An Essay on the Doctrine of International Law in Croatia and the Former Yugoslavía

Vladimir-Djuro Degan*

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1. Introduction

Many things have happened in the last two centuries in Europe since the Vienna Congress of 1814–1815. In that period, international law was given the features of a system of positive legal rules, detached from the earlier mostly speculative teachings of natural law.

The political map of Europe has undergone several profound changes. Small nations of the Estonians or Croats were in some periods parts of larger empires under foreign rulers. Now they are independent States. It is interesting in this perspective to consider the contribution of authors from these nations to the doctrine of international law under conditions of permanent changes.

2. The period in Croatia until 1918

After the suppression of the Republic of Venice in 1797, Croatian lands remained divided between the Habsburg and the Ottoman Empire. That situation existed until 1878, when Bosnia-Herzegovina was submitted to the administration of Austria-Hungary.

* Member of the Institute of International Law; Emeritus Professor of the University of Rijeka (Croatia); Head of the Adriatic Institute of the Croatian Academy of Sciences and Arts in Zagreb, Croatia.
For the higher education in Croatian lands under the Habsburg rule, the suppression of the Jesuit order in 1773 was also of importance. As a consequence, the Royal Academy of Sciences, with studies of philosophy, theology and law, was established in Zagreb in 1776. The language of the education and the official language of the administration, judiciary and Croatian Parliament (Sabor) was Latin. After grammar school (secondary school), which lasted six years, students of law were taught “philosophy” for the first two years, and for the other two years they were taught “ius”. The courses included the study of natural law. That situation existed until 1850.

A modern university in Croatian language was established in Zagreb in 1876, with the study of law lasting four years. One of its courses was on general State law (a kind of constitutional law) together with international law. International law was detached from constitutional law no earlier than in 1928. Its first teacher was Juraj Andrassy (1896–1977).

However, the first Croatian who left a trace in the world’s doctrine of international law was Alphonse de Domin-Petrushevecz (1835–1871). After the early death of his father he left his native Zagreb as a child, and went to Vienna in 1852. There he finished grammar school, studied law and, in 1860, became doctor of law at the Vienna University “sub auspiciis imperatoris”. At that University he was appointed, in 1868, privat-docent for the history of law. But he passed away in 1871, at the mere age of 36.

Before his early death, when he was just 25, de Domin published his Précis d’un Code du droit international, 133 pages, at F. A. Brockhaus in Leipzig in 1861, written in French. The work was divided into four parts: public international law in time of peace (articles 1 to 105), in time of war (articles 106 to 175); private international law: civil (articles 177 to 218) and criminal (articles 219 to 236). The book had an extensive list of contents, article by article, and a detailed material index.

In 1861, that work was the third attempt at the so-called private or doctrinal codification of the entire body of positive law of nations. It was preceded by the books of Spaniard Esteban de Ferrater, and Italian Augusto

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1 Before that time, higher education was organized in monasteries, such as the one held by the Dominicans in Zadar as early as in 1396; by the Paulines in Lepoglava; and, after the Reformation, especially by the Jesuits at several places. In addition, throughout the centuries many young people from the Dalmatian coast studied in Bologna, Padua, Sorbonne or Salamanca. Even gifted young Franciscans from Bosnia, which was then under Ottoman rule, studied in Rome and Padua, and later on in theological seminaries in the Habsburg lands.

2 Codigo de derecho internacional (Barcelona, 1846–1847).