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CONCEPTUALISING THE CONTINUITY OF LEGAL SYSTEMS AND CULTURES: INTERNATIONAL WORKSHOP ON "LEGAL SURVIVALS IN CENTRAL AND EASTERN EUROPE: SOCIO-LEGAL PERSPECTIVES ON PUBLIC AND PRIVATE LAW" (RIGA GRADUATE SCHOOL OF LAW, RIGA, 15–16 JUNE 2024)

Abstract. The paper describes the debates which took place during the International Workshop on "Legal Survivals in Central and Eastern Europe: Socio-Legal Perspectives on Public and Private Law" (Riga, 15–16 June 2024). The aim of the workshop was to share case studies of legal institutions that have survived despite a socio-economic and political transformation. In the context of Central and Eastern Europe, two transformations in each of the countries in the 20th century are most significant, namely the transition from (authoritarian) capitalism to state communism in the 1940s and the transition back from state communism to capitalism, but this time coupled with democracy and rule of law at the turn of the 1980s and the 1990s. There is certainly a need to analyse legal survivals in the context of Central and Eastern Europe and its transformations which have generally favoured a discontinuity of legal culture, therefore making any continuity in a sense paradoxical and in need of explanation.

Keywords: legal survivals, continuity of law, Central and Eastern Europe

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PERSPEKTYWY BADAWCZE DOTYCZĄCE CIĄGŁOŚCI SYSTEMÓW I KULTUR PRAWNYCH: MIĘDZYNARODOWE WARSZTATY „RELIKTY PRAWNE W EUROPIE ŚRODKOWEJ I WSCHODNIEJ: SPOŁECZNO-PRAWNE PERSPEKTYWY BADAŃ NAD PRAWEM PUBLICZNYM I PRYWATNYM" (RIGA GRADUATE SCHOOL OF LAW, RYGA, 15–16 CZERWCA 2024 R.)

Streszczenie. W artykule opisano dyskusje, jakie odbyły się podczas międzynarodowych warsztatów „Relikty prawne w Europie Środkowej i Wschodniej: społeczno-prawne perspektywy badań nad prawem publicznym i prywatnym" [„Legal Survivals in Central and Eastern Europe: Socio-Legal Perspectives on Public and Private Law"] (Ryga, 15–16 czerwca 2024 r.). Celem warsztatów było podjęcie dyskusji nad studiami przypadków instytucji prawnych, które przetrwały pomimo transformacji społeczno-gospodarczej i politycznej. W kontekście Europy Środkowo-Wschodniej najbardziej znaczące są dwie transformacje w XX wieku, a mianowicie przejście od (autorytarnego) kapitalizmu do komunizmu państwowego w latach czterdziestych XX wieku oraz ponowne przejście od komunizmu państwowego do kapitalizmu, ale tym razem w połączeniu z demokracją i rządami prawa na przełomie lat 1980 i 1990. Z pewnością istnieje potrzeba przeanalizowania form prawnych, które przetrwały w kontekście Europy Środkowo-Wschodniej i jej przemian, które generalnie sprzyjały nieciągłości kultury prawnej, czyniąc tym samym wszelką ciągłość w pewnym sensie paradoksalną i wymagającą wyjaśnienia.

Słowa kluczowe: relikty prawne, ciągłość prawa, Europa Środkowa i Wschodnia

On 15–16 June 2024, the Riga Graduate School of Law (RGSL) (Riga, Latvia) hosted an International Workshop on Legal Survivals in Central and Eastern Europe, co-organised by the Centre for Legal Education and Social Theory (CLEST) at the University of Wrocław (Poland). The Workshop was organised by Dr Piotr Eckhardt (CLEST) and Dr hab. Rafał Mańko (Central European University, Democracy Institute) under the scientific patronage of Professor Adam Czarnota (Rector of the RGSL and Professor-Emeritus at the University of New South Wales, Sydney, Australia). The workshop was attended by fifteen participants and was divided into five sessions.

The workshop was opened by Professor Czarnota, who welcomed the participants and presented the organisers. The beginning of the conference provided an opportunity to briefly outline the history and the present of the RGSL, as well as to introduce the Centre for Legal Education and Social Theory (CLEST) operating at the University of Wrocław, with which all the organisers of this scientific meeting are associated in some way.

