and in the legal professions: that was in fact the *Belle Epoque* of the academic law professors, the epoch of professionalization of teaching, a golden age of mobilisation of legal ideas not bounded to Continental Europe. Furthermore, our research highlight different uses and reuses of the same legal notions by western and colonial law professors, who made their choices according to the needs of legitimization of or resistance to the legal system in force. Finally, the panel intends to contribute to the debate on the political and technical role of law schools in preparing legal professionals, a debate which is nowadays topical in a globalized world. **CURRICULUM VITAE: Prof. Dr. Nader Hakim**, Full Professor of Legal History, Bordeaux University, Centre Aquitain d'histoire du droit (Institut de Recherches Montesquieu). J.D. 1994 Bordeaux, DEA 1995 Bordeaux, PhD 2001 Bordeaux. His main research interests lie in the history of legal thought, intellectual history, jurisprudence, history of law schools. A complete cv (including a list of publications) is available at https://univbordeaux.academia.edu/NaderHAKIM/CurriculumVitae **Prof. Assaf Likhovski**, Full Professor, Tel Aviv University Faculty of Law. LL.B. 1992 Tel Aviv, M.A. 1993 Tel Aviv, S.J.D. 1997 Harvard Law School. His main research interests lie in Legal History, Comparative Law, Jurisprudence, Taxation. A complete cv (including a list of publications) is available at https://en-law.tau.ac.il/sites/lawenglish.tau.ac.il/files/media_server/Law/Assaf%20L/Likhovski%20cv%20august%202019 .pdf **Prof. Dr. Annamaria Monti**, Associate Professor of Legal History, Department of Legal Studies, Bocconi University, Milano, Italy. J.D. 1994 Milano, PhD 1999 Genova. Her main research interests lie in the history of justice, of legal thought, of commercial law and in comparative legal history. A complete cv (including a list of publications) is available at http://didattica.unibocconi.it/mypage/upload/49439_20191031_101557_ANNAMARIAM ONTI_ENG.PDF **Prof. David M. Rabban**, Full Professor, Texas University School of Law, B.A. 1971 Wesleyan University, J.D. 1974 Stanford Law School. He served as General Counsel of the American Association of University Professors from 1998 to 2006 and Chair of its Committee on Academic Freedom and Tenure from 2006 to 2012. His main research interests lie in free speech, higher education and the law, and American legal history. A complete cv (including a list of publications) is available at https://law.utexas.edu/faculty/david-m-rabban/cv/1567547511

SESSION 23	
23.1	***Lawyers, judges and laymen: Oaths to the ruler and about professional ethics*** **Martin Sunnqvist** | University of Lund / **Raffaella Bianchi Riva** | University of Milan / **Sari Nauman** | University of Gothenburg **PANEL ABSTRACT:** We propose three papers for a panel, focussing on the oaths of office and the ethics of judges, advocates and lay people having judicial functions. In this way, our papers contribute to a discussion of the legal professions in European legal history, especially as regards the fact that different European legal systems had different degrees of professionalisation. We address the conflicting interests of lawyers, to be loyal to theirs clients and to the law, and the tensions between professional ethics and the allegiance to the sovereign (political pressure in modern terms). **Raffaella Bianchi Riva**, *Milan, Italy:* The emergence of legal ethics throughout European Union: the lawyer's oath in the Middle Ages and early modern period. The paper will focus, in historical and comparative perspective, on the process of emergence of a deontological model of legal ethics over the course of the Middle Ages and early modern period throughout Europe, within the current debate over the Europeanisation of legal profession. The building of European Union has promoted the achievement of common rules of professional conduct for European lawyers. In 2006, for instance, the Council of Bars and Law Societies of Europe enacted the *Charter of Core Principles of the European Legal Profession*, which expresses "the common ground which underlies all the national and international rules which govern the conduct of European lawyers". As a matter of fact, even though each country has its own specificities, on the whole European lawyers could rely on a long-established heritage of principles and rules, that took shape during the Middle Ages and early modern period. Therefore, there are duties which are common to the whole European legal profession, even though they are expressed in slightly different ways in different national systems. They are rooted in the oath which was required to the lawyers during the Middle Ages and early modern period in order to oblige them to observe the fundamental duties mentioned in the oath's wording, thus balancing conflicting interests: on the one hand the lawyer must act in the interests of his client, while on the other hand he must contribute to the administration of justice. Indeed, this 'dual loyalty' makes European lawyers aware of the role of the profession in society and allows them to serve, in the best possible way, both the interest of their clients and the public interest in the promotion of justice at the same time. **Sari Nauman,** *Gothenburg, Sweden:* **The changing usage of oaths of laymen and professionals in 17th century Scandinavia:** In 17th century, the usage of oaths of offices changed drastically in Scandinavia. In the beginning of the

century, all nobles, burghers and peasants in Sweden took oaths about being impartial when judging, since they were or could be involved in judging without being professional judges. The oath sworn was identical to all subjects, indicating an ideal of uniformity, and also quite short, indicating openness to subsequent interpretation. As the century progressed, however, courts were slowly professionalized, and courts of appeal were established. The paragraph on impartiality in judging was omitted from oaths of the estates, and instead specific oaths for each office were formulated. In contrast to earlier oaths, these oaths started to include detailed descriptions of the officeholders' expected conduct. The final major change to the oaths occurred during the age of sovereignty, in Denmark during the 1660s and in Sweden during the 1680s. As a move to strengthen their positions, the kings introduced new articles to all oaths of office, in which the officeholders promised personal obedience to them first. This move, from general to specific, and then to personal allegiance, will be analysed with reference to its implications to the relationship between officeholder and king, as well as its dependence on the surrounding context.

Martin Sunnqvist, *Lund, Sweden:* **Independence of judges, not being affected by fear or favour:** In the Middle Ages, judges in many European jurisdictions took oaths in which they promised not to give wrongful judgments because of fear or favour. Such phrases are part of oaths of office for judges in many European countries still today. The institutional independence of judges was not guaranteed until the English Act of Settlement in 1701 set the standard *quamdiu se bene gesserint,* during good behaviour, for the appointment of a judge. In the 19th century, separation of powers and the concept *Rechtsstaat* and rule of law gave further support for the independence of judges. What is interesting is that the independence originally was an independence in the mind of the judge, requiring him to be influenced only by the law and the evidence, not by attempts to influence judges in other ways, be it from the parties or from powerful people in the local community. In my paper, I will give examples showing how judges in different European countries promised to be independent in their minds already from the Middle Ages. I will also show that knowledge of this historical background is essential, as the independence of the judiciary is today threatened in many European countries. Also European judges, not only lawyers, could rely on a long-established heritage of principles and rules, that took shape during the Middle Ages and early modern period. The promise not to give wrongful judgments because of fear or favour is part of the explanation of why judges protest, as for example in Poland today, when their independence is threatened. This is a current example of the tensions between professional ethics and the allegiance to the sovereign (political pressure).

PANEL CURRICULUM VITAE:

Raffaella Bianchi Riva

Degree in Law with honors from the University of Insubria in 2003. Ph.D. in History and Doctrine of Institutions from the University of Insubria in 2009.

	Lawyer. Currently, Associate Professor in Legal History, University of Milan and appointed of the course of History of legal profession. Previously, Assistant Professor in Legal History at the University of Milan, Research Fellow at the University of Milan and at the University of Insubria. In 2017, Visiting Scholar Fellow at Robbins Collection, Boalt Hall School of Law, University of California at Berkeley. *Select list of publications and activities relevant to the panel:* Articles and books: *Il dibattito sulla formazione degli avvocati in Italia nella seconda metà del Novecento*, in *Insegnare diritto penale e processuale penale oggi. Che cosa, perché e come*, a cura di F. Ruggieri, Pisa, Pacini Giuridica, 2019, pp. 107-122; *Search for truth and defend the client: can a lawyer do both?*, in «Italian Review of Legal History», 2, 2017; *La coscienza dell'avvocato. La deontologia forense fra diritto e etica in età moderna*, Milano, Giuffrè, 2015; *The duty to the truth: defense techniques and legal ethics in the Middle Ages and early modern period*, in «Italian Review of Legal History», 1, 2015; *L'avvocato non difenda cause ingiuste. Ricerche sulla deontologia forense in età medievale e moderna. Parte prima. Il medioevo*, Milano, Giuffrè, 2012. Activities: *Transnational Perspectives in Legal Education: Collaboration in Teaching concerning the Ethics of Lawyers*, with Prof. M. Sunnqvist, *LERU Law Schools Pedagogical Workshop The Future of Legal Education*, Lund University (14th-15th November 2018); *Between Law and Morality. Legal Ethics in a Historical Perspective*, Lund University (14th November 2018); *Legal ethics in the 19th and 20th centuries: a Code of Conduct for Italian and European Lawyers?* 5th ESCLH Biennal Conference *Laws across Codes and Laws decoded* (Paris, École Normale Supérieure, June 28th-30th 2018); *Lay advocacy in treatises on the legal profession: the debate surrounding legal ethics in the middle ages and early modern period*, Conference *Lay Advocacy in the Premodern world* (University of Turku, May 28th-29th 2018); and continuing training for lawyers about legal ethics. **Sari Nauman** PhD (History) 2017, University of Gothenburg. Thesis: *Ordens kraft: Politiska eder i Sverige, 1520–1718 (The force of words: Political oaths in* Sweden 1520–1718). (Lund: Nordic Academic Press, 2017). Researcher in history of ideas, Södertörn University, 2019. Postdoc in history, University of Gothenburg, 2020 – 2022. *Select list of publications and activities relevant to the panel*: Articles and book contributions: "När blev Sverige evigt?", by Wojtek Jezierski, Thomas Lindkvist & Sari Nauman, in *Historisk tidskrift* 2018, 138:3; "Winning a war with words: Oaths as military means in Early Modern Scandinavia", in *Scandinavian Journal of History* 2014, 39:2; "Gender, Power and the Oath: The Early Modern State and the Oaths of Allegiance", in Ulla Manns & Fia Sundevall (eds.): *Methods, Interventions and Reflections. Report from the X Nordic Women's and Gender History Conference, Bergen, August 9–12 2012*. (Göteborg/Stockholm: Makadam, 2014); "Från ära till skuld: Bönder och överhet i edgärdsprocessen" in *Scandia* 2011, 77:1. Activities: Participated in BBC 4 radio show *When Greeks Flew Kites*, episode: "Promises, Promises". 5

	November 2018; Conference presentation: "Oaths in political culture". The conference *PREMODS (Network for pre-modern doctoral students)*, Åbo/Turku, Finland, 23–25 september 2015; Conference presentation: "Gender, power and the oath". The conference *ESSHC (European Social Science History Conference)*, Glasgow, Great Britain, 11–14 april 2012. **Martin Sunnqvist** LL.D. (Legal History) 2014, Lund University.Thesis: *Konstitutionellt kritiskt dömande. Förändringen av nordiska domares attityder under två sekel* (Constitutional Critical Judging. The Change in the Attitudes of Nordic Judges during two Centuries). District Judge (*rådman*), Malmö City Court (*Malmö tingsrätt*), 2014-. Adjunct Senior Lecturer (*adjungerad universitetslektor*), Faculty of Law, Lund University, 2016-2020 (1 September 2016 – 31 August 2018 10 % of full time, 1 September 2018 – 31 August 2020 15 % of full time); Associate Professor (*docent*), Faculty of Law, Lund University, 2019-. Course coordinator and teacher on the course Comparative European Legal History. *Select list of publications and activities relevant to the panel:* Articles and book contributions: "Domarna som konstitutionella aktörer" (Judges as constitutional actors) in Svensk Juristtidning 100 år, Uppsala 2016; "Insignia of Independence or Subordination? The Iconography of the Seals of the Svea Court of Appeal" in Mia Korpiola (ed.), The Svea Court of Appeal in the Early Modern Period – Historical Reinterpretations and New Perspectives, Stockholm 2014; "Domareden och dess religiösa inslag" (The Judicial Oath and its Religious Parts), in Rätt, religion och politik. Ett rättshistoriskt seminarium tillägnat Magnus Sjöberg, Stockholm 2008; "'Nec amore nec odio.' Domaredens tänkbara inspirationskällor" ('Nec amore nec odio.' The Possible Sources of Inspiration for the Judicial Oath), in Från Schlyters lustgård. Rättshistoriska uppsatser 7:2007. Activities: Transnational Perspectives in Legal Education: Collaboration in Teaching concerning the Ethics of Lawyers, with Prof. Raffaella Bianchi Riva, LERU Law Schools Pedagogical Workshop The Future of Legal Education, Lund University (14th-15th November 2018); Seminar presentation: "The Oaths of Judges in the Middle Ages. Sources and Comparisons", seminar within the series Seminari Storico Giuridici di Roma Tre, Università degli Studi Roma Tre, Rome, 7 November 2018; Guest lecture "Independence and Impartiality of the Judge in the 19th and 20th Centuries", Università degli studi di Milano, 6 November 2018; Conference presentation: "The 'Rule of Life'. The Functions of Legislation and Adjudication according to Wilhelm Sjögren in a Comparative Historical Context", Laws Across Codes and Laws Decoded, 5th Biennial Conference of the European Society for Comparative Legal History, Paris, 28 – 30 June 2018; Conference presentation: "Nec amore nec odio, nec prece nec precio. Innocent III and the importance of impartiality in judicial oaths of office". The conference Justice and Judicial Process, Universidad Católica de Murcia, 29 november – 1 december 2017; Editor, with Kjell Å Modéer: "Suum Cuique Tribuere. Legal Contexts, Judicial Archetypes and Deep-Structures Regarding Courts of Appeal and Judiciaries

	from Early Modern to Late Modern Europe", Stockholm: Institutet för Rättshistorisk Forskning, 2018; Editor, with Kjell Å Modéer: "Legal stagings. The Visualization, Medialization and Ritualization of Law in Language, Literature, Media, Art and Architecture", Copenhagen 2012.
SESSION 24	
24.1	***«Todo es diferentisimo»: comparative analysis of the commercial law for professional merchants in 1569*** **Luisa Brunori** | University of Lille **ABSTRACT:** Tomas de Mercado is considered as a member of the "School of Salamanca" and of the general intellectual tradition often known as "Late Scholasticism". He was born in Seville in 1525 and moved to Mexico at a young age where he began his studies; he later went back to Spain, where he studied theology and law at the University Salamanca. The life of Mercado between Spain and Mexico places him at the centre of the birth of the world market. Tomas de Mercado was first trained in this Mexico, the most significant of the Spanish territories overseas. Afterwards he lived in Seville for a long time: Seville was the most important European centre for commerce with the American territories. Mercado therefore witnessed the birth of the world market and focused his work on this phenomenon. But his thinking was not limited to observation: he tried to reconcile theory and practice, philosophy and economic order, with a comparative approach pioneering for its time. In Sevilla he became advisor of the very powerful consulate of Seville that asked him to write his *Suma de tratos y contratos*, published in 1569. In fact the "*nuncupatoria*" epistle is addressed to trade professionals, members of "the famous and eminent consulate of the merchants of Seville" that wanted a technical-legal but also moral guide in the realization of his commercial activity overseas. It seems clear in the text of the epistle "*nuncupatoria*" that this book was commissioned to Mercado precisely because of his competence to carry out a comparative analysis between the commercial law performed in Europe and the commercial law practiced on the other side of the Atlantic. For the first time, commercial law is being treated in a scientifically comparative method: "This book is a brief illustration, in an easy style, of the contracts that in these kingdoms and in the Indies are more stipulated, that is to say purchases, sales and changes". Mercado explains the particularities of trade with Indies, as well as differences compared to European trade: "*todo es diferentisimo*", "everything is very different", he says. The aim of the paper is therefore to present Mercado's comparative analysis of commercial law, highlighting the particularities and methods of his avant-garde work. **CURRICULUM VITAE: Current Position:** 2014 **Researcher** at the CNRS in the Centre d'Histoire Judiciaire, Université de Lille, France. **Prizes:** 2016

