

CUSTOM AND LAW IN
CENTRAL EUROPE

Edited by Martyn Rady

With an Introduction by János M. Bak

Centre for European Legal Studies
Occasional Paper no 6
Faculty of Law, University of Cambridge

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Front Cover: from the original 1517 edition of Werbőczy's *Tripartitum*

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Preface

Stephen Werbőczy's account of Hungary's laws and customs, the *Tripartitum Opus Juris Consuetudinarii Inclyti Regni Hungariae*, was presented to the Hungarian diet in 1514 and printed three years later in Vienna. Although it never received the royal seal, the *Tripartitum* rapidly acquired authority and was republished in more than fifty editions. Until 1848, it retained a largely unimpaired influence in respect of Hungarian law and legal procedures.

The present volume is a collection of essays drawn from papers delivered at a conference held in Cambridge in April 2003 under the title, 'Werbőczy, Custom and Hungarian Law'. The conference formed part of a much larger and continuing project, led by Professor János M. Bak of the Department of Medieval Studies of the Central European University in Budapest, which is aimed (among much else) at publishing an English-language translation and critical edition of Werbőczy's *Tripartitum*. The conference was supported by most generous funding from the British Academy and the Central European University. The organizers also gratefully acknowledge the help and support provided by the Faculty of Law of Cambridge University, Corpus Christi College, the Centre for the Study of Central Europe of the School of Slavonic and East European Studies, University College London, and the Faculty of Laws of University College London.

This collection of essays, all of which have been substantially rewritten since they were first delivered as conference-papers, brings together much of the latest research on law and legal institutions in the kingdom of Hungary and in its sister-kingdom, the triune monarchy of Croatia, Slavonia and Dalmatia. Some of the contributions aim to bring to scholarly attention the legal sources, principal institutions and procedural developments relating to the history of this part of Central Europe. Others touch upon the nature and meaning of custom and of the relationship between custom, law and statute. All are, however, bound together by their recognition of the lasting importance of Werbőczy's *Tripartitum* for the legal history of Hungary and Croatia. The contributions offer a variety of different perspectives and, sometimes, contradictory assessments. The aim of the volume is not, however, to present a 'common front' but instead to offer new insights on the work, context and legacy of Hungary's 'Tribonian and Bracton'.

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Martyn Rady

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deliberately prolonging cases so that they might pocket more fees. In this respect, the Josephinist Izdenczy proposed that the best way to speed up justice was simply to abolish the class of lawyers.⁶⁵

These criticisms, however, largely miss the point. As far as Werbőczy was concerned, the problem was not that cases might take a long time to reach any conclusion but that the verdicts reached should be fair and just. Without there being a sufficient raft of remedies then it was all too easy for just cases to fail and for guilty parties to prosper, even at the expense of their own salvation. In Werbőczy's words, justice denied 'is the two-edged sword which pierces the hearts of orphans and widows and of other poor people. This is the grief which robs the spirits of the oppressed. This is the snare which drags many into the pit of eternal damnation. Many are the reasons for suits failing unjustly which, as the tinderbox of sin, are always to be avoided' (II.83 [8]).

65 Dénes Jánossy, 'Reformtörekvések a polgári peres eljárás terén a xviii. században', *Századok*, 77, 1943, pp. 41–77 (p. 75).

Pergošić's Translation of the *Tripartitum* into Slavonian¹

Nataša Štefanec

Reliable information on Ivan Pergošić and on the printing house at Nedelišće is scarce. For the most part, it comes 'second hand' from sources which have long since vanished. What survives in respect of the extant material has been 'recycled' by historians for decades and new documentary evidence is difficult to uncover. Accordingly, one has frequently to make do with assumptions and inferences. The aims of this essay are: to outline the circumstances in which there first appeared the Slavonian translation of the *Tripartitum*, or, as Pergošić called it, the *Decretum*; to review its possible purpose; and to establish the identity of who it was that inspired its translation.² In the course of what follows, we will explore the principal hypotheses while presenting, albeit tentatively, several explanations of our own.