Following that, the organisers of the Workshop explained its main idea, namely the study of legal institutions that have survived despite a socio-economic and political transformation (Mańko 2015, 2023, 2024). In the context of Central and Eastern Europe, the two transformations of the countries in the 20th century are most significant, namely the transition from (authoritarian) capitalism to state communism in the 1940s, and the transition back from state communism to capitalism, but this

time coupled with democracy and rule of law at the turn of the 1980s and the 1990s (Mańko, Tacik, Cercel 2024; Czarnota, Krygier, Sadurski 2005). The concept of a legal survival can be traced back to the writings of Oliver Wendell Holmes (2009 [1881]) and Karl Renner (1907/1929[1976]) and has been analysed more recently in the works of Hugh Collins (1980). There is certainly a need to analyse legal survivals in the context of Central and Eastern Europe and its transformations which have generally favoured a discontinuity of legal culture, therefore making any continuity in a sense paradoxical and in need of explanation (Mańko 2016).

Session One, entitled "The Methodology of Research of Legal Survivals," was moderated by Dr Piotr Eckhardt (CLEST). The first speaker was Dr hab. Rafał Mańko, who presented a paper on "Legal Survivals at the Interstices of Legal History, Sociology of Law and Legal Philosophy: Theoretical Foundations of a New Research Method." This paper was meant as a methodological introduction to the whole workshop and focused on the need for integrating various disciplinary approaches when studying legal survivals. The speaker mentioned the need, first of all, to enable a meeting between the discourses of (comparative) legal history and (comparative) legal dogmatics, which usually turn their back on each other. Legal historians usually do not refer to contemporary law, whereas the approach of dogmaticians and comparatists to history is rather minimal and instrumental. They do not seek to understand the evolution of a legal institution as an ongoing process, but, rather, limit themselves to presenting an elementary historical background of contemporary law. Beyond such presentation, however, history does not play a major role as an *explanans* of dogmatic and comparative discourse. However, legal survivals *qua* research method are not only about the historicisation of dogmatics and comparative law, or about making legal historians more aware of what happened to the object of their study later on. A crucial methodological input is sought from the sociology of law, which can provide the tools necessary to answer the questions concerning the changing social functions of legal institutions and, more broadly, the relations between law and societal change, be it revolutionary or incremental. Additional input is also necessary from (analytical) legal theory, as it can help formulate precise concepts (e.g. the identity of a legal survival), as well as tools for evaluating the re-interpretation of legal institutions both within dogmatic discourse and the judicial interpretation and application of law. Finally, an overarching role should be assigned to the philosophy of law (in Artur Kozak's sense), especially as regards the formulation of general research questions and drawing conclusions relevant from the point of view of the concept of law and theory of its relations towards life (politics, economics, ideology, culture, etc.)

The second speaker was Professor Jānis Pleps, who presented the results of his research on "Influence of the Socialist Legal Tradition on the Application of the *Satversme*" (the Constitution of Latvia). The Latvian fundamental law was adopted on 15 February 1922, but after the 1934 Ulmanis's *coup d'état* the *Satversme* was

suspended. Of course, it was also not applied during the occupation of Latvia by the Soviet Union between 1940 and 1990. The fundamental principles of the *Satversme* were restored on 4 May 1990, and full restoration took place in 1993. Therefore, in Latvia, the constitution of the interwar period is in force nowadays. The application of this legal survival (or, more precisely – a legal revival)[1] by authorities influenced by the socialist legal tradition had a special peculiarity. The speaker highlighted the formalistic methods of interpretation, inherited from Soviet hyperpositivism, for the preservation of the powers of the Latvian parliament after the restitution of independence in the early 1990s.