	Médaille de Bronze du Cnrs. **Education:** 2014 **Accredited to supervise doctoral theses (Habilitation à Diriger des Recherches - HDR**) in Legal History, France (highest degree delivered in France); 2011 Diplôme Universitaire « Gratianus », European postgraduate degree, Univ. Paris Sud, F; 2006 PhD in Law, Univ. Firenze, I; 2001 Master 2 in Legal History, Univ. Firenze, I. **Selected publications (number of citations unknown):** Books: Luisa BRUNORI, *« Societas quid sit », la société commerciale dans l'élaboration de la Seconde Scolastique. Personnes et capitaux entre le XVIème et le XVIIème siècle*, Paris, Mare&Martin, 2015. Edited Boooks: *Le droit face à l'« économie sans travail ». Spéculation, finance et investissements de l'Antiquité à nos jours*, Luisa BRUNORI, Serge DAUCHY, Olivier DESCAMPS, Xavier PRÉVOST eds., Paris,Classiques Garnier, 2019; *Gouvernance, Droit et Santé*, Luisa BRUNORI, Farid LEKÉAL, Alain WIJFFELS eds., CHJ, expected 2019. Edited review issues: *Glossae - European Journal of Legal History*, n. 15/2018, « Beyond particular traditions: Comparative Legal History », Luisa BRUNORI, Aniceto MASFERRER, Alain WIJFFELS eds; *Clio@Themis*, 17/2019, «Argent et marchandises en voyage, XII°-XIX° siècle», L. BRUNORI, X PRÉVOST ed. Articles in peer-reviewed (selected), as sole author: "History of business law: a European history?", *Glossae- European Journal of Legal History*, n. 15/2018, *Beyond particular traditions: Comparative Legal History* , L. Brunori, A. Masferrer, A. Wijffels, eds., 62-79, « La question économique dans la théorisation althusienne de la République », *Revue d'Histoire des Facultés de Droit et de la culture juridique*, n. 37/2017 « La *Politica* de Johannes Althuisius. Une entrée dans la Modernité », 365-385; « Benvenuto Stracca: abogado y fundador del derecho comercial "científico" (1553-1580) », *Revista Mexicana de Historia del Derecho*, expected 2019; « Ventes à crédit et spéculation au *Siglo de Oro* à travers le regard d'un des premiers juristes du marché globalisé : Tomás de Mercado et sa *Suma de tratos y contratos* (1569) », *RDC*, 3/2016, 521-526; Chapters in peer-reviewed books and conference proceedings (selected), as sole author: « The Suarez's contribution to the formation of the modern civil law", with Wim Decock, in *The Legal and Political Thought of Francisco Suarez*, R. Lesaffer ed., Brill, Leyden, expected 2019; «Michel Villey», in *Great Christian Jurists in French History*, O. Descamps and R. Domingo (eds.), Cambridge University, 2019, chapter 27; « *Libertate et franchisia onerum utetur et gaudevit*. Les privilèges fiscaux d'un médecin dans un arrêt inédit du Parlement de Paris de 1427 », *Gouvernance, Droit et Santé*, L. Brunori, F. Lekéal, A. Wijffels eds; « Late Scholasticism and Commercial Partnership: Persons and Capitals in the Sixteenth and Seventeenth Centuries », in *The Company in Law and Practice : Did Size Matter ? Middle Ages-Nineteenth Century*, D. De ruysscher, S. Dauchy, A. Cordes, H. Pihlajamäki eds., Brill, 2017, p. 42-69; « La représentation comme droit: la lettre de change (XIV-XV s.), in *Le droit en représentation(s)*, ed. N. Goedert, N. Maillard, Mare&Martin, 2016, p. 233-243. **Organisation of scientific meetings (selected):** 2018-present: Scientific Leader of the program "PHEDRA - Pour une Histoire Européenne du DRoit des

Affaires" https://phedraproject.wordpress.com/; 2015-2017 Scientific Leader and Coordinator of the series of meetings **« Histoire de l'économie sans travail. Finances, investissements et spéculation de l'Antiquité à nos jours »** (with S. Dauchy-Cnrs-Univ. Lille, O.Descamps-Univ. Paris Panthéon-Assas et X. Prévost-Univ. de Bordeaux). **Institutional responsibilities:** 2018-present **Member of the Cnrs'National Comitee** (member of the *bureau*); 2017-present Vice-Dean in charge of Research, Faculté de Sciences Juridiques, Univ. Lille, France; 2016-present Co-director of the partnership program Université de Lille – Universidad Nacional Autónoma de México UNAM, co-direction with O. Cruz Barney (UNAM) et S. Dauchy Univ. Lille); Member of the HCERES - Haut Conseil de l'évaluation de la recherche et de l'enseignement supérieur. **Invited professor** in the Universidad Nacional Autónoma de Mexico and Universidad Panamericana **Supervision of 4 PhD Thesis.**

24.2

Joannes van der Linden, Abraham de Pinto and Judah Benjamin: Commercial Lawyers Calling Forth Pothier in their 19th Century Law Manuals

Pim Oosterhuis | University of Maastricht

ABSTRACT: Pothier's *Traité des Obligations* (1761) has been immensely influential, in France, in other Civil Law jurisdictions and in the Common Law world as well. This influence also extended to manuals or handbooks written by commercial lawyers. This paper traces how three 19th century commercial lawyers have employed Pothier in their law manuals: Joannes van der Linden (1756-1835), Abraham de Pinto (1811-1878) and Judah Benjamin (1811-1884). Van der Linden provided with his *Regtsgeleerd, practicaal en koopmans handboek* (*Institutes of the laws of Holland* or *Legal, Practical and Mercantile Manual*) in 1806 the last introduction to Roman-Dutch Law before the first Dutch Civil Code of 1809; in 1837-1838, De Pinto published the *Handleiding tot het Burgerlijk Wetboek* (*Manual to the Civil Code*, 1837-1838) one of the first manuals to the Dutch Civil Code of 1838, which code was importantly based on the *Code civil*; and in 1868, Benjamin published *A Treatise on the Law of Sale of Personal Property, With Reference to the American Decisions, to the French Code, and Civil Law*, enormously influential in England and the Common Law world at large. Writing from these different and/or crucially changing jurisdictions, they all referred to and relied on Pothier's treatise. In this paper, contract law, and specifically the law of sales, will be taken as a point of reference. The paper will identify how Van der Linden, De Pinto and Benjamin respectively employed Pothier, not just in structuring their work, but especially when substantively arguing certain positions, notably on specific performance and frustration of contract. For these subjects also the relation between references to Pothier and references to other sources – e.g. case law, other scholars, custom and usage, codes – will be explored. This comparison between English and Dutch commercial lawyers throughout the 19th century, serves to identify similarities but particularly the profound differences in their

legal methodology: how did commercial lawyers in this period use various sources when they set out the law for beginners in the legal profession. It also illustrates how the receptiveness of commercial lawyers for doctrinal writings of other jurisdictions importantly depended on the presence of a code.

CURRICULUM VITAE: Janwillem (Pim) Oosterhuis (1976) is Assistant Professor (UD) at the department of Methods and Foundations, at the Faculty of Law at Maastricht University. He is also fellow of the Maastricht European Private Law Institute (M-EPLI) and Secretary General of the European Society of Comparative Legal History (ESCLH). He teaches i.a. Law in Europe, from Gaius to the EU, Rechtsgeschiedenis/Legal History and States Markets and the European Integration. His research interests are Comparative Legal History, in particular 19th century commercial contract law in Europe, the general Law of Obligations, and also Law and Economics. He studied theology at the Theologische Universiteit Kampen (Propedeuse) and law at the Erasmus Universiteit Rotterdam (Master's thesis: "Max Weber en zijn invloed op de beoefening van het Romeinse recht"). He followed the Erasmus Programme in Law and Economics in Rotterdam and Hamburg (European Master in Law and Economics, Master's thesis "Commercial Impracticability in Common Law and Civil Law"). Upon graduation in 2001 he practised law for three years as trainee at Boekel De Nerée, Advocaten Civil Law Notaries and Tax Advisers (Amsterdam), at the departments Corporate Litigation and Transport and Insurance. Between 2004 and 2009 he worked at the Vrije Universiteit Amsterdam on his PhD-project 'Specific Performance under European Codifications of the 19th century'. In 2005 and 2006 he spent eight months in Frankfurt am Main, first as scholar at the Max-Planck-Institut für Europäische Rechtsgeschichte and later as member of the International Max Planck Research School for Comparative Legal History. In 2011 he finished his dissertation 'Specific Performance in German, French, and Dutch Law in the 19th Century'. MAIN PUBLICATIONS: Oosterhuis, J. (2019). A staunch Protestant on an irenic Remonstrant: Matthaeus's references to Grotius in De criminibus. In H. Dondorp, M. Schermaier, & B. Sirks (Eds.), De rebus divinis et humanis. Essays in honour of Jan Hallebeek (pp. 225-240). Göttingen: V&R unipress; Oosterhuis, J. (2018). Private and Public in the Design of Commercial Law: Lessons from the History of Bills of Exchange. In M. Heidemann & J. Lee (Eds.), The Future of the Commercial Contract in Scholarship and Law Reform (pp. 369-388). Cham: Springer International Publishing; Oosterhuis, J. (2014). Damages and the Industrial Revolution in England, Germany and the Netherlands: damages as remedy in 18th and 19th Century European Commercial Sales Laws. Zeitschrift für Europäisches Privatrecht, 22 (4), 793-823; Oosterhuis, J. (2014). Unexpected Circumstances arising from World War I and its Aftermath: 'Open' versus 'Closed' Legal Systems. Erasmus Law Review, 7(2), 67-79; Oosterhuis, J. (2013). Convergence and Unification of Nineteenth Century European Commercial Sales Law. Why the CESL might just be an Intermezzo in the Game of Unifying European Sales Law. European

	Review of Private Law, 21(4), 991-1007: Oosterhuis, J. (2011). Specific Performance in German, French and Dutch Law in the Nineteenth Century. Leiden: Martinus Nijhoff Publishers.
24.3	***How to deal with the French Commercial Code? The methods of the legal professions in the nineteenth-century Polish territories*** **Anna Klimaszewska** | University of Gdańsk
24.4	***The centralization of early modern cross-border insolvency procedures in the German territories*** **Remko Mooi** | University of Tilburg

	DAY 3 – 24 JUNE 2022
SESSION 25	
25.1	***Civilisation in the age of legal technicians. Textual analysis of three colonial legal periodicals (1924-1960)*** **Nathalie Tousignant** | Université Saint-Louis Bruxelles **ABSTRACT:** Belgium's Belle Époque was a period of growth for the national legal journals (Vandenbogaerde, 2014). On the one hand, Edmond Picard's renowned *Journal des Tribunaux* became a example, whereas on the other hand numerous specialised titles emerged, *e.g.* on social or colonial law. Those titles desired to professionalise the profession and openly identified themselves with associations. Editors proved to be the driving forces behind the establishment of these organisations and cunningly positioned their publications as mouthpieces of their groups. *Journal des Tribunaux* functioned as a meeting point of colonial-minded lawyers, as few titles were published and discussed the overseas project of King Leopold II. The editors found themselves involved in other more popular magazines on the Belgian Congo, as well as in legal scholarly groups that had to contemplate on structuring the colonial legal system. Studying those titles enables us to scrutinize how those lawyers assessed their and the role of Belgium in the colonial project. Case studies (e.g. *RIEJ*, 2019/2, n° 83) document the necessity to keep legal practitioners on the field in touch with the on-going debates on civilisation, through decisions published and annotated in order to increase the consistency of legal ruling and the necessity to offer possible paths for customary law codification. In 1908, Belgium "acquired" the Congo Free State. It proved necessary to (re)define the scope of the colonial doctrine. With Great War also conducted against Germany in Western and Eastern Africa, a new generation of actors (jurists, engineers and doctors, mostly Belgian citizens) embodied the utopic objective to reconcile economic and industrial improvement (*mise en valeur*) with human development of local populations, encapsulated in the motto "*Dominer pour servir*". From the 1920s, the Belgian imperial doctrine relies on a conception of civilisation, in which judges, among other legal technicians, act as guardians of the less privileged autochthonous communities on the evolutionist path of civilisation. Defined either as a mission or as an action, it participates in a strict social hierarchy based on legal personal status, with complex categories to translate the diversity of African groups present on Congolese territory. After WWII, it appears that the colonial authorities, both in Brussels and in Léopoldville, had to acknowledge the social progress of some groups, who

