

TABLE OF CONTENTS

Foreword	6
Introduction: Why and How to Write Legal History of East-Central Europe?	8
1. The Myth of Law and the Common Indo-European Past?	13
1.1 Genealogy of Law	13
1.2 Emergence of Law in the Modern Sense	15
1.3 Archaic Law or No Law At All? Possibilities of Reconstruction	17
1.4 Archaeology of Law : Digging for the Earliest Layers of Norms	22
2. Archaic Law : Back to Slavic Legal History?	28
2.1 Two Methodological Approaches to Researching Slavic Legal History	28
2.2 The Deconstructive Approach: Ecloga versus Zakon sudnyj ljudem	32
2.3 Historical Linguistics in Researching Great Moravian Legal Texts	43
3. Feudal State and Feudal Law	48
3.1 From a Ministerial Type of State to a Feudal State	48
3.2 Feudal Administration – Autonomous Communities	50
3.3 Feudal Law and Legal Particularism	53
4. Daily Legal Practice and the Popular Perception of Feudal Law	62
4.1 Judicial and Extra-Judicial Dispute Resolution	62
4.2 The Role of a Third Person in Dispute Resolution	68
4.3 Dispute Resolution and Searching for “Truth”	69
4.4 Forms of Decisions and of Sentences	70
4.4.1 Arbitral Award	70
4.4.2 Judicial sentences	73
4.5 Different Perceptions of Law among Different Social Classes	75
5. Learned Law : The Roman Law and Canon Law Models	78
5.1 The Renaissance of Roman Law in Europe	78
5.2 Roman Law in East-Central Europe?	84
5.3 Medieval Law-Books in East-Central Europe	85
5.4 Biblical Influences in the Law	88

6. Absolutism and the Birth of State-Based Law	91
6.1 State-Based Concept of Law	91
6.2 Enlightened Absolutism and the Modernization of Criminal Law	96
6.3 Memories of Non-State Law	100
7. Bourgeois Revolutions of the 19th Century and the Modern Law	105
7.1 Revolutions in Search of Equality	105
7.2 Habsburg Monarchy at the Crossroads of Tradition and Modernization	108
7.2.1 Modernization of Public Law	109
7.2.2 Modernization of Private Law	113
7.2.3 Modernization of Civil Procedural Law	115
8. Nation-States and National Legal Systems in the 20th Century	117
8.1 The Right to Self-Determination	117
8.2 The emergence of Modern Nations in the 18 th and 19 th Centuries	120
8.3 The Slovak National Self-Determination	124
8.4 The Emergence of National Legal Systems	128
9. Socialist or Communist Law?	132
9.1 Stalinism in Law	132
9.2 Socialist Experience within the Law in Books and Law in Action in Czechoslovakia	134
9.3 Growing Etatism and Dominance of Public Law in Czechoslovakia	137
10. Transition and Transformation of Law in East-Central Europe	144
10.1 Transition from Socialism to Capitalism	144
10.2 Revival of Private Law	146
10.3 Re-Codifications in East-Central Europe	150
11. Discontinuities of States and Regimes: States with Expiration Dates?	156
11.1 Continuity and Discontinuity	156
11.2 (Dis)Continuity of States and Legal Systems	157
11.3 Symbolic Role of the Past in East-Central Europe	163
12. Discontinuity of Ownership and Property Rights in East-Central Europe	172
12.1 Challenging Property Transfers in East-Central Europe	172

12.2 The Land Reform in Czechoslovakia after the World War I 173

12.3 World War II and Confiscations of Hostile (Enemy) Property 175

12.4 Nationalizations and Land Reforms after the World War II 184

Conclusions 187

Bibliography 188