Following the two papers, a discussion took place. Professor Czarnota asked about the length of time necessary to be able to speak of a legal survival – should it be the *longue durée* or a short period of time could be sufficient? Furthermore, he asked whether the concept of a legal survival should be limited to legal institutions or whether it could encompass any kinds of legal ideas, for instance the idea of the "rule of law" (*Rechtsstaat*). Answering to this question, Dr hab. Mańko emphasised that the required time should be evaluated *a casu ad casum*, depending on the circumstances, and, in particular, the dynamics of social change. For instance, the institutions created in the last years of People's Poland, such as the Constitutional Court (1986) or the Ombudsman (1987), should be treated as socialist legal survivals given the 1989 transformation. Concerning the second question, the speaker emphasised that the legal institution, understood as a set of functionally interrelated legal norms, remains the paradigm of the concept of a legal survival (comparable to that of a "legal transplant" in comparative law), but this does not exclude analysing individual legal norms, legal concepts, legal principles, or any other kinds of legal ideas, such as methods of interpretation.

As regards Professor Pleps' paper, Dr hab. Mańko asked about the methods of interpretation used by the Latvian Constitutional Court (LCC), and about the *ius-lex* distinction in Latvian legal language. Professor Pleps explained that the LCC embraced a teleological method of interpretation, typical of many other constitutional courts. Concerning the *ius-lex* distinction, it is also known to Latvian legal language (*likums* vs *tiesibas*), although the term *likums* can cover both the entirety of positive law as such and a concrete legislative act.

Session Two on "Private Law," chaired by Professor Sanita Osipova (University of Latvia; Judge at the Latvian Supreme Court, former President of the Latvian Constitutional Court), was the most extensive session of the workshop, as it consisted of as many as four presentations. The first speaker was Dr Ivan Tot (University of Zagreb). He presented to the workshop participants "A Law that Stood the Test of Time: The Perseverance of the Yugoslav Law on Obligations and Legal Survivals in Croatian Law, with a Focus on Termination for Breach of Contract." The Law on Obligations adopted in the Socialist Federal Republic

[1] For the newly introduced notion of a "legal revival," see Mańko (2024).

of Yugoslavia in 1978 was not strongly influenced by the socialist legal tradition. Instead, a lot of amalgamated elements from both Germanic and Romanistic legal families can be found there. Therefore, these regulations, being legal transplants, proved more durable than Yugoslavia itself. They survived its brutal break-up and have become legal survivals in all newly formed states. In Croatia, the new Law on Obligations of 2005 maintained continuity with the Yugoslav Law on Obligations by borrowing almost its entire content, albeit with restructuring and minor amendments, which is an example of a legal survival by "transfiguration" (the replication of legal form in a new legislative act, but essentially preserving the contents of the old law), according to the conceptual framework proposed by Mańko (2023). As a case study for this historical process, Dr Tot discussed in detail the general framework for termination for breach of contract, which blends influences from the ULIS (*Uniform Law on the International Sale of Goods*), the BGB (*Bürgerliches Gesetzbuch* – German civil code), and the French *code civil*.

The second presenter in this session was Dr Radosveta Vassileva (Middlesex University), who interested the workshop participants with the story of "A 75-Year-Old Mystery: Understanding the Dark Secrets of Bulgaria's Law on Obligations and Contracts of 1950 in Context." Among Bulgarian scholars, there is a popular belief that the 1950 Bulgarian Law on Obligations and Contracts (which survives to this day with minor amendments) is an original local creation. However, research conducted by the presenter (Vassileva 2019, 2022) has shown that this legislation is, in fact, a creative compilation heavily based on the relevant sections on obligations of the Italian *Codice civile* of 1942, enacted during the fascist era. It appeared that a country building a communist legal order after 1944 sought inspiration in a country professing a rival ideology (fascism). Dr Vassileva also described the practice of judges applying doctrine from communist times to interpret the law on Obligations and Contracts even post-1989 while not overtly admitting so (i.e. without citing the original sources of the doctrine).

The next, third presentation in this session was delivered by Dr Aleksandrs Fillers, LL.M., an Associate Professor at the Riga Graduate School of Law, which hosted our workshop. Dr Fillers introduced the participants to "A Relic of Days Gone By: The Latvian Civil Law in Contemporary Latvia." In the period of political transformation and reforms of the legal systems after 1989, Latvia followed a different path from the other countries in the region. Instead of creating a new civil code based on modern western models, the country decided to renew the pre-war Latvian *Civillikums* (Civil Law). The intention was to emphasise the continuity of the state, whilst it had been considered to be quite a modern piece of legislation for its era. However, it turned out that the *Civillikums* was, in fact, an abridged and marginally updated version of the 19th-century Baltic Private Law Act that had been in force in the Baltic provinces of the Russian Empire. Hence, in reality, Latvia reenacted a legal instrument that to a significant degree contained private law rules of the 19th century. Dr Fillers described the problems encountered

by Latvian legal doctrine and practitioners in applying regulations dating from such a distant era.