	adopt the values and the customs of civilised people, who live outside the customary world and who claim to be associated to the local governance. The creation of "*évolués*" category and the devolution of a new personal status through registration ("*immatriculation*") should have been a breakthrough for progressist legal practitioners. A thorough textual analysis demonstrates the many fault lines among the legal community and the strategies implemented to block and set aside the integrationist alliance.
25.2	***Making good professionals: Legal periodicals as long-life learning tools on Belgian colonial law*** **Sebastiaan Vandenbogaerde** | Ghent Legal History Institute **CURRICULUM VITAE**: Degrees 2021: Master of Laws in Corporate Law (Leuven University) 2014: Doctor in Law (Ghent University) 2010: Master of Laws (Ghent University) 2006: Master of Arts in History (Ghent University) Awards TPR-prize for best article on private law (2018). Professional experience October 2020 – Today: Visiting professor at Ghent University (Teaching History of Public Law (1st Bachelor Law) and History of Private Law (2nd Bachelor Law) and History of Social and Economic Law (Master Law). October 2020 – Today: Visiting professor at Antwerp University (Teaching History of Public Law (1st Bachelor Law) and Legal History (2nd Master Law). January 2022 – Today: Visiting professor at Université Libre de Bruxelles (Teaching Legal history, 1st Master Law) October 2021 – February 2022: Visiting professor at Katholieke Universiteit te Leuven (teaching History of Private Law (2nd Bachelor Law). October 2017 – September 2020: Postdoctoral research fellow (Flanders Scientific Research Fund) (FWO-Vlaanderen). October 2016 – September 2017: Doctor-assistant with a research mandate (Specific Research Fund-Ghent University) (BOF-UGent). October 2014 – September 2016: Doctor-assistant (Ghent University, Faculty of Law and Criminology, Ghent Legal History Institute). August 2010 – July 2014: Doctoral researcher (Flanders Scientific Research Fund) Research topics - Intellectual legal history. - Consequences of World War One/World War Two on private and public law. - Colonial legal history. Number of publications: 48 Number of presentations: 56 Number of supervised master's theses: 19.
25.3	***Trusteeship: Native Lands Trust legislation in Kenya and South Africa, 1936-38*** **Paul Swanepoel** | University of KwaZulu Natal **ABSTRACT:** The Natives Land Act 27 of 1913 is arguably the most significant piece of legislation passed by the South African parliament between 1910 and 1948. Although colonial land dispossession began well before this

	date, the Natives Land Act helped to consolidate segregation in South Africa and had a far-reaching effect on the African population across the country. The Natives Land Act also formed the foundation for later legislation, such as the Native Trust and Land Act 18 of 1936. This piece of legislation increased the amount of land set aside for reserves and established a body known as the South African Native Trust to administer areas reserved for black occupation. The Act abolished individual land ownership by blacks and introduced the idea of trust tenure: land reserved for black settlement was vested in the Trust and a fund was created to empower the body to acquire land for black settlement. A comparative study is made with Kenya, where the Kenya Land Commission recommended that black reserves should cease to be known as Crown Lands and should be placed under the 'protection' of a Trust Board in 1934. This resulted in the Native Lands Trust Ordinance, which was passed in 1938. The aim of the paper is to provide a comparison of land trusteeship in South Africa and Kenya during the 1930s by demonstrating how this legislation was an important instrument used by the governments of Kenya and South Africa to further their policies of racial segregation. The paper also provides an important context for current debates surrounding land reform in the two countries. **CURRICULUM VITAE:** Senior Lecturer, School of LAw, University of KwaZulu-Natal. Joined UKZN in 2013, having previously completed an undergraduate MA (Hons) in History at the University of St Andrews, which was followed by a LLB degree from the University of Natal. He then completed articles at a law firm in Durban and was admitted as an attorney. He returned to Scotland to read for a master's and PhD in African Studies at the Centre for African Studies at the University of Edinburgh. Paul teaches Administrative Law and Jurisprudence as part of the LLB programme at Howard College, as well as History and Philosophy of Constitutionalism, part of the LLM programme in Advanced Constitutional Litigation. Academic Qualifications: MA (Hons) (St Andrews); LLB (Natal); MSc PhD (Edinburgh). Professional Qualifications: Attorney of the High Court of South Africa.
SESSION 26	
26.1	***The life in the scroll: medieval notaries as mediators in the trial, in wills and in deeds*** **Alessandra Bassani** | Università degli Studi di Milano **ABSTRACT:** The common core of the profession of notary is, nowadays as in the past, the role of mediator. During the Middle Ages, everywhere in Europe notaries played an important part both in the trial by transcribing witnesses depositions and in the economic development of italian cities, because they granted a legal form to the new deeds the merchants were

	making up. Comparing documents and doctrinal reflections of 13th and 14 th centuries we can appreciate how they played their role: sure they worked to reach a compromise balancing different needs: family equilibrium, economic interests and, last but not least, deep spiritual aspirations. The task of translating their client's needs and the witnesses's statements was put in place by using Roman law, experience and the tradition they had received from notaries practicing before them. Judges, witnesses, defendants, testators, contracting parties words underwent a linguistic and substantial trasformation in the instrumentum we read and study today: historian looks to the contents but glosses over this aspect that is of paramount importance. Focusing on the notarial translation allow us to see the law mixed with the elements that make deeds a living objects and not only results of abstract theories. **CURRICULUM VITAE:** 2003: PhD Milan University. 2004: Assistant Professor Milan University. **Teaching Activities**: 2008-2009: Contemporary Law History, Insubria University – Law Faculty; 2009-2013: Medieval and Modern Law History, Insubria University – Law Faculty; 2014-2019: History of Law from Middle Age to the Contemporary Era, Milan University – Humanities Faculty. **Selected Publications (Books, Essays and Articles)**: Sapere e credere. Parte prima. La *veritas* del testimone *de auditu alieno* dall'alto medioevo al diritto comune, Milano Giuffrè 2012; Reflections on fifteenth-century treatises: the *tractatus de testibus* by Nello da San Gimignano and Alberico Maletta in Italian Rewiev of Legal History (2015) 1.3; Secret Wedding, Incestuous Marriages and Subornation of Witnesses in the *Tractatus de testibus* by Hugolinus da Sesso in Proceedings of the Fourteenth International Congress of Medieval Canon Law Toronto 5-11 August 2012, Città del Vaticano 2016; Udire e provare. Il testimone *de auditu alieno* nel processo di diritto comune, Milano Giuffrè 2017; A Coffer for the Will, in Succession Law, Practice and Society in Europe across the Centuries, Gigliola di Renzo Villata (ed.), Springer Publishing 2017; Coercion and Consensus: Using the Law to Change 'the Moral Character of Italians' (with Ambra Cantoni), in Ideology and Criminal Law. Fascist, National Socialist and Authoritarian Regimes, Stephen Skinner (ed.), Oxford Hart Publishing 2019; *Familia idest substantia?* Lombard women and statutes in Baldo degli Ubaldi's *consilia*, in Comparing Two Italies. Civic tradition, trade networks, family relationships between Italy of Communes and the Kingdom of Sicily, P. Mainoni, N. L. Barile (eds.), Turnhout Brepols 2019; Initial Investigation on Excess of Power: Judicial Review of Administrative Action in Italy (1890-1910), in Administrative Justice fin de siècle, Giacinto della Cananea (ed.), (in press).
26.2	***Three Concepts of Notaries in the Interwar Czechoslovakia*** **Tomáš Gábriš** | Trnava University Slovak Republic

ABSTRACT: The Czechoslovak Republic, established upon disintegration of Austro-Hungarian Empire in 1918, was an heir to two legal traditions – the Austrian one and the Hungarian one. This holds true even with regard to concepts of legal professions in interwar Czechoslovakia, and especially with respect to the profession of notaries. The Austrian tradition and the Hungarian tradition were namely at odds as far as the importance and role of this profession is concerned. In addition, however, besides two types of "public notaries" – under former Austrian and under former Hungarian legal heritage -, there existed even a third concept of "rural notaries" lacking any specific education apart from their knowledge of reading and writing, which nevertheless made them important figures among largely illiterate inhabitants of rural areas of eastern (Slovak) part of Czechoslovakia. The profession of notaries in the interwar Czechoslovakia thus offers an interesting insight into both (i.) comparative legal history of two legal regulations for public notaries – under former Austrian law (applicable in the western half of Czechoslovakia) and former Hungarian law (applicable in the eastern half of Czechoslovakia), as well as (ii.) into relationship between two types of notaries – one possessing specific education and skills, and the other lacking any proper legal education.

CURRICULUM VITAE: Position: Professor of History and Theory of Law. 2019: Professor, Head of Department of History of Law, Trnava University in Trnava, Faculty of Law. 2017: LLM, PhD., Professor, Comenius University in Bratislava, Faculty of Law. Publications: 303 publications including co-authorship of 20 books. Projects: so far has been involved I 17 projects. Conferences: Attended 50 conferences. Memberships: Slovak Historical Society. References: 513 quotations and references worldwide.

26.3

Transactions mortis causa in the documents of Thomasinus de Savere, notarius iuratus and scriba communis in Dubrovnik (Ragusa) 1277-1286

Henrik-Riko Held | University of Zagreb

ABSTRACT: Notaries public as a legal profession have always played a decisive role in the historical development of law. Their methodology, such as the composition and organisation of various legal documents, was a crucial element of their professional life. Analysis of the specific matters with which they dealt with can provide both an insight into the particularities of a singular legal issue and the encompassing legal system, as well as a contribution to the understanding of their role therein. This may be especially relevant during certain momentous changes in the historical legal development. One such momentous change occurred when *magister* Thomasinus de Savere was summoned to perform duties both as a *notarius* and *cancellarius* in the medieval city of Dubrovnik (Ragusa) on the eastern coast of the Adriatic Sea at the end of the 13th century. Generally, this period is considered formative for the

	profession of the notaries public. In addition, Thomasinus de Savere was the first educated and lay notary public in the city of Dubrovnik (Ragusa), which was at that time experiencing economic expansion, rise of commercial activities and the need for a more complex legal reasoning. While general circumstances of his work have been researched, inquiries into specific legal issues thereof lack. The aim of this paper is to analyse *cessio*, or the transfer of obligation from one creditor to another in his documents. *Cessio* has its conceptual roots in Roman law, on the basis of which it was developed in *ius commune*. In the notarial documents of the time a specific formula for *cessio* existed, and there are numerous examples of its use in the documents of Thomasinus de Savere. Their analysis, including comparison with most important formularies of the time and documents of other notaries public, may provide an insight into the functioning of a specific society in a given time period, analysing one important aspect of its commercial and legal life. It may also be a particular example of how methodology of a certain legal profession brought about development in a specific legal area and in the legal reasoning of the era as a whole. Thus it may be a contribution both to a more profound understanding of the role of the profession and methodology of the notaries public, as well as a contribution to the historical development of *cessio*, an important transaction from the law of obligations both then and now. **CURRICULUM VITAE:** Doc. Dr **Henrik-Riko Held** is an assistant professor of Roman law at the Chair of Roman law of the Faculty of Law, University of Zagreb. Born in Dubrovnik, Republic of Croatia, where he graduated from primary school and high school. He enrolled at the Faculty of Law, University of Zagreb in 2005, and graduated integrated undergraduate and graduate law studies (mag. iur., LL.M.) in 2010 *magna cum laude*. The same year he was elected a teaching assistant at the Department of Roman Law of the Faculty of Law, University of Zagreb, and started postgraduate doctoral studies in civil law and family law sciences at the Faculty of Law, University of Zagreb. In May 2015 he successfully defended his Ph. D. thesis titled "Origins and Development of the Condiction Models of Protection in Roman Legal Tradition" in the field of Roman law, at the Faculty of Law, University of Zagreb. Postdoctoral studies in the *Centro di studi e ricerche sui Diritti Antichi* (CEDANT), *Almo Collegio Borromeo*, University of Pavia (2016). He was awarded several awards for excellence and was a recipient of several scholarships during his law studies. He has published scientific papers in the field of Roman law, Roman legal tradition and private law, and he actively participated in a number of international and domestic scientific conferences where he presented papers. Member of the editorial board of Zagreb Law Review from December 2017.
26.4	***Adaptation, flexibility and indispensability: Notaries and the Inquisition in Italy and France (13th – 14th c.)***

	Luca Fois | University of Padova
SESSION 27	
27.1	***Examining the legal hybridity in Ceylon; Weighing between Roman Dutch law and English common law tradition*** **Punsara Amarasinghe** | Scuola Superiore Universitaria Sant'Anna di Pisa **ABSTRACT:** The common adage prevalent about Roman empire is that she conquered world three times. Mainly by her armies, her religion (Roman Catholicism) and finally her law. Even though this seems to be a more poetic quibble the legacy left by Roman civilization, particularly in the realm of jurisprudence is impeccable as the entire civil body of law is being influenced by Roman legal principles. However, the extend Roman law has been blended with other legal systems and its offshoots outside Europe has created some unique situations, which deserves to be explored much. This paper will examine the adoption of Roman Dutch law in Ceylon (Sri Lanka) under Dutch colonial administration from 1657 to 1796 and its reception by British colonial successors to Ceylon. In fact, the intrinsic legal system left by Dutch caused many legal interpretative complexities for British colonial administrators as they were not accustomed to Roman Dutch legal norms being stanch practitioners of English common law. This hybridity eventually set an obsolete ground for Roman Dutch Law in Ceylon and its decay became inevitable at the hands of British colonial judges in Ceylon. Especially, after the newly appointed British judges with their strong common law training from Britain envisaged serious difficulties in understanding and the applicability of Roman Dutch legal principles in the judicial administration in the colony, that finally compelled them to apply English common law in Ceylon. The English judges in late 19th century Ceylon seemed to be particularly contemptuous of the Roman-Dutch law and advocated its repeal. Supreme Court judge in Colonial Ceylon in 1887 CB Clarence stated "All remains of the Roman-Dutch law should be cut down and grubbed up root and branch". Yet, there were some exceptional legal stalwarts from British imperial judiciary in Ceylon who determined to preserve the practice of Roman Dutch law in the areas of land, property and succession and when the Roman Dutch law remained silent before the issues relating to those issues, British judges tended to apply common law principles which resulted in forming a legal cohabitation between Roman-Dutch law and English common law in Ceylon. This paper will examine the legal dualism emerged from both RDL and common law system in Ceylon (Sri Lanka) to this date. The methodology of this paper is based on the comparative analysis of the applicability of both legal systems in Ceylon. **CURRICULUM VITAE: Academic Qualifications**: Obtained LL.B (Hons) Second Class Lower Division degree at Faculty of Law, University of Colombo

	2015; Obtained LL.M (Distinction) in Public International Law from South Asian University, New Delhi, India in 2017. (GPA 7.34). [The dissertation I submitted titled "comparative analysis of concept of Dharma in Hindu jurisprudence with the theory of natural law by Thomas Aquinas" was awarded an A grade]. **Awards and Recognition**: SARRC merit scholarship to study LL.M in Public International Law at South Asian University, New Delhi, India (2015-2017); Scholarship of Russian Government Quota System to read PhD in International Law at Faculty of Law, Department of Public International Law, National Research University, Higher School of Economics in Moscow, Russia in 2017 (quit it within five months); Full Scholarship (Tuition fee waiver and monthly allowance) to read PhD at Institute of Law and Politics, Sant Anna School for Advanced Studies, Pisa, Italy (2018-2021). **Employment History:** Teacher of Political Science and Classics at Bishops College, Colombo, Sri Lanka (2014-2015); Visiting Lecturer of Law at Faculty of Arts, University of Colombo, Sri Lanka (2017); I was recruited as an assistant lecturer at Department of Public and International Law Faculty of Law, University of Colombo in 2017, but I resigned within a week as I left the country; Teaching Assistant to Professor Vera Russinova at Department of Public and Private International Law, National Research University, Higher School of Economics, Moscow (2018) -verarusinova@gmail.com. **Research work and Publications**: **Book Chapters**: Creating Universal Basic Income as a Right: Indian Perspective (co-authored with Prof. Sanjay Rajhans) in "Social Rights Paradigm in Sothern Europe" (Springers , 2019, forthcoming). **Journal Articles:** The Gentle Mask for the Oppressor: Examining the Colonial Roots of International Law, Kazan Journal of International Law, Russia (2019 January); "Legal and Moral Defects of the Concept of Nuclear Deterrence" has been accepted to publish by Romanian Journal of Eurasian Studies (2019) Edited by Prof. Daniel Falut; "In Praise of Kaleidoscope Judge: An alternative reading on Justice Weeramantry's jurisprudence in ICJ " Manurava Law Journal, Sri Lanka Law College, (2019 August); "Re Assessing the Depth of State and International Law in Soviet Ideology" *Studie Europene,No14,*Moldova, (2019 September). **Journal Articles between 2017-2018:** "Curse of Flying Death and Dilemma of Law" Challenges of IHL before Drone Attacks, Sir John Kotalawala Defense University, E-Repositary, (2017, August); "Contribution of Thomas Aquinas to Natural Law ", *Krishansa* Journal, Department of Western Classics and Christian Culture, University of Kelaniya, Sri Lanka, (2017, September); "Decisive Role of Roman Law in Development of International Law", Sir John Kotalawala Defense University, E-Repositary, (2017, August). **Abstract Presentations:** (1) "Comparative analysis between Platonic Philosopher's rule and Buddha's Universal ruler "at "Buddhist Jurisprudence International Conference" organized by Kadirgarmar Institute for International Relations. The conference was chaired by Bhutan Chief Justice Lyonpo SonamTobgy **(2014.05.12)**; (2) "Greek Roman influence in concept of Rights" at the 4th International Conference at Royal Asiatic Society on 26th of March in 2015 in Colombo; (3) "Women's sexuality through Aristophanes-Re

	reading of Lysistrata" was presented at 2nd International Humanities Conference at University of Kelaniya, Sri Lanka on 21st of May in 2015. **Papers Presented (International)**: 2019 January " India and League of Nations : Non-European entry into International Law" was presented at the conference titled " Legacy of League of Nations " organized by Leister University, School of Law, Leister, UK; 2019 February "Understanding Pyrrho's Skepticism parallel to *Madyyamika* Buddhism", presented at the conference on Doubt and Religion organized by Faculty of Theology at Humboldt University, Berlin, Germany; 2019 March "Amalgamation of Customary Norms and Written Codifications: Examining the legal reforms of Solon in ancient Athens" presented at an anchoring innovation workshop organized by Faculty of Classics at University of Amsterdam, Netherlands; 2019 April "A Critical Analysis of the political participation of Sri Lankan Tamil community in Canada "presented at conference titled "Democratizing Displacement "organized by Refugee Studies Center at University of Oxford, UK; 2019 May "Apotheosis of Constitutional Identity against Regionalism: Emerging trend of Populist Constitutionalism in Europe" presented at Erasmus Legal Week organized by Faculty of Law, Sofia University, Bulgaria; 2019 June " Taming desires through practicing desires: Examining the role of Karmamudra as a technique embodying the sexuality in Vajrayana Buddhism" presented at a conference organized by department of gender studies and medieval studies at Central European University, Budapest, Hungary. **Papers Presented (Sri Lanka):** "St. Thomas Aquinas' contribution to the development of Natural Law was presented at the Department of Christian Culture, University of Kelaniya, Sri Lanka in first International Conference on Theology on 3rd of July in 2015, P **Amarasinghe** - 2015 - repository.kln.ac.lk; "Applicability of Derrida's deconstruction to the legal interpretation" at the annual research symposium organized by KothalawalaDefence University on 25th of August in 2015; "Post-conflict peace building in Sri Lanka through the South African Truth and Reconciliation model" was read and published at University of Colombo annual international research conference on 3rd of December; "Examine the role of " Jus Gentum" (Law of the Nations) in Roman Empire was presented and published by the Faculty of Graduate Studies at University of Kelaniya on 11th of December 2015; Discovery of Manusmruthi by William Jonnes and its impact in western understanding on Hindu Jurisprudence "was read at the International research conference organized by "Itihas Academy ", Dhaka in Bangladesh in 2016 January; "*Mukkwars* legal system in the coastal areas of Ceylonforgotten legacy" at the annual international research conference organized by Royal Asiatic Society in Colombo, Sri Lanka in 2016 March.
27.2	***Analysis of the legal system of the British West Indies/Caribbean, 1700s-1800s – legal transplantation or a creation?*** **Justine Collins** | Max Plank Institute for European Legal History - Frankfurt Goethe University

	ABSTRACT: The majority of the territories of the British West Indies have succeeded in the inheritance of English law, the most primary being common law and statutory laws usually modelled upon the English archetype. A simple glance at the West Indian Law Reports will reveal this mirroring legal identity to that of English law. The English judiciary demarcated powers to different branches of tribunals or subsidiary courts depending on the matter at hand. However in the colonies especially the Caribbean islands, which differed greatly in size in comparison to the metropole, this delegation of powers was not possible to that magnitude. For example in terms of probate issues in England, the judiciary delegated such tasks to the ecclesiastical courts; however, in the colonies the Governor administered such matters. Colonial cases hardly ever went in opposition to plantation owners and investors. Setting the precedent that regardless of the circumstance, the interest in the perpetuation of the plantation system was preeminent. Colonial and English legal experts usually tried to avert conflicts which arose because of the dual authorities of colonial and metropolitan legislature. Herein, the Privy Council endeavoured to assert and advance its utmost authority, though it was cognisant of the level of self-governance colonial governments possessed. Arguably, the colonial governments in turn tried to self-govern while acknowledging the Privy Councils authoritative hierarchy, mainly in theory. This presentation therefore depicts the colonial British West Indian legal system in comparison to that of the metropole in order to identify what was borrowed and/or created and what happened in events where there were dubious legislations from both ends on a matter. **CURRICULUM VITAE:** Bachelor of Laws LLB (hons.) Manchester Metropolitan University. International Financial Law (LLM) University of Manchester. MA Dual degree (hons.) Sheffield University (Global Politics & Law) and Doshisha University (Comparative International Private Law), Kyoto, Japan (2013-2015). LLD Doctor of Laws (tbd) Max Plank Institute for European Legal History and Frankfurt (Goethe) University, 2019.
27.3	***Christian Japanese and the Jesuit sources: production and circulation of normativities in a global Empire, 1540's – 1630's*** **Luisa Stella Coutinho** | Max Planck Institute for Legal History and Legal Theory **ABSTRACT:** In 1543, Portuguese travelers arrived in the island of Tanegashima aboard Chinese junk ships, making the first contact between Japan and Europe. Six years later, the first Jesuits in Japan landed in today's Kagoshima and began the Christian mission in Japan. After these events, an increasing number of missionaries came to Japan, developed their evangelical mission, and attempted to forge alliances with the local governance. Within a few decades, hundreds of thousand Japanese Christians were baptized. Among these thousands of converted Japanese, there were many Japanese women. With very different backgrounds, these women performed different roles as

	Christians and influenced the daily lives of many others converted in Japan during the 16th and 17th century. However, the history of these Japanese converted women has not been properly explored yet. In order to analyze the missionaries sources that circulated throughout the Iberian empires about the lives of these converted women, I take into consideration Japanese legal history and sources in Japanese. Considering religious practices as normative cases, I want to demonstrate how the conversion of Japanese women to Christianity redefined social roles and legal categories as they were culturally translated and adapted particularly in relation to marriage, inheritance, kinship systems, repudiation and divorce practices. **CURRICULUM VITAE:** Luisa Stella de Oliveira Coutinho Silva is a researcher at the Max Planck Institute for Legal History and Legal Theory and a qualified lawyer in Portugal and Brazil. She graduated in Law and Psychology, and received her MSc and PhD in Legal History from the Institute of History of Law and Political Thought at the University of Lisbon. She works with Women's legal History and the Portuguese Empire and her current research project investigates the conversion of Japanese women between 1540s and 1630 from a global legal history perspective. Her book "Nem teúdas, nem manteúdas: História das Mulheres e Direito na capitania da Paraíba (Brasil, 1661–1822)" was published by the Max Planck Institute for Legal History and Legal Theory in the book series "Global Perspectives on Legal History" in 2020.
27.4	***Alien structure and legal method: Possible approaches to ecclesiastical rules in secular courts*** **Elena Silvestrova** | Ss Cyril and Methodius Institute of Post-Graduate Studies **ABSTRACT:** Various legal cultures can show different approaches to alien legal institutions. Secular courts in the Russian Federation and in the United States have had to discuss rules originated from ecclesiastical law in order to solve certain legal conundrums dealing with the relationship between religious organizations; as well as between private individuals and religious organizations. Courts in several cases were pressed to discuss inner ecclesiastical rules; otherwise the cases seemed to be insolvable. There was no other option left but to interpret Church canons in a court of secular jurisdiction. The problem regarding those rules – described as «inner rules of a religious organization» by the legislature of the Russian Federation – was that those rules were archaic, created in a different legal environment, alien to modern secular law. However, the judges in all the cases covered by the present paper were involved into a discussion regarding those ancient, «outdated» regulations of canon law. Courts took different approaches and applied different methods of interpreting canon law rules. The court could have discussed several rules but refused to go further as to interpret the principles and fundamental regulations of the religious institution. The court could apply canon law rules but never touched their origins or their content within the framework of canon law.

	Finally, the court actually interpreted the canons and applied them in order to find a solution of a conflict between religious organizations. The question is how a secular judge has to interpret canon law rules; does he have to show deep knowledge of legal history, especially that of canon law; in general, what kind of knowledge is required from a secular court judge in religious organization cases? Cases discussed are: *Kedroff v. Saint Nicholas Cathedral; Pappas, et al., v. the Greek Orthodox Archdiocese of N. & S. Am.*; *Pussy Riot case (Khamovniki District Court), etc.* **CURRICULUM VITAE**: Education: PhD in Law, University of Essex, 2007; PhD in History, Moscow State University "Lomonosov", 1999; LLM, University of Manchester, 1999; BA in History, Moscow State University "Lomonosov", 1995. Current affiliation: Ss Cyril and Methodius Institute of Post-Graduate Studies, Associate professor; Higher School of Jurisprudence (Higher School of Economics), researcher. Professional interests: Roman Law, Canon Law, comparative law, legal history, legal method: Recent publications: https://independent.academia.edu/ElenaSilvestrova ; https://www.hse.ru/org/persons/227220076 .
SESSION 28	
28.1	***Prologues and preambles in medieval Europe – The comparative context of the Norwegian Code of the Realm from 1274*** **Brage Thunestvedt Hatløy** | University of Bergen
28.2	***Judicial Review Over Executive Power in Estonia and Latvia During the Interwar Period in 20th Century*** **Karin Visnapuu** / **Marju Luts-Sootak** | University of Tartu **CURRICULUM VITAE**: Education by the Faculty of Law, University of Tartu 1984-90 law student 1992-93 master sc. studies; 1993 magister iuris (thesis „Theory of Legal Method and System of Law by Friedrich Carl von Savigny (1779-1861)"; in Estonian) 1993-99 doctoral studies; 2000 doctor iuris (theses „Occasional and Patriotic: F. G. v. Bunge's Scholarship on the Baltic Provincial Law"; in Estonian) Career by the Faculty of Law, University of Tartu 1990-92 – ass. researcher 1992-93 – lecturer 1994-97 – extraord. lecturer 1997-2001 – researcher 2001-3 - ass. prof. for legal history since 2003 - ordinary professor for legal history Guest lecturer and guest professor 2002 - Guest Lecturer, University of Münster, Germany 2003 - Guest Lecturer, University of Helsinki, Finland 2005 - Guest Lecturer, University of Turku, Finland 2006 - Guest Lecturer, University of Helsinki, Finland 2008 - Guest Professor, University of Latvia, Latvia 2008/9 - Mercator-Guest Professor, University of Frankfurt/Main, Germany 2009 - Guest Professor, University of Zurich, Switzerland 2011 - Erasmus-Lecturer, University of Konstanz, Germany 2011