The last presenter in Session Two was Wiktor Walewski (University of Białystok), who made an attempt to answer the question "Is the Institution of Incapacitation an Example of Polish Private Law's Survival?" The legal institution investigated by Wiktor Walewski was present in the regulations inherited by Poland from the partitioning states after regaining independence in 1918 and was repeated in subsequent legal acts without fundamental changes. It has, therefore, remained in the Polish legal system for more than a century. In a more inclusive and equal world, where attitudes towards people with special needs have completely changed, incapacitation is causing increasing problems. One of the most significant problems appears in the context of the implementation of Article 12 of the Convention on the Rights of Persons with Disabilities in the Polish legal system. However, the development of new solutions has been prolonging.

After the presentations, the workshop participants moved on to the discussion. On reflection of Dr Ivan Tot's paper, the particular necessity of conducting comparative legal research was acknowledged in the case of legal survivals coming from the legal systems of states that had broken up into more state organisms with independent legislation (precisely Yugoslavia, but also the Soviet Union or Czechoslovakia). On the basis of the presentation by Dr Vassileva, the discussion concluded with the need to study the genealogy of the laws that became legal survivals as well as their political-ideological context, especially in contrast to the sources their creators were inspired by. The example of the Latvian *Civillikums* discussed by Dr Fillers was termed by Dr hab. Mańko as a legal revival, indicating that such legal institutions that have been revived after a prolonged period may constitute a separate subject of study (cf. Mańko 2024). The institution described by Wiktor Walewski has been identified as an example of a dysfunctional legal survival (cf. Preshova, Markovikj 2024, 130), which is widely criticised and considered unsuitable for today's times, but still remains in the legal system due to the indecisiveness of politicians and the slowness of the legislative process.

Session Three on "Legal Professions" was chaired by Dr. hab. Dorota Miller (University of Augsburg). The first speaker, Professor Sanita Osipova, covered the exceptionally long-lasting legal survival that is the "Notarial System as Legal Survival in Latvia – Built in 1889, Improved in 1937, Renewed in Force in 1993." Professor Osipova explained that the notarial regulations introduced in the Russian Empire survived the emergence of independent Latvia in the interwar period. The new regulations dating from 1937 were an evolutionary improvement of the existing system. However, this is not the end of an eventful story. The inter-war legislation was reintroduced after the collapse of the Soviet Union and the restoration of Latvian independence. This legal survival can therefore be called a legal revival as well.

The second participant of that session, Kamil Zyzik (Jagiellonian University), presented the results of his research: "Fading Socialist Lawyering in Poland: About the Advocate Units." The young scholar from Kraków depicted the increasingly less common, but still occurring in Poland, social practice of operating in the competitive market of legal services within the framework of so-called advocate units. These were institutions created during state socialism, replacing lawyers' ability to operate in the framework of commercial law partnerships. The advocate units situated the legal profession between the spheres of public service and private enterprise. After the 1989 transition, the latter option became accessible and common, but the former one was not removed from the legal system. Kamil Zyzik reviewed the tensions around this quasi-cooperative vision of legal practice within contemporary privatised legal landscape.

A discussion followed the two presentations. The workshop participants debated whether advocate units in Poland have any future, can provide a useful alternative to commercial law, or are rather doomed to a slow extinction. Dr hab. Rafał Mańko pointed to the methodological difference between legal survival and legal revival, and the need to delineate the scope relations between these concepts.

Following Session Three, a roundtable discussion took place and focused on the forthcoming book on *Ideology and Private Law: Polish Experiences in the Long 20th Century*, co-authored by Professor Anna Machnikowska (University of Gdańsk), Professor Michał Gałędek (University of Gdańsk), and Dr hab. Rafał Mańko.[2] The concept of the book was first presented by Professor Gałędek, who emphasised its approach as a new synthesis of legal history, based on the ideological currents that formed the basis for legal developments. Following that, Dr hab. Mańko presented conceptual analyses concerning the relations of law and ideology, with particular emphasis on the interplay between political and juristic ideologies (cf. Mańko 2020a). Following that, the discussants – Professor Pleps and Dr Eckhardt – presented their views. Professor Pleps highlighted the importance of the forthcoming book for the study of the historical entanglements of law and ideology, and expressed the wish that such research will be undertaken also with regard to other legal systems. Dr Eckhardt formulated the hypothesis that public law falls more easily under the external influence of political ideology and is more easily instrumentalised, whereas private law is primarily influenced by juridical ideology. Or at least this was the case of the Polish state socialism.

The conference resumed on Sunday, 16 June, with Session Four, titled "Between Public and Private Law" and moderated by Dr Eckhardt. The session began with a presentation by Dr Dace Šulmane and Professor Linards Muciņš, both from Turība University. The researchers presented the complex history of ownership transformations in the area of housing after the collapse of the Soviet Union and the restoration of Latvia's independence. Two processes took place in parallel in the 1990s: reprivatisation, whereby the legal successors of the pre-war

[2] Machnikowska, Gałędek, Mańko (2024).

owners regained the land properties, and privatisation, through which the residents of blocks of flats built on these properties during the Soviet period were able to buy the rights to their dwellings. This has resulted in an unusual legal situation in which one private person owns the land itself, but other persons are co-owners of the building situated on that land – something contrary to the principle of *superficies solo cedit*. This leads to the need for so-called compulsory leases so that a legal relationship between the land owner and the apartment owners can be provided for. The Latvian Civil Law does not cope very well with this legacy of the transition period.

The second paper in that session was presented by Dr hab. Mańko and was devoted to "Fault-Based and Punitive Divorce as a Socialist Legal Innovation in People's Poland and Its Survival After 1989." The speaker first provided a detailed historical introduction into Polish divorce law prior to its unification in 1945, noting the differences of models provided for in German, Austrian, Hungarian, Franco-Polono-Russian, and Russian laws in force prior to unification. He then showed the evolution of the model of Polish divorce law from the unification under the Marriage Law Decree of 1945, through the Family Code of 1950, right down to the Family and Guardianship Code of 1964, in force until today. Dr hab. Mańko emphasised the hybrid nature of the institution of divorce in Poland, which is based on the mixture of the breakdown principles with the principle of fault. The latter is, in practice, understood in a way which closely resembles the model of relative grounds for divorce, meaning that parties normally plead concrete events (such as infidelity, violence, etc.) that lead to the breakdown, and divorce courts investigate these facts in order to ascribe fault for the breakdown. Furthermore, the Polish institution of divorce as it stands now is, in fact, a *double legal survival*, i.e. on the one hand, the socialist divorce as codified in the times of Władysław Gomułka still survives despite deep ideological and cultural changes, affecting people's lifestyles and world-views, but on the other hand, within that Gomułka epoch, the model of divorce that one can find is *a deeper legal survival*, dating back to the model of divorce present in the original text of the BGB, the ABGB, or *code civil*, where specific grounds for divorce were required which not only determined the possibility of dissolving the marriage but also were decisive for ascribing fault and, as a consequences, various sanctions, such as notably punitive maintenance of the former spouse.

The third presentation in this session was delivered by Dr hab. Miller, who introduced the issue of "Succession Rights for Unmarried Partners in Ex-Yugoslavia: Historical Context and Modern Implications." The first measures of this type appeared in Yugoslavia after World War II due to the hardship of many widows who could not document their marriage. The Federal Supreme Court of Yugoslavia granted widow's pensions also to those who could document just cohabitation with the deceased. In the 1970s, Yugoslav republics gained autonomy over, *inter alia*, family and succession law. One of the new developments that was adopted, among others, in Slovenia, was the equalisation of the succession-law

rights of cohabitating partners living in lasting relationships with those of married couples. It was a response to a growing number of unmarried partnerships. This groundbreaking law has persisted through economic, ideological, and social transformations, and spread over other countries (e.g. Croatia in 2003).