	- International Campus-Guest Professor, University of Frankfurt/Main, Germany 2013 - Guest Professor, University of Zurich, Switzerland 2014 - Erasmus-Lecturer, University of Konstanz, Germany Several study visits and fellowships for research in Gemany, Finland, Sweden, Russia, Latvia, Switzerland Some administrative and professional responsibilities and activities Member of University Senat and Faculty of Law board, advisory board of interdisciplinary Ethic Centre at the University of Tartu. Vice dean for research of Faculty of Law. Member of board and 2014-2019 chairman of Learned Estonian Society and member of several international academic societies. 2012-2017 member of Academic Board of the President of the Republic of Estonia. Editor in Chief of journals "Juridica International" (www.juridicainternational.eu), "Juridica" and board member by several journals of legal history. Over 100 presentations in Estonian, German, English, Russian and Swedish; key note speech on the conference of ESCLH in Gdansk (2016). Ca. 140 publications.
28.3	***German, Russian and Estonian concepts of fundamental rights in the beginning of 20th century*** **Hannes Vallikivi** | University of Tartu / **Marju Luts-Sootak** | University of Tartu
	ABSTRACT: Already the first constitution of the Republic Estonian of 1920 contained a modern catalogue of fundamental rights. According to contemporaries, the catalogue was inspired by Weimar Constitution and the French Declaration of the Rights of Man and the Citizen. Recent research suggests that more influential than the French Declaration was the Basic Laws of Russian Empire of 1906. The drafters of the Estonian 1920 Constitution – mostly lawyers – were all descendants of Russian legal school and had studied in Tartu, St Petersburg and Moscow universities. The question whether fundamental rights set out in the constitution were merely declarations or entitled individuals to enforce the rights against the government was sharply raised already in the Constituent Assembly during the drafting of the constitution. Liberals deemed breaches of fundamental rights judicable, conservatives denied direct applicability and suggested such rights are directives for the legislator. Our paper deals with the origins of the divergent views. We will compare the earlier Russian and German approaches and the contemporary approaches of Estonian and German Republics to the fundamental rights, especially from the point of view of their direct applicability as an important warranty of the protection of individuals against governments. Comparison of Estonian and German developments is important because like many other states that emerged after WWI, during 1930ies Estonia also ended up in authoritarian government that by using emergency laws severely restricted number of fundamental rights. The role of German courts in the implementation of national socialist politics has been thoroughly studied. We will inquire whether the possibility and ease of authoritarian turns might have resulted from

	the fact that judges hardly ever turned down government actions that interfered in the fundamental rights. We will discuss to what the extent between the world wars the concept of fundamental rights allowed the courts to intervene, whether individuals sought protection of their fundamental rights in courts and whether courts were ready to directly apply fundamental rights. **Hannes Valllikivi** **CURRICULUM VITAE**: Institutions and positions 2016–... WALLESS, Attorney at law, partner (1,00) 1996–2016 Tark Grunte Sutkiene (formerly Tark & Co), Attorney at law(1,00) 1993–1996 Ministry of Foreign Affairs of the Republic of Estonia,Specialist (0,75) Education 1992–1996 University of Tartu, Faculty of Law, baccalaureus artium1981–1992 C.R. Jakobson Viljandi Secondary School No 1Academic degrees Hannes Vallikivi, Research Master's Degree, 2001, (sup) Jüri Põld, 1992. aastapõhiseaduse alusel sõlmitud välislepingute kehtivus ja kohaldatavus Eesti õigussüsteemis (Validity and Applicability in Estonian Legal System of InternationalTreaties Concluded under Estonian 1992 Constitution), University of Tartu, Faculty ofLaw. Hannes Vallikivi, Phd student, (sup) Marju Luts-Sootak, Poliitiliste põhivabadustekohtulik kaitse Eesti Vabariigis 1920-1940 (Judicial Protection of Political Freedoms inthe Republic of Estonia 1920-1940), University of Tartu, Faculty of Social Sciences,School of Law. Fields of research ETIS RESEARCH FIELD: 2. Culture and Society; 2.7. Law; CERCS RESEARCHFIELD: H300 History of law ; SPECIFICATION: constitutional law, human rights law,public international law, legal history. **Marju Luts-Sootak** **CURRICULUM VITAE:** Professor for legal history at the University of Tartu, Estonia https://www.etis.ee/Portal/Persons/Index?searchword=luts-sootak. **Education by the Faculty of Law, University of Tartu:** 1984-90 law student; 1992-93 master sc. studies; 1993 *magister iuris* (thesis „Theory of Legal Method and System of Law by Friedrich Carl von Savigny (1779-1861)“; in Estonian); 1993-99 doctoral studies; 2000 *doctor iuris* (theses „Occasional and Patriotic: F. G. v. Bunge’s Scholarship on the Baltic Provincial Law“; in Estonian). **Career by the Faculty of Law, University of Tartu:** 1990-92 – ass. researcher; 1992-93 – lecturer; 1994-97 – extraord. Lecturer; 1997-2001 – researcher; 2001-3 - ass. prof. for legal history; since 2003 - ordinary professor for legal history. **Guest lecturer and guest professor:** 2002 - Guest Lecturer, University of Münster, Germany; 2003 - Guest Lecturer, University of Helsinki, Finland; 2005 - Guest Lecturer, University of Turku, Finland; 2006 - Guest Lecturer, University of Helsinki, Finland; 2008 - Guest Professor, University of Latvia, Latvia; 2008/9 - Mercator-Guest Professor, University of Frankfurt/Main, Germany 2009 - Guest Professor, University of Zurich, Switzerland; 2011 - Erasmus-Lecturer, University of Konstanz, Germany; 2011 - International Campus-Guest Professor, University of Frankfurt/Main, Germany; 2013 - Guest Professor, University of Zurich, Switzerland; 2014 -

	Erasmus-Lecturer, University of Konstanz, Germany Several study visits and fellowships for research in Gemany, Finland, Sweden, Russia, Latvia, Switzerland. **Some administrative and professional responsibilities and activities:** Member of University Senat and Faculty of Law board, advisory board of interdisciplinary Ethic Centre at the University of Tartu. Vice dean for research of Faculty of Law. Member of board and 2014-2019 chairman of Learned Estonian Society and member of several international academic societies. 2012-2017 member of Academic Board of the President of the Republic of Estonia. Editor in Chief of journals "Juridica International" (www.juridicainternational.eu), "Juridica" and board member by several journals of legal history. Over 100 presentations in Estonian, German, English, Russian and Swedish; key note speech on the conference of ESCLH in Gdansk (2016). Ca. 140 publications.
28.4	***Land Law Adjudication in Pre-Petrine Russia and English Common Law*** **Anna Taitslin** | University of Canberra - Australian National University - University of New England **ABSTRACT:** The paper looks at the medieval formation of central courts as a product the feudal tenure system. Feudalism is 'a system of jurisdiction as well as a system of landowning' (2 Holdsworth 212). The two case-studies are medieval Russia and England. The both are cases of the 'indigenous' system of adjudication, distinct from the civilian tradition (though the Russian experiment was cut short by Peter the Great reforms, aiming at transplanting Swedish court system to Russia). Both the medieval England and Russia developed the pyramid land tenure system. In England there was universality of tenure, with all land held directly or indirectly of the crown. In Russia there existed [nominally] allodial ownership (*votchina*) [preceding the centralised state]. However, from the [cataclysmic] reign of Ivan the Terror '*votchina*' became more like a merely privileged *feudal* land tenure, insofar as being conditioned on military service like *pomest'e* (the military tenure). The paper focuses at similarities and dissimilarities in adjudication of land tenure disputes in two jurisdictions. In England there was no testimonial disposition of 'real property' till 1540, though, there was still litigation regarding 'descent' of land at the common law courts (with the church courts dealing with testimonial disposition of chattels). In Russia in 16^{th}-17^{th} c. there were several specialised courts (with cases distributed b/w different courts according to their subject-matter). Land tenure disputes (including those in relation to testimonial disposition) were adjudicated in *Pomestnyi Prikaz*. This court notably adopted the strict precedent approach: cases were decided by the settled legal rules as applied to the analogical situations in the past. If there was no rule (in a novel case), then the *Prikaz* judges would make the submission to *Boyarskaya Duma* [Russian medieval analogue of the House of Lords], with the *Duma* (presided by the Tsar) deciding on a new rule. The cases were recorded in the *Prikaz* books, which

	served as the manual to the *Prikaz* clerks (who prepared the judgements). The paper explores the link between precedent approach of adjudication and formation of central courts dealing with feudal tenures. **CURRICULUM VITAE:** Dr Anna Taitslin holds PhD in History of Economic Thought (Institutes of Economics, Moscow) and PhD in History of Legal Philosophy (University of Tasmania, Australia), as well as Juris Doctor (University of Canberra). She has taught law at University of Canberra, Australian National University and University of New England. Her recent publications in Legal History include: 'Possession and Ownership in the Civil Law and at Common Law in a Historical Perspective', eds. Aniceto Masferrer, Olivier Moreteau and Kjell Modeer in Comparative Legal History, Research Handbooks in Comparative Law series, Edward Elgar (2019), 341-378; 'The ius commune and the Roman law legacy: mos gallicus versus usus modernus pandectarum?', in: Comparative Law and ... / Le droit comparé et ..., Olivier Moreteau (ed), Presses Universitaires Aix-Marseille (2015); 'A comparative Perspective on the Conception of Ownership in Russian Law from the Svod Zakonov to the Civil Code of 1994', the Review of Central and East European Law 41 (2016) 263-341 (with Murray Raff); 'Debates on the commune on the eve of peasant emancipation: long shadow of Russian paternalism', Review of Central and East European Law 40 (2015) 143-188; 'The Fortune of 'Possession' and 'Ownership' in the Roman Law and in the Russian Law' (Sud'ba vladenia i sobstvennosti v Rimskom i Russkom prave), Part One (Possession in Roman Law) [in Russian], IVS ANTIQVVM II (XXX) Moscoviae MMXIV (2014), 156-174; Part Two (Possession in Russian Law) [in Russian] IVS ANTIQVVM I (XXXI) Moscoviae MMXV (2015), 181-208.
SESSION 29	
29.1	***Lawyers' "Fudge" as a tool of legal development*** **Matthew Dyson** | Oxford University **ABSTRACT:** The paper explores when legal method permits of fudges, statements of law which are known to be incorrect or ambiguous but which are treated as correct. "Fudge" is a wider category than "legal fictions", since those seem to refer only to factual statements which are unproven or known to be untrue, while "fudge" could apply to the law itself, as well as covering ambiguity not just incorrectness. But factual error might be an avenue to avoid legal change on the one hand, and on the other, while legal fictions may have gone out of fashion in their larger forms (it might still be possible to, for instance "deem" an object to be a different one in order to avoid having to re-write the relevant rule), ambiguity seems both tolerated, and positively welcomed. While Henry Sumner Maine wrote that legal fictions, along with equity and legislation, were the three prime movers of legal adaptation, this paper looks more at how

	legal actors use ambiguity about law, rather than facts, to shape intellectual discourses, avoid or effect change, and in particular, when the fudge no long satisfies and is abandoned. Examples are drawn from England and Wales, Spain, France and a few other countries, and primarily from 1850 to 2000, in criminal law and tort law. **CURRICULUM VITAE: Education:** January 2005-May 2009: PhD (Cantab.). "Interfacing Tort and Crime: the Development of Fault in England and Spain since 1850", Faculty of Law, University of Cambridge. 2001-2004: BA (Hons.)(Cantab.). **Research Interests:** English Tort law and Criminal law; civil and criminal procedure. Modern comparative legal history, in Europe, the Americas and Australia from 1800. **Recent Employment History:** October 2016-present: Associate Professor at the Faculty of Law, University of Oxford and Tutorial Fellow of Corpus Christi College, Oxford. October 2008-September 2016: Fellow and Director of Studies, Jesus College, Cambridge then Trinity College Cambridge. **Selected Publications:** *Edited Books*: [2018] (with B. Vogel) *The Limits of Criminal Law* (Intersentia); [2018] *Regulating Risk through Private Law* (Intersentia); [2016] (with J. Lee & S. Wilson Stark) *Fifty Years of the Law Commissions: The Dynamics of Law Reform* (Hart); [2015] *Comparing Tort and Crime* (CUP); [2014] *Unravelling Tort and Crime* (CUP); [2013] (with D. Ibbetson) *Law and Legal Process: Substantive Law and Procedure in English Legal History* (CUP). *Articles and Book Chapters*: [2016] "If the present were the past" [2016] American Journal of Legal History 41-52; [2015] "Might alone does not make right: justifying secondary liability" [2015] Criminal Law Review 967-985; [2015] "La respuesta del derecho civil a sentencias penales en Inglaterra y España" InDret 3/2015, 1-53; (2012) "Civil law responses to criminal judgments in England and Spain" (2012) 3 Journal of European Tort Law 308-345; [2019] "Comparative Legal History: Methodology for Morphology" in Olivier Moréteau et al (eds) *Edward Elgar Handbook of Comparative Legal History*; [2017] (with Aniceto Masferrer), "The Lawyers' Reality: Wrongdoing in Spain in the Era of Codification" in A. Sinclair & S. Llano (eds) *Writing Wrongdoing*, 19-33; [2017] "R *v.* Hancock and Shankland" in P. Handler, H. Mares and I. Williams (eds), *Landmark Cases in the Criminal Law* (Hart), 283-307. **Honours and Associations:** 2016-present: President, formerly Secretary General (2012-2016), then Vice-President (2016-2018) of the European Society for Comparative Legal History; Book Review Editor (non-American books) *American Journal of Legal History* (2018-): International Advisory Board for *Glossae* (2012-); *Comparative Legal History* (2012-); *Zeitschrift für Europäisches Privatrecht* (2017-); *Zeitschrift fur Internationale Strafrechtsdogmatick* (2017-); Journal of the *Instituto Brasileiro de Estudos de Responsabilidade Civil* (2018-)
29.2	**"*Principles, general provisions, new forms of reasoning*"** **Francesco Gambino** | University of Macerata

SESSION 30	
30.1	***The Emerging Concept of Cross Border Legal Practice in the Light of Contemporary International Law*** **Uche Nnawulezi** | Alex Ekwueme Federal University **ABSTRACT:** This paper examines an essential and complex part of Cross Border Legal Practice in the Light of Contemporary International Laws. Comparative Study on what various legal systems requires in their legal profession, and the need and necessity to provide a legal frame work for learning more about the differences between what various Countries/Jurisdiction require in the manner of granting license to practice law, vis-à-vis the process by which the license to practice is regulated informed this paper. The objective of this paper is to evaluate the legal profession with a view to drawing out its strengths and weaknesses on the one hand and determining its essential contributions to global human rights, on the other hand, and thus, the research method is doctrinal based and utilizes extant international and regional laws as well as other relevant enabling laws in the analysis. The paper found out among other things, that legal systems in Africa are still lagging behind. The paper also discovered that one of the major factors militating against these is multiple legal systems or cultures. The paper recommended that these intractable problems be remedied and in conclusion, noted that the European Legal System remains the most mature and reliable of all legal systems across the globe. **CURRICULUM VITAE:** Present Position: Law Lecturer. **EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS:** 2017 Completed Ph.D Programme in International Humanitarian Law from Ebonyi State University Abakaliki, Ebonyi State Nigeria; 2013 Completed Masters of Laws from Rivers State University of Science and Technology Nkpolu Port-Harcourt Nigeria; 007 Admitted to Practice as Barrister and Solicitor in the Supreme Court of Nigeria; 2002 Completed a Post-Graduate Diploma in Journalism from International Institute of Journalism Garki Abuja Nigeria; 2000 Completed Bachelors of Laws From Imo State University Owerri Nigeria. Thesis: a Critical Appraisal of International humanitarian Law and the Role of International Committee of the Red Cross as Intermediary in Armed Conflicts. **PROFESSIONAL EXPERIENCE: 28/4/16 Onwards Law Lecturer in the Department of Criminology and Security Studies Federal University Ndufu-Alike Ikwo Ebonyi State, Nigeria.** Roles include: Teaching the Students and Assessing them through Examination and Organization of Seminars and Conferences on Crime, Law and Management. **2007-2018 Self Employed Legal Practitioner:** Principally working in my private Law Chambers, Eni-Morgan Law Firm, by appearing in Courts on contested Matters and also involved in Negotiations, Mediations and case Management Conferences with Oil Host Communities, State and Federal Governments and sometimes with many other respondents.