Session Four also concluded with a discussion. In the context of the presentation by Dr Šulmane and Professor Muciņš, the need was acknowledged to distinguish legal survivals from the legacy of the post-1989 political transformation period, which is another layer of the legal system. This is a rather separate but very important and under-addressed topic of legal research. Dr Eckhardt identified another significant research area from Dr hab. Mańko's presentation. Namely, he indicated that the moral conservatism of state socialism in People's Poland and its manifestations in the legal system should be better explained, not only in the context of divorce. The conclusions of Dr hab. Miller's paper provided another opportunity to emphasise the purposefulness of comparative research on legal survivals, once again drawing on the case of the various countries of the former Yugoslavia.

The last session was Session Five on "Public Law" chaired by Dr Šulmane. It began with a presentation by Dr Eckhardt, who, based on his research on law and ideology in housing, construction, and spatial planning in socialist Poland (Eckhardt 2024), described the phenomenon of the "Housing Cooperatives Perceived as Public Administration Bodies Rather Than Independent Organisations as a Legacy of Socialist Regulations? The Case of Poland." Dr Eckhardt described how the communist authorities of People's Poland took control of housing cooperatives (established before World War II as independent non-governmental organisations) without nationalising their assets in the sense of civil law. Instead, there was the centralisation of the cooperative movement and the hierarchical subordination of cooperatives forcibly affiliated to unions, whose authorities were staffed with trusted communists. As a consequence, housing cooperatives began to play the role of organs of the local housing administration – they were large and highly bureaucratic. Designated cooperatives had a monopoly in particular areas. After 1989, the provisions on centralisation and subordination were abolished, but the structure of Polish housing cooperatives as large, bureaucratic "mammoths" has remained to this day.

The second presentation was delivered by Michał Stokowski (University of Białystok), who drew on the post-war period, discussing the topic of "August Decree Today: Is It Still Necessary?" The researcher presented the history of regulations commonly referred to as the "August Decree," which dealt with the punishment of World-War-II criminals and those who collaborated with the German occupier. The last trial based on them took place in 2002. For obvious reasons related to the passage of time, no further cases are expected. This raises doubts about the legitimacy of the continued validity of the discussed decree.

The final presentation in this session and in the entire workshop was given by Professor Piotr Szymaniec (Angelus Silesius University of Applied Sciences in Wałbrzych), who explained the issue of "Prosecutor's Participation in Administrative Proceedings: A Guarantee of the Rule of Law or a Relic of the Law of *Real Socialism*?" The scholar presented the prosecutor's competence to participate in administrative proceedings as a typical model for almost all (except Yugoslavia) countries of state socialism, which replaced the administrative judiciary that did not exist there. Professor Szymaniec pointed out that such prosecutorial powers survived primarily in Poland and Slovakia. On the basis of an analysis of the Polish case law, he discussed examples of their use by the prosecution service after 1989.

As with all the previous sessions, the last one also concluded with a discussion. In the context of Dr Eckhardt's presentation, it was noted that it is necessary to distinguish between legal survivals as particular legal institutions and social institutions that still exist despite the fact that the regulations that made their emergence possible have passed into history. Michał Stokowski's presentation was a trigger to discuss the desirability of keeping certain provisions in the legal system (even if only for symbolic reasons) despite the fact that they will most likely never be applied again. Professor Szymaniec's presentation sparked a discussion about the role of the prosecution service in a constitutional democracy and the purposefulness of maintaining the prosecutor's powers to participate in administrative proceedings when there are ombudsmen and administrative courts.

The workshop ended with the presentation of the idea of a common publication that will be the first attempt to systematically explore the presence of legal survivals in the legal systems and legal cultures of Central and Eastern Europe.

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The conference papers and discussions made it possible to address a number of horizontal issues. The first one was the question of the *scope of the notion of a legal survival*. Some participants, like Professor Czarnota, argued for a narrow scope, linked to the socio-economic transition from state socialism to democratic capitalism. Others, like Dr Tot, were in favour of a broader approach, but still with the element of an adverse environment, *in spite of which* the legal survival continues to exist. Yet others, like Professor Gałędek, argued in favour of a broad approach which would encompass any form of long-term continuity of a legal institution, which would allow to highlight the importance of legal tradition as a legitimising factor in legal discourse. In the discussion, Dr hab. Mańko highlighted the utility of Adolf Reinach's phenomenological ontology of law (Reinach 2012[1913]) – recently popularised by the late Professor Tomasz Bekrycht (2009) – for the conceptualisation of legal survivals. In fact, if we consider,

following Reinach, that legal ideas – be they norms, institutions, concepts, or principles – can be treated as mental beings and constitute the object of ontological research (as was clearly emphasised by Artur Kozak),[3] then the notion of a legal survival gains a hard ontological basis in the intersubjective consciousness of the legal community.

Secondly, the issue of the *substance of a legal survival* was also discussed. Here, Professor Czarnota proposed to consider a broad approach, which would include not only a legal institution or norm, but also a legal idea. Dr hab. Mańko's methodological paper that opened the conference emphasised the importance of legal survivals understood – akin to legal transplants – essentially as legal institutions, but he conceded the importance of other forms of survivals. The individual papers took different approaches. Professor Pleps presented the survival of certain methods of interpretation in the Latvian legal culture, whereas Professor Osipova focused on the survival and evolution of the legal profession of a notary and its organisation.

Thirdly, the papers revealed interesting features regarding *the complexity and hybridity of legal survivals*. Most of the institutions presented in the papers had various layers of continuity – for instance, in the case of Latvian notaries (Professor Osipova's paper), there was a continuity of Russian Imperial elements, upon which the traditions of independent Latvia and then socialist Soviet traditions were imposed. In the papers concerning Bulgarian and Croatian private law (papers by Dr Vassileva and Dr Tot, respectively), the continuity of older legal systems (such as the ABGB), was visible, upon which the continuity of socialist law was imposed. Thus, legal survivals have indeed the structure of a palimpsest (Mańko 2023), whereby various layers are imposed upon each other and influence each other. The same observations can be applied to examples from family law – the paper on inheritance of non-married partners in the countries of former Yugoslavia showed how the layers were imposed upon each other. In the paper on divorce in Polish law (Mańko), the layers of old, purely fault-based divorce founded on specific absolute grounds are still visible in the socialist codification of 1964, which in itself is a survival in today's Poland. Finally, in Dr Eckhardt's paper on housing cooperatives, the socialist legislator used a legal form existing in the capitalist Second Republic in order to mould it for its own purposes of centrally managing the cooperatives. Today, the socialist legal form of a large, bureaucratic housing cooperative survives, but within these legal survivals also earlier layers of legal culture are visible.

[3] Kozak (2009, 84): "It is highly probable that for lawyers analysing legal phenomena from an internal point of view the basic method (…) are enunciations predicating existence, not meaning (…) From the point of view of an internal, autonomous theory, in this behaviour of lawyers we find the presence of an intra-institutional world (…). [S]uch a world cannot be questioned. It can only be analysed." Cf. Mańko (2020b); Kozak (2010).

Whereas these three horizontal issues undoubtedly require more theoretical research and its confrontation with the results of historical, dogmatic, and sociological research – as the convenors of the workshop and editors of the future monograph concluded based on its outcomes – we consider it useful to propose certain working solutions.

Firstly, as regards the *scope ratione temporis* of a legal survival, we consider that it is not possible to give a one-size-fits-all answer concerning the time that a legal survival should exist for it to be considered a survival. Undoubtedly, legal institutions which survived transformations, transitions, or a revolution are the core of the concept, but an institution which exists very, very long – even if its environment did not change adversely – could also be included in the concept.

Secondly, as regards the *substance* of the concept of a legal survival, we consider that the broad approach, advocated by Professor Czarnota, and theoretically grounded in the phenomenological philosophy of law developed by Reinach and Bekrycht, is an optimal approach, as it makes it possible to include various kinds of legal ideas. Even if the legal institution remains the core example of a legal survival, the practice of including legal concepts, principles, methods of interpretation, and other legal ideas of various kinds (including even juristic ideology) will make it possible to survey the entire breadth of legal culture in search of continuity.

A crucial element of legal survivals that should definitely be addressed in the future edited volume is the question of their *multi-layered character and hybridity*, or – to put it in metaphorical terms – their nature of a palimpsest. In this way, the analysis of legal survivals will enable the formulation of more general claims about the nature of the law, its internal structure, and its relation to the changing and often hostile social environment.

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