	2003-2006 Managing Solicitor/Legal Consultant, C.D Omusuku Services Nigeria Ltd: Involved in Legal Drafting of Contract Document, Advising and Representing the Company on Oil Claims, Running Complex Meetings and Participating in Oil Dispute Mediations, as a Member of the Senior Management Team. I am Responsible for all Legal and Community Liaison Staff, Developing Culturally Appropriate Policies and procedures; Ensuring Compliance with Legislation and Requirements of Funding Body. **LIST OF PUBLICATIONS: 2019** Nnawulezi Uche and Christian nwadigo, **Desert Migration as an International Human Rights Law issue,** University of Ibadan Journal of Public and International Law, vol. 9. (2019); **2019** Nnawulezi Uche and Christian Nwadigo, **Sexual Violence in the Light of Contemporary International Human Rights Law Issues,** Ahmadu Bello University Journal of Public and International Law (ABUJPIL) vol. 9: **2019** Jorge C. Nkwoh and Augustus Uche Nnawulezi **Women and Property Rights: An International Law Perspective,** University Of Maiduguri (UNIMAID) Journal of Private and Property Law, vol. 4 no. 2 (2019); **2019** Nnawulezi Uche **Humanitarioan Intervention and the Doctrine of Military Necessity: An International Humanitarian Law Based Issue,** Ebonyi State University Law Journal vol. 10 no. 1, (2019); **2019** Jorge C. Nkwoh And Augustus Uche Nnawulezi, **A Human Rights Approach to Cyber Conflict,** International Review of Law and Jurisprudence, Faculty of Law Nnamdi Azikiwe University, Awka Nigeria, vol.1 (3). (2019); **2019** Nnawulezi Uche and Nwanguma Goodluck Chibuzor, **Child Rights Under The International Refuge Law: Problems And Prospects,** Uniport Law Review Faculty Of Law University Of Port Harcourt. Vol.3. 2019 **018** Nnawulezi Uche, **The Emerging Concept Of Nuclear Disarmament In The Light Of Contemporary International Humanitarian Law,** Uniport Journal of Public Law, Vol.2 (2018) Faculty Of Law, University of Port Harcourt, Nigeria. **2018** Jorge C. Nkwoh And Augustus Uche Nnawulezi, **An Examination Of The Legal Framework For The Enforcement Of International Arbitral Awards Arising From Trade Dispute Under International Economic Law,** National Open University Of Nigeria Law Journal, Vol. 3 (2018); **2018** Nnawulezi Uche Augustus, **The Application Of International Humanitarian Law To Peacekeeping Operations And Its Humanitarian Consequences,** Port Harcourt Journal of Law, Rivers State University, Port Harcourt, Vol.5 no.1. (2018); **2018** Nnawulezi Uche, **An Examination Of Criminology And Cyber Crime In Contemporary Society,** Ebonyi State University Law Journal, Faculty Of Law, Ebonyi. Vol.9 No. 1 (2018); **2018** Nnawulezi Uche, Augustus and Cosmos Nike Nwedu, **Avoidance of Default Risks of Unsuccessful Explorations and Decommissioning Obligations in Joint Operating Agreement.** African Journal of International Energy and Environmental Law, Vol. 2 Issue 2. (2018); **2018** Nnawulezi Uche Augustus, **Consumer Rights In A Democratic System and the Emerging Market in Nigeria, International Journal on Consumer Law and Practice,** National Law School Of India University, Nagarbhavi, Vol. 6. (2018); **2018** Nnawulezi Uche, **The Legal Framework For Public**

	Procurement in Nigeria, European Procurement And Public Private Partnership Law Review, Vol. 13, No. 4 (2018); **2017** Jorge C. Nkwoh And Uche Augustus Nnawulezi, **Criminal Law, Justice and Crime Within the Context of Administration of Justice in Nigeria,** African Journal Of Criminal Law An Jurisprudence, Faculty Of Law, Nnamdi Azikiwe University, Awka, Vol.2. (2017).
30.2	***The curious case of Swiss legal professionals and what can EU learn from them?*** **Maria Lewandowicz** | University of Gdańsk
30.3	***Transnational Networks of international Lawyers and The Birth of a legal profession in Europe (1830-1873)*** **Raphaël Cahen** | Vrije Universiteit Brussel
SESSION 31	
31.1	***The method of civil law specialists across Europe in the XIXth century, notably in France, in Italy and in Belgium*** **Elisabeth Bruyère** | University of Ghent
31.2	***Did British Lawyers become American Statesmen in the Late 18th century?*** **Judit Beke-Martos** | Ruhr University Bochum **ABSTRACT**: In the early thirteen colonies of the British Crown on the North American continent lawyers were sort of "the necessary evil". Being educated in the law made them eligible for high offices and being able to navigate the complex system of the – available British – law made them scary. Legally trained professionals often became operative leaders of the colonies, they became judges, and offered readily adaptable and useable legal procedure and material law for certain disputed situations. Lawyers continued to play such roles as the colonies became states and sought a cooperation with all other states. Nearly half of the signatories of the Declaration of Independence (1776) and more than half of those of the United States Constitution (1787) were lawyers. Was legal training a practical prerequisite for a statesman? Could any other men have come up with the same constitutional framework as the Founding Fathers did or was their education and training in the law and all affairs of the state necessary for their wisdom, which was ultimately put to use in the service of establishing a new federal Union? If it was to be deemed necessary that those creating a new legal framework be lawyers, then three

	subsequent questions emerge, namely, first, why did the federal state opt for a written constitutional basis and not stay with the British unwritten constitutional model? Second, why did legal practice drift so far off from the British model in certain areas, and third, why did legal education and training develop so differently in Great Britain and the United States? The answers to these questions lie in the evolution of the legal profession, the diverse demand of the US market and the specific challenges the founding of a federal state presented towards the end of the 18th century. The proposed paper attempts to answer these questions by comparing the roles of legally trained professionals in two similar but increasingly different legal systems. The foci thereby are on matters of public law, private law and legal education. The analysis of the historical context is inherent in this examination as British law was admittedly – at least in part – the pedigree of the US law and legal system. Lawyers played a pivotal role in this transformation and hence deserve a detailed review. **CURRICULUM VITAE**: Dr. Beke-Martos is the managing director of the Center for International Affairs of the Legal Faculty of the Ruhr University Bochum (Germany) as well as the lecturer of foreign-language legal education there. She is also a member of the MTA-ELTE Legal History Research Group based at the Hungarian Academy of Sciences (MTA) and the Eötvös Loránd University (ELTE) with a research project on legal sovereignty. Previously, she was the acting head and associate director of the Law & Language Center at the Legal Faculty of the Friedrich Schiller University in Jena (Germany). She earned her J.D. and Ph.D. in Law at the Eötvös Loránd University in Budapest, and her LL.M in US and Global Business Law at Suffolk University Law School (SULS) in Boston, MA, USA. She spent a year in residence as a visiting scholar at SULS in Boston (2008-2009), where she conducted comparative research in constitutional and legal history and gave lectures to students, faculty and other interested audiences. She spent three months in residence as a foreign legal researcher at the Legal History Institute of Gent University conducting research on the 19th Century constitutional history of Europe. She published a book and several scholarly articles on various topics in English, German and Hungarian. Her current research interest focuses on American-European comparative constitutional law, legal sovereignty in a federal setting, and legal history including legal tradition and culture. She is the treasurer as well as a member of the European Society for Comparative Legal History and a strong supporter of international academic cooperation.
31.3	***"Follow us as the shark does the emigrant ship" - the relationship between the method of remuneration of lawyers and the frequency of medical malpractice cases. XIXth century genesis of the phenomenon in the USA and the European example in this regard*** **Marcin Michalak** | University of Gdansk

SESSION 32	
32.1	***Substantial Differences on the Development of Marine, Life and Fire Insurance Law*** **Sinem Ogis** **ABSTRACT:** The aim of this paper is to examine the substantial differences on marine, life and fire insurance. Modern English literature asserts that the legal principles and rules governing life and fire insurance are equally nothing but offspring of marine insurance. In fact, early life insurance functioned similar to early marine insurance: life insurance knew time policies and voyage policies and thereby imitated the practice in marine insurance. This links to the widespread assumption that it was the coverage of mariners and shipmaster in marine insurance that was a source of inspiration for life insurance. With respect to fire insurance, unlike in life insurance there was in the beginning a different terminology in use to refer to the parties involved. Only in the nineteenth century, fire insurance practice adopted the same terminology as marine and life insurance practice. In addition, fire insurance started with respect to the duration of insurance with a different practice than marine and life insurance. And the development of the requirement to identify the insured in the policy followed a different path in fire insurance than in marine and life insurance. Yet, one needs to be cautious to conclude from the fact that the requirement to identify the insured in the policy developed differently in fire insurance that fire insurance developed from a different tradition than marine and life insurance. This substantive difference may have simply reflected different interests involved in the different insurance products. This leads to a general observation: substantive differences between marine, life and fire insurance do not necessarily support the proposition that these three types of insurance have different roots or have developed separate from each other. Such substantive differences may have simply followed from the fact that the different insurance products raised different legal problems. In marine, life and fire insurance alike, the subject matter needed to be specified in the policy as the subject matter is an essential element of the contract. Yet, the details and problems surrounding the subject matter were distinct in marine, life and fire insurance. The same applies to the approaches to defining the covered risks in marine, life and fire insurance distinct. **CURRICULUM VITAE**: **EDUCATION**: PhD in Insurance Law, October 2015 - December 2018,University of Augsburg (DE); LL.M in Maritime Law. September 2013 - September 2014, University of Southampton (UK), LL.D Yasar University, Law Faculty Izmir (TR). September 2009 - June 2013. **TEACHING EXPERIENCE**: Eötvös Loránd University (ELTE) – Faculty of

	Law – Budapest (HU), November 2018, Yasar University – Faculty of Law – Izmir (TR), July 2014. WORK EXPERIENCE: Mep Law Office (IT), January 2019 – Present, Associate; University of Dubai (UAE), April 2019, Visitor Researcher; University of Augsburg (DE), October 2015 – December 2018, Research Assistant; Eötvös Loránd University (HR), November 2018, Erasmus Staff Mobility Programme. **CONFERENCE PAPERS DELIVERED**: University of Augsburg (DE), September 2019; Vrije Universiteit Brussel (BXL), June 2019, 25th Annual Forum of Young Legal Historians; Universidad Internacional de Andalucía (ES), June 2019, Risk and the Insurance Business in History; Maastricht University (HL), November 2018, 23rd Ius Commune Conference; University of Warsaw (PL), June 2018, 24th Annual Forum of Young Legal Historians; University of Augsburg (DE), 2015 – 2018, University of Southampton (UK) - LL.M Challenge, February 2014;Yasar University - Izmir (TR), March 2011; European Court of Human Rights, 2010 – 2011, 14th International Summer Academy - Izmir (TR). **PUBLICATIONS:** "Legal Status of Power ship" March 2015, Vol:10, No:103, *Terazi Hukuk Dergisi";* "Power ships: what are they and what does the law say?" December 2014, Vol: 14, No: 10, *Shipping and Trade Law*; "The ABDO decision which European Court of Human Rights has made against Turkey", 23rd October 2011, *Fasikul Dergisi*. **UPCOMING PAPERS:** The Influence of Marine Insurance on the Development of Life and Fire Insurance in England: Offspring or Gradual Convergence? (Upcoming book); Risks Undertaken in Marine Insurance and Its Influence on Life and Fire Insurance in England. (Upcoming article); Fire Insurance in England before 1666, the Great Fire in London (Upcoming article under ERC Project); Comparison of Marine, Life and Fire Insurance During the Growth of the Practice of Insurance (Upcoming article under ERC Project); Volcafe Case Common Laws vs. Visby Hague Rules: Is it one versus another? (Upcoming article). **CERTIFICARES, AWARDS AND POSITIONS OF RESPONSIBILITY**: President and organizer of the AYLH 2020 Annual Conference, 2019 – 2020; President of Youngship Turkey, 2018 – Present; Member of European Society for Comparative Legal History, 2018 – Present; Member of WISTA Turkey, 2018 – Present; Certified Translator — From Turkish to English, 2015 – Present; Founder of the Maritime and Commercial Law Blog, 2015 – Present; Lawyer at Izmir Bar Association (TR), 2015 – Present; Best Student of the Year - Yasar University - Izmir (TR), 2013; Vice President at Yasar University Law Society, 2010 – 2013.
32.2	***Recent regulation of the consular work in the Central European and in the Southern Pacific states (with special regards to Hungary, Australia and New Zealand)*** **Endre Domaniczky** | Madl Ferenc Institute for Comparative Law

32.3	***A Global Story: The Origins and Evolution of Legal Counsel*** **Isaac Amon** **ABSTRACT:** This paper analyzes the creation and development of legal representation via a comparative and historical examination of religious, cultural, and intellectual environments, The role of a legal advocate originated in continental Europe – based upon Canon law and Ancient Greek and Roman practices – far earlier than in England. While the formal occupation of a "lawyer" was unknown in non-western legal systems until relatively recent times, Jewish, Islamic, and Confucian traditions had "legal assistants" who spoke on behalf of the accused. In stark contrast, not only did the English Star Chamber, which endured for centuries, deny counsel to suspects, most prominently to John Lilburne, but even the Common Law did not formally provide all criminal suspects with legal counsel until the era of the telegraph, electromagnetism, and Darwin's visit to the Galapagos Islands. Although the relationship between participants, methodologies, and sources of authority may differ and evolve across time and space, legal traditions constitute respective chapters of a global narrative. This paper aims to inform readers of this history as the world grows increasingly interconnected. **CURRICULUM VITAE:** Education: WASHINGTON UNIVERSITY IN ST. LOUIS, School of Law, **J.S.D.** (*Juris Scientiae Doctoris*) Dissertation on **Comparative Criminal Procedure**; Advisor – Gerrit De Geest "*On the Inquisitorial Spectrum: The Story of Comparative Criminal Procedure*" (300-page examination of comparative law, criminal procedure, and legal history). **J.D., LL.M**., in *Negotiation & Dispute Resolution* May 2015 Highest Grades in **Criminal Pretrial Advocacy** and **Criminal Justice Clinic**; Studied at *The Sorbonne*, *Hebrew* University, and *Utrecht University* focusing on atrocity law, continental legal system and conflict resolution; **2015 Class Speaker**. Department of History **B.A.** *Summa Cum Laude* **with** Highest Distinction in History May 2012 Senior Thesis: "*For the Benefit of Their Souls: Inquisitors and Conversos After 1492*" (Examination and analysis of inquisitorial trial in late 15th century Spain following expulsion of Spanish Jewry); student columnist on international and legal issues. **TEACHING AND RESEARCH EXPERIENCE**: **Co-Supervisor of Student's Thesis on Criminal Procedure** Jan.-May 2019 Mentored student's thesis on comparative right to speedy trial in Europe and U.S. **Adjunct Professor of Law**, "Intro to U.S. Methods & Law" Aug.-Dec. 2018 Taught visiting law students and lawyers from Norway, France, China, Indonesia. **Teaching Assist.**, "Intro to Alternative Dispute Resolution" Aug.-Dec. 2014 Taught visiting law students from France, Saudi Arabia, Russia, China, Taiwan. **Research Assistant**, Int'l Criminal Law, Professor Leila Sadat 2013-2015 Drafted memoranda for Office of the Prosecutor at International Criminal Court. **PROFESSIONAL EXPERIENCE**: **Director of Academic Research,** Jewish Heritage Alliance

	June 2021-present Research and present historical lectures to global audiences; create webinars and programs; collaborate with universities, governments, public and private sectors.
SESSION 33	
33.1	***Is it necessary for the minister of justice to be a jurist?*** **Gábor Bathó** | Budapest Metropolitan University / National University of Public Service Budapest **ABSTRACT**: Is the justice minister's position a legal profession? It seems to be quite obvious that the justice minister of a government is a jurist, who has completed some kind of legal studies. In most cases, the justice minister is the head and the leader of the law-making policy among the ministers. Usually, this very minister is responsible for the legal education and the professional training of jurists. Is it possible or permissible, that this person in this position is without any legal education of any level? As a member of the government, the justice minister's position is mainly political. As it is mainly a political position, there are – usually – no prerequisites for the justice minister to have any kind of qualification. I have decided to examine this question in Hungary during the era of the Austrian-Hungarian Monarchy (1867-1918). The Hungarian is said to be a nation of jurists. Going through legal education and being a jurist was one usual career for the members of the nobility. This meant that most of the noblemen were jurists, usually without holding traditional legal positions. They used their acquired legal knowledge in politics on county- or country-level, even in the government. This follows, that the Hungarian justice ministers were jurists. In my paper, I am going to examine the Hungarian justice ministers from the point of view of the above questions including customs and other possible regulations. It is obvious, that I am going to make a comparison with the other half of the Empire, Austria. The third party to the comparison is the United Kingdom, which is a country based also on a historical constitution as Hungary before 1949 and which is many times mentioned as an example for the modern Hungary in some public law questions. **CURRICULUM VITAE**: Studies: 2003-2009: Eötvös Loránd University, Faculty of Law, Budapest, Hungary; 2008-2010: Suffolk University, Law School, Boston, USA; 2012-2015: Pázmány Péter Catholic University, Faculty of Law, Doctoral School; 2021: PhD. Jobs: 2012-present: assistant lecturer, guest lecturer, associate college professor, Budapest Metropolitan University, Budapest; 2017-present: assistant lecturer, senior lecturer, National University of Public Service, Budapest; 2017-present: staff member, councillor, senior councillor, Constitutional Court of Hungary.

33.2

Reason and Fairness? Questioning court-related linchpins of law and justice. Certainties throughout centuries

Ulrike Muessig | University of Passau

ABSTRACT: Throughout Europe, the exercise of justice rests on judicial independence by impartiality. In *Reason and Fairness* Ulrike Müßig reveals the combination of ordinary judicial competences with procedural rationality, together with the complementarity of procedural and substantive justice, as the foundation for the 'rule of law' in court constitution, far earlier than the advent of liberal constitutionalism. The ECHR fair trial guarantee reads as the historically-grown consensus of the functional judicial independence. Both before historical and contemporary courts, justice is done and seen to be done by means of judgements, whose legal requirements combine the equation of 'fair' and 'legal' with that of 'legal' and 'rational.' This legal determinability of the judge's fair attitude amounts to the specific (rational) European idea of justice.

CURRICULUM VITAE: Ulrike Müßig has a unique international standing as an legal historian. She served as Professeur invité at Paris II (Panthéon-Assas, 2019/20), as Advanced Grantee (ReConFort, 2014-18), is corresponding member of the Austrian and Andalusian Academy. Her works have been translated into Spanish (2014), Russian (2012), with a Chinese translation in preparation. In the digital humanities, her ReConFort open-access database and research blog are well known. Her commitment to support early career researchers affiliates her with the Polish National Science Centre, the Flemish FWO, and the graduate boards of Oxford and Cambridge. She has the privilege of living with her husband, and their two children. Prof. Müßig's research interest cover human rights and their historical genesis, as well as constitutional history with a focus on the interdependencies between constitutional formation and discourses, both national and cross-border. In addition, she devotes herself to the shared standards of European courts and on the historical foundations of the fair trial guarantee of the European Convention on Human Rights. The historical reasoning in international law in her recent monograph Reason and Fairness (Brill 2019) has been singled out for comment in the United Kingdom Supreme Court and in the European Court of Human Rights. She coedits various series and serves on international editorial boards.

33.3

Legal Interpretation in the Soviet Union and in the Germanic Legal System Countries after World War II: a common positivist heritage with separate development

Sanita Osipova / **Jānis Lazdiņš** | University of Latvia

	Sanita Osipova **CURRICULUM VITAE:** Professor of Legal History, Legal Sociology and Legal Ethics. Research interests: history of independence of the judiciary 19/20th century, history of family law in the 19/20th century, history of notary, women right. Numerous articles on legal culture, legal language, legal education and women right. Last publications: Convicted Individuals as a Group Stigmatised by the State in the Case Law of the Constitutional Court of the Republic of Latvia", *ICL Journal*, vol. 16, no. 1, 2022, pp. 153-169; Valdemārs Kalniņš (1907-1981); The founder of Soviet legal history in Latvia. In: *Socialism and Legal History: The Histories and Historians of Law in Socialist East Central Europe*. Ed. V. Erkkilä, H.P. Haferkamp. Routledge: London, New York, 2021, pp. 136-147. 62. Sowjetische Ehe – und Familienrecht von den Ersten Dekreten 1917 bis zum letzten Gesetzbuch 1968 vom Standpunkt der Lettischen Sozialistischen Sowjetrepublik. In: *Pràvněhistorické studie*. Nr. 49/1. Praha: Univerzite Karlova Nakladatestvi Karolinum, 2019, S. 119-139.
SESSION 34	
34.1	***Teaching and legislation and the construction of public law in Portugal and Brazil in the nineteenth century: jurist-teachers, legislators and parallel dynamics in the context of luso-brazilian liberalism*** **Sandro Alex de Souza Simões** | University of Lisbon **ABSTRACT:** The first half of the nineteenth century marks decisive events in the changes in relations between Portugal and Brazil since the royal family came to Rio de Janeiro and the consequent transfer of the Court to the former colony, which definitely changes its political status within Overseas Portuguese Empire, as well as strengthens the process of creation and consolidation of institutions in Brazil that will stimulate their bureaucracy building and a state engineering and power from which there will be no return. Hence, the return of D. João VI to Lisbon in response to liberal movements in the city of Porto and the establishment of a constitutional monarchy along the lines of other European countries in the first half of the 19th century, will stimulate Brazilian independence as a reaction to the potential setback of the institutional consolidation in the nascent state. However, the tension between Portugal and Brazil, regarding the process of political separation, reveals less discordant reflections in terms of legal theses and legislative objectives for the construction of a modernized state model according to a liberalconstitutional model, especially regarding the aspects related to the centralism of territorial power, the demand for criminal and administrative codification, the professionalization of justice and the methodology of law education. The jurist-teachers and

	legislators demonstrate a similar dynamic of standardization and argumentation that denotes converging concerns in both countries and a level of dialogue and mutual influence that undermines the disruption and detachment that could supposedly mark the political processes involved on one side of the world: the search for the creation of an autonomous and independent state with its own institutions to gradually replace the colonial landmarks and, on the other, the imperative of modernization of Portugal in the context of the new European liberal monarchies. The present study seeks to evaluate the precursor discussion in Portugal between the projects of Mello Freire and Ribeiro dos Santos in the late eighteenth century, which reflects what we understand to be the core of the coding controversy between enlightened absolutism and liberalism, and the 1833 and 1852 criminal codes and the Administrative Codes from the reform of Mousinho da Silveira in 1822 to the 1895 Administrative Code. On the Brazilian side, it seeks the milestones of the 1824 Constitution, great legislative innovations of the Saquarema Cabinet, especially the Law of Land from Bernardo Pereira de Vasconcellos Pereira's project and Regulation 737 of 1850. **CURRICULUM VITAE:** Bachelor in Law from Universidade Federal do Pará (1995), master's at Law from Universidade Federal do Pará (2004) and PH.D. at *Evoluzione Dei Sistemi Sociale E Nuovi Diritti* from Universita degli Studi di Lecce (2009). Professor at CESUPA' School of Law (Brasil) and University of Lisbon' School of Law.
34.2	***After Comparative Legal History. From case-law to info-law*** **Adolfo Giuliani** | Max Planck Institute for Legal History and Legal Theory, Frankfurt (Germany) **ABSTRACT:** The 1930-60s saw the beginning of a fertile stream of research self-styled as comparative legal history, whose characteristic methodological focus was case-law viewed as the paradigm of the true living law. Today, the new frontier is in the information age and in thinking law as information.
34.3	***What influence does the internal legal culture in Western Europe, the United States and China have on the development of artificial intelligence?*** **Cecil Yongo Abungu** | Harvard Law School **ABSTRACT:** There is a legal culture that underlies the *legal and policy factors* of AI development whether in Western Europe, the United States or China. In this prospective article (one part of my LL.M paper) I will analyze the differences in legal culture between the three settings and then investigate how it is impacting AI development in each setting. Although there is evidence that

	this intersection between culture and law has been studied by many long before him, Lawrence Friedman's conceptualization of the idea is considered by many to at least be a 'symbolic' starting point for its use in the analysis of law. Friedman defines internal legal culture as the way by which social demands are translated into demands by legal specialists for a legal sphere that is composed of structure and substance. While there exist other conceptions of the idea, for methodological purposes I will restrain myself to Friedman's. In particular, in this prospective article I will advance the thesis that contrary to what have now become popular mainstream claims, the internal legal culture in Western and Europe and the United States (designed as it is to advance democratic ideals) does not slow down the pace of artificial intelligence development in comparison to China's. I intend to prove this statistically, and then put forth the claim that this understanding is fueling a 'race' is inexistent and that is making undermining liberalism and more decisively leading to the construction of unsafe Artificial Intelligence. For that reason, it is important that we debunk it and remain faithful to an internal culture that promotes the liberal ideal. **CURRICULUM VITAE: Principal Current Position:** LL.M. Candidate at Harvard Law School for the academic year 2019 – 2020. On study leave from faculty position at Strathmore Law School. **Academic Qualifications:** August 2019 – Present: Master of Laws (LL.M) candidate at Harvard Law School, Boston, MA; June 2017: Bachelor of Laws (LL.B) with Honors (second-class upper division), Strathmore Law School, Nairobi, Kenya. **Learned Journals:** August 2019 – Present: Executive Submissions Editor, Harvard International Law Journal; July 2017 – Present: Editorial Board member, Strathmore Law Journal; August 2015 – February 2017: Founding Editor-in-Chief, Strathmore Law Review; January – February 2016: Adviser in setting up of Riara Law Journal & Strathmore Journal of Mathematical Sciences. **Large Scale Research Project Experience:** February 2019 – Present: Lead Researcher for World Bank Somali Core Economic Program (SCORE) project on the drafting of an insurance code for the Republic of Somalia; July 2018 – February 2019: One of two Kenyans in a team researching the state of Administrative Justice in Commonwealth Africa, supported by a 1.0-million-dollar grant from the Konrad Adenauer Stiftung; January 2018 – Present: Lead Research Assistant for 1.5-million-euro European Research Council grant project mapping the historical interpretation of Customary International Law in countries within Africa. **Other (notable) Research Experience:** February 2016: Researcher for parliamentary report issued by the Kenya National Commission on Human Rights regarding the rights of indigenous people in Kenya; January - March 2016: Researcher for the International Justice Mission (Nairobi Office)'s 'decision to prosecute' baseline survey; March 2015 - May 2015: PhD Research Assistant to Steven Rosenzweig, then-Yale University Political Science PhD candidate, now Asst Prof of Political Science at Boston University; April 2014: Research Assistant for UN Habitat, Nairobi City by-laws consultation. **Other (notable) Work Experience:** May 2016: Volunteer-Instructor for the African

	Prisons Project (Kenya) pilot program. The project was featured as 'Teaching Empowerment: Prison Education in Kenya' on Aljazeera International's 'Rebel Education' program, aired 8 February 2017; June 2015 - June 2016: Junior research fellow at the Strathmore Centre for Law & Policy; April 2014 - June 2016: Editorial Assistant at the Strathmore University Press (Law); May 2014 - July 2014: Legal Aid for the International Justice Mission at the Nairobi Remand & Allocation Prison and the Lang'ata Women's Prison. **Long Form Writing:** 'Constitutional Remedies when the Constitution Fails' *Nairobi Law Monthly*, September 2014 Issue, pages 46 – 57. **Papers Presented:** 'Reconsidering the East African Court of Justice's *Nyong'o* decision and its Aftermath'— Presented at the Supranational Courts PhD seminar and conference, September 17 to 21 2018 at the University of Luxembourg, Luxembourg City; 'An Overview of the State of the Right to Administrative Justice in Kenya'—Presented at the Workshop on Administrative Justice Reform in Eastern and Southern Africa, September 28 to 31 2018 at the Masa Square Hotel in Gaborone, Botswana; 'The Place of Preparatory Documents in the Interpretation of Transformative Constitutions'— Presented at the Institute for Global Law & Policy's 2018 Conference, June 2 and 3 2018 at the Harvard Law School in Boston, MA; **'**Corporates and Human Rights: Beyond Legal Obligations'—Presented at the 12th Annual Ethics & Law Conference on 15 September 2016 at the Strathmore Business School in Nairobi; 'Public Pressure, Temptation of Power & Unconstitutional Actions in the War against Terrorism in Kenya: Suggesting a Link'— Presented at the 2nd Annual Strathmore Law Conference on 5 August 2015 in Nairobi. **Journal Articles:** Constitutional Interpretation of Human Rights and Court Powers in Kenya: Towards a More Nuanced Understanding' African Journal of International and Comparative Law, Edinburgh University Press, Volume 27, Issue 2, pages 203-225; 'Revisiting the Place of Preparatory Documents in the Interpretation of Transformative Constitutions' Vienna Journal on International Constitutional Law, De Gruyter, Vol 13, Issue 1, May 2019, pages 65-83; 'Building an African Law Journal: Some Reflections' Strathmore Law Review Vol III, Number 1, June 2018, pages 73-84; 'Public Pressure, Temptation of Power & Unconstitutional Actions in the War against Terrorism in Kenya: Suggesting a Link' Strathmore Law Review Volume I, Number 1, January 2016, pages 5375. **Awards**: Fulbright Foreign Student Award 2019 – 2020 (eventually declined); Best written submissions/ Memorials & third best oral submissions at the 8th Nelson Mandela World Human Rights Moot Court Competition at the *Palais des Nations* in Geneva, Switzerland, July 2016.
35	***Legal Professions and the 1926 Shareholders' Agreement of the Dermata Company*** **Emőd Veress / Zsolt Fegyveresi / Magdolna Márta Vallasek / János Székely** | Ferenc Mádl Institute of Comparative Law, Budapest - Sapientia University, Department of Law, Cluj-Napoca, Romania

Legal Professions and the 1926 Shareholders' Agreement of the Dermata Company

Emőd Veress

ABSTRACT: Dr. Mózes Farkas was a significant figure in the economic and public life of Cluj in the first half of the 20th century. His memory is largely preserved as that of the manager of the Dermata Company. I have always been fascinated by the personality of Mózes Farkas and the type of man represented by him: the skilled entrepreneur of Jewish descent with high-quality legal studies. The entrepreneur or manager with training in the field of law as a career, in reality, is not an extraordinary way of capitalizing legal knowledge, but a relatively common one. What is truly extraordinary is the extent of his entrepreneurial activity, the complexity, and success of this effort. As the century progressed the company and the number of shareholders grew. The founders did not keep the majority of votes in the general meeting anymore. A fascinating legal document was discovered dating from 1926: a shareholders' agreement, or a so-called "syndicate contract" of the Dermata Company. This constitutes a confidential contractual arrangement, concluded between a group of shareholders, to coordinate their activity for exercising control over the company. It is a legitimate, albeit clandestine method of coordination of shareholders, used on a large scale today. From this contract, it was revealed that at least two such groups of shareholders were born through shareholders' agreements. The first group was controlled by Gyula Boros, based in Vienna (the "Boros group"), and the second was led by Dr. Mózes Farkas, the "Farkas group". Regarding the relations between the two interest groups ("syndicates") we can draw conclusions from the contractual texts: they were characterized by limited cooperation without being able to exclude the rivalry between them. The agreement of the "Farkas group" establishes, among other things, that only the two groups together held the majority of votes in the company's general assembly. In order to cooperate, they would conclude a further shareholders' agreement between them. Unfortunately, the latter contract is yet to be located in the archives. The shareholders' agreement concluded in Hungarian constitutes in and of itself a curiosity in the field of legal history. First of all, due to their confidentiality (trade secrecy), such contracts have only rarely been made public. Secondly, this agreement proves that by the beginning of the 20th century, these contracts were already being used with a high degree of confidence, so it can be concluded that such conventions were widespread. Thirdly, the contract proves the organic survival of the private law in force prior to the period of the succession of states from 1918-1920 (transfer of Cluj from the Austro-Hungarian Monarchy to Romania): the legal basis of this contract was the Commercial Act no. XXXVII. of 1875, which continued to regulate joint-stock companies, under the name of Transylvanian Commercial Code and which was repealed only after World War II. Fourthly, it can also be assumed that Mózes Farkas was the one who personally drafted this contract.

CURRICULUM VITAE: Affiliations: Ferenc Mádl Institute of Comparative Law, Budapest, Hungary**;** Sapientia University, Department of Law, Cluj-Napoca, Romania. **Research Interests:** Shareholders Agreements, Legal History of Business Organizations, Creditor Protection, Collaterals**. Courses taught:** Civil Law (General Theory, General Theory of Obligations), Legal History of Business Organisations. **Professional activity, Membership of professional associations:** Member, European Society of Comparative Legal History; Secretary-General, Societas — Central and Eastern European Company Law Research Network**;** External Member (Public Body Membership) of the Hungarian Academy of Sciences**;** Member, Board of Editors, Acta Universitatis Sapientiae. Legal Studies**;** Member, Board of Editors, ELTE Law Journal (Hungary, Budapest)**;** Arbitrator, Attorney (Of Counsel). **Publications:** More than 20 books**;** More than 80 articles. **Legal education:** Habilitation, University of Debrecen, Faculty of Law (2018), maximum grade**;** Ph.D. in Law, University of Pécs, Faculty of Law (2006), summa cum laude (maximum grade)**;** National Institute for Training of Attorneys (INPPA) (2007), Bucharest (maximum grade)**;** LL.M., Lucian Blaga University, Faculty of Law (2009), graduate mark: 10/10 (maximum grade)**;** Licentiate in Law, University of Bucharest, Faculty of Law (2002), graduate mark: 9,95/10.

Laborer Shareholder Structure as an Idea of the Social Company in the Last Will of Mózes Farkas

Zsolt Fegyveresi

ABSTRACT: In the first half of the 20th century lawyer Mózes Farkas was a shareholder and CEO at the Renner Brothers and Partners Leather Factory Co. in Cluj-Napoca (Transylvania, Romania), later known as Dermata Works Leather and Shoe Factory. His professional career reveals an extremely complex and versatile personality. Thanks to his business organization activities, he founded and operated one of the most successful companies in Romania between the two world wars. Recognizing the professional skills and business potential of the Renner family, he co-founded the Renner Brothers and Partners Leather Factory in 1910, and until his death was head of the factory. As a lawyer and as a businessman he was a strict and consistent leader who was able to place the factory and its employees first, and above his own interests. Mózes Farkas, in his last will and testament, dated from 1932 envisioned a social company model that is still very modern, centered around the employees of the company. According to the corporate model he conceived, the economic interests of the company must be correlated with its community activities. According to his will, a foundation was to be set up with the purpose of managing his share in the company, and in order to distribute the dividends received to the factory employees. According to his concept, Dermata officials and laborers would share ownership, management and income of the factory to the extent of the shares. Membership in the board of directors and supervisory

board of the company (in proportion to the shares) was to be granted to laborers and officers, elected by secret ballot by separate meetings (caucuses) of officers and laborers. Membership of the board of directors and the supervisory board were equally divided between officers and laborers. According to the will, only laborers and officers who have been in the service of the Dermata Works Leather and Shoe Factory Ltd. for at least ten years, and who have not been infamous for any title or reason could participate and vote in the meetings. Military service, illness, absenteeism or strike would not count as interruptions of service. The current state of the research shows that after the death of Mózes Farkas this last will was not fulfilled, presumably it was later revoked. By the time of the conference, it is likely that archival research will reveal what the fate of the wills was, and why it did not materialize.

CURRICULUM VITAE: Affiliations: Ferenc Mádl Institute of Comparative Law, Budapest, Hungary**;** Sapientia University, Department of Law, Cluj-Napoca, Romania**. Research Interests:** Shareholders' Rights, Legal History of Business Organizations, History of Private Law**. Courses taught:** Legal History, Commercial Law**.** Company Law**. Professional activity, Membership of professional associations:** Senior Lecturer, Sapientia University, Department of Law, Cluj-Napoca, Romania; Researcher, Ferenc Mádl Institute of Comparative Law, Budapest, Hungary**;** Member, Forum Iuris Association, Cluj-Napoca, Romania**;** Member, Board of Editors, Erdélyi Jogélet, Cluj-Napoca, Romania**. Publications:** More than 20 articles, book chapters and reviews**. Education:** Ph.D. in Law, University of Debrecen, Faculty of Law (2019), summa cum laude (maximum grade)**;** Licentiate in Law, University of Bucharest, Faculty of Law (2014); MA in History, Faculty of History and Philosophy, Babeș-Bolyai University (2005)**;** BA in History, Faculty of History and Philosophy, Babeș-Bolyai University (2004).

Legal Professions and Collective Labour Bargaining in Transylvania during the first half of the 20th Century

Magdolna Márta Vallasek

ABSTRACT: The first half of the 20th century is a period of great interest for the study of the development of labour regulations, especially from the perspective of legal history. This is because the first decades of the last century coincide with the maturation of labour regulations, the development of the contractual agreements between employers and employees, concerning both collective and individual labour rights. Moreover, the newly formed labour regulations frequently were based on vindications of the employees, gained after several labour conflicts and strikes. As a result of these frequent conflicts, labour rights started to be included in collective agreements, and in this way such rights became a recognized part of individual labour contracts and the legal regulation of labour as a whole.The situation of the development of labour rights in Transylvania during the first half of the 20th century is no exception in this

matter, but in this case the development of labour law was complicated by the changes between Hungarian and Romanian legal regulations. The proposed paper wishes to present the development of individual and collective labour rights based on collective actions of the labourers and collective bargaining through the first decades of the twentieth century and the example of the Renner/Dermata factory from Cluj. As a starting point of our research the paper analyzes the collective agreements that were concluded in that particular period. Collective bargaining started sometimes after long weeks of repetitive strike actions and was based on the vindications of the employees. The situation of social partners in these bargaining processes was very different from what we can see nowadays, and it was characterized by a relevant lack of balance of forces. Representatives of the trade unions or the employee organizations taking part in collective bargaining were simple, sometimes semiliterate persons, without any legal knowledge and poor education, who wouldn't have been able to undertake the bargaining without the support of professionals, legal advisors or attorneys. In our paper we propose to analyze the process of collective bargaining by investigating the position of social partners and the formal and informal ways of the involvement of legal professionals, helping this process not only on the side of the employers but also on the side of the employees.

CURRICULUM VITAE: Affiliations: Sapientia University (Cluj-Napoca, Romania), Department of Law. **Research Interests:** Collective labour rights, collective bargaining, labour market, employability and labour capacity, social security. **Courses taught:** Labour Law (Romanian Labour Law, European Labour Law), Social Security Law, Copyright Law. **Professional activity, Membership of professional associations:** Legal advisor, Member of the Romanian Order of Legal Advisors; External Member (Public Body Membership) of the Hungarian Academy of Sciences; Member, Board of Editors, Journal of Social Policy Conferences (Istanbul, Turkey); Member – Comparative Civil Service Network. **Publications:** Author and coauthor of 8 books, about 40 articles published. **Legal education:** Ph.D. in Law, University of Miskolc (Hungary), Faculty of Law (2013); LL.M., Babeș-Bolyai University Cluj-Napoca (Romania), Faculty of Law (2002); Licentiate in Law, Babeș-Bolyai University Cluj-Napoca (Romania), Faculty of Law (2001).

Compatibility of Legal Professions with Positions in Company Management. Historical Perspective.

János Székely

ABSTRACT: Legal professionals are subject in most European jurisdictions to specific prohibitions instituted by law and (or) by the codes of conduct which govern their practice, when it comes to the exercise of some economic activities. Observance of such prohibitions is enshrined in article 2.5. of the Code of Conduct for European Lawyers. Such rules may prohibit the participation of lawyers in the management of companies and other commercial entities. While

	the institution of these prohibitions may appear at first justified, in the case of attorneys at law they may also be excessive. The justification of these prohibitions must therefore constitute the object of scientific inquiry, including from a historical standpoint. I briefly review the relevant legislation for such prohibitions in major Western European jurisdictions. I also present a cross-section of the rules applicable in this field in smaller Eastern European jurisdictions like Romania and Hungary, which constitute a good sample for a region with a more limited tradition in regulating legal professions. After presenting the black letter law aspects of norms prohibiting attorneys at law from participating in certain economic activities, especially in company management in this way, and discerning some of the more common traits of such prohibitions, I delve into the less stringent historical regulations applicable to the legal profession in Hungary and Romania in the first third of the last century. By presenting in detail the activity of prominent company manager and industrialist Dr. Mózes Farkas, also a well-known attorney at law, who for decades was at the helm of the Dermata Corporation, a vertically integrated enterprise in Austria-Hungary in the antebellum era and Romania in the interbellum years, I attempt to demonstrate that the direct participation of attorneys at law in the management of companies and in their commercial activities is not necessarily undesirable, due to the specific knowledge they bring to such economic endeavours. The basis of this inquiry is provided by a large number of archival documents composed by Dr. Mózes Farkas or drafted under his direct supervision, which show that his business acumen, coupled with his specific knowledge of civil and commercial law contributed significantly to the flourishing of the Dermata Corporation as a major manufacturer and employer. I conclude by arguing, based on the historical evidence, that the current regime of various prohibitions barring attorneys at law from participating in some commercial activities may be counterproductive and even excessive. **CURRICULUM VITAE: Affiliations:** Romanian National Union of Bar Associations – Satu Mare Bar Association Sapientia University (Cluj-Napoca, Romania) – Department of Law. **Research Interests:** Civil procedure, Legal professions (domestic and international regulations, role of legal professions and prominent lawyers in the justice system, civil society, politics and the economy), Private international law, Inheritance law, Contract law. **Courses taught:** Romanian Civil Procedure, Romanian Inheritance Law, Romanian Law of Obligations (seminars), Legal History. **Professional activity, Membership of professional associations:** Senior lecturer at the Sapientia University (Cluj-Napoca, Romania) – Department of Law; Executive editor of Acta Universitatis Sapientiae, Legal Studies ISSN 2286-0940 (online version), ISSN 2285-6293 (printed version); Attorney at law, Bar council member – Satu Mare Bar Association. **Publications:** Sole author of 4 books; Co-author of 1 book; Sole author or co-author of more than 35 publications in journals and book chapters. **Legal**

	education: 2017 Ph.D. in Law, University of Debrecen, Faculty of Law, Marton Géza School of Doctoral Studies, graduated *summa cum laude* (maximum grade). 2008 LL.M., Babeș-Bolyai University (Cluj-Napoca, Romania), Faculty of Law; 2007,Licentiate in Law, Babeș-Bolyai University (Cluj-Napoca, Romania), Faculty of Law.