With the death of Ivan Ungnad in 1564 the printing house in Urach near Tübingen came to an end. Its demise brought to an end the earliest phase in the publication of works in the Slavonic languages. By this time, the

- 1 Pergošić uses the term *szlouienski* in respect of the kajkavian spoken in Slavonia (*Windischland*) and distinguishes it from *horuatzki*, that is chakavian. In this context, I will use the term 'Slavonian' as distinct from 'Croatian'.
- 2 The exact title of the translation is 'DECRETVM KOTEROGAIE VERBEWCZI ISTVAN DIACHKI POPISZAL A POTERdilghaie Laßlou katerie za Mathiassem Kral bil zeuße Ghoßpode i Plemenitih hotieniem koteri pod Wugherßke Corune ladanie Blisse. OD IVANVSSA PERGOSSIcha na Szlouienßki iezik obnien. ... STAMPAN V Nedelischu Leto nassegha zuelichenia 1574'. So far, two critical editions of the *Decretum* have appeared: Karlo Kadlec, *Stefana Verbecija Tripartitum* (Srpska kraljevska akademija. Zbornik za istoriju, jezik i književnost srpskog naroda. Knjiga 5), Belgrade, 1909, and a more recent edition by Zvonimir Bartolić, which was printed in Čakovec in 2003 by Matica Hrvatska.

printing house in Ljubljana was on account of its Protestant sympathies under constant surveillance by the Catholic authorities. The printing houses in Senj, Zagreb and Rijeka had already been banned during the earliest decades of the sixteenth century, namely in 1508, 1527 and 1531. In particular, the Catholic authorities feared that the use of Glagolitic letters, of Old Church Slavonic or, even worse, of the vernacular and printing of Protestant works in Glagolitic letters would assist the spread of the Reformation.³ As Croatian historians have pointed out, with the end of the Ungnad printing house, it was only the travelling presses of Rudolf Hofhalter in Nedelišće and Johannes Manlius in Ljubljana and Varaždin which, despite their Protestant inclinations, prevented the complete disappearance of printing and literary activity in the Croatian-Slavonian kingdom. Moreover, this activity was for decades threatened by the unfavourable military and political situation that transformed what was left of Hungarian-Croatian Kingdom into the Military Border.⁴

In respect of these printing houses and the authors whose work they attracted, the achievements of several writers of the 'Northern' or 'Varaždin Literary Circle' have been examined by a number of linguists and historians of literature. The Varaždin circle consisted of a group of educated men and office-holders living in Varaždin, including, for instance, Antun Vramec, Blaž Škrinjarić, Blaž Antolović, Ivan Pergošić, Mihajlo Bučić (about whom otherwise little is known), and so on. Some of these were accused of flirting with Protestantism.⁵ Research on the

3 Krešimir Georgijević, *Hrvatska književnost od XVI. do XVII. stoljeća u sjevernoj Hrvatskoj i Bosni*, Zagreb, 1969, pp. 12–36; Josip Bratulić, 'Glagoljastvo i protestantizam', in *Rad Zavoda za slavensku filologiju*, 27, 1992, pp. 231–235. See also numerous works on Stjepan Konzul Istranin and Antun Dalmatin (both glagolitic priests/popovi glagoljaši and Protestants).

4 A map of the military border in the second half of the sixteenth century is given in Drago Roksančić and Nataša Štefanec (eds), *Constructing Border Societies on the Triplex Confinium*, Budapest, 2000, p. 92.

5 Bučić's parents were Catholic, and two of his cousins were priests in Zagreb. To begin with, around 1565, he held a parish in Stenjevec, near Zagreb, and from 1567 to 1571 he was parish priest in Belica, in Međimurje. See Vjekoslav Klaić, *Povijest Hrvata*, 5, Zagreb, 1973 (reprint), p. 666. Bučić probably published three Calvinist books in Nedelišće, none of which have survived. These were: *Contra praesentiam corporis et sanguinis Christi in Sacramento Eucharistiae*, Nedelišće, 1573; *Kerstjanski nauk (Catechismus)*, Nedelišće, 1573; *Novi Zakon*, Nedelišće, 1573, which was dedicated to Maximilian II; Károly Szabó (ed.), *Régi Magyar Könyvtár*, 2, Budapest, 1885, nos 133–135. Szabó here relies on Kukuljević, *Agramer Zeitung* (1881) as his source. Bučić was convicted of heresy and excommunicated in March 1574 by the synod of Zagreb diocese, which was convened and presided over by Juraj Drašković, bishop and ban. Rumour has it that, after his excommunication,

Varaždin circle and its members remains to a large extent both incomplete and not comprehensive.⁶ The lack of information on this period is to a large part due to the destruction of the fruits of these printing houses during the Counter-Reformation.

Nedelišće, the small market town where the *Tripartitum* was printed, was one of the main customs offices in the Hungarian-Croatian kingdom, collecting the tricesima customs due (tridesetnica, Dreissigst, harmincad). As such, it was also one of the most frequented places in the Croatian-Slavonian kingdom. The town was situated in the Međimurje (Muraköz) region, which belonged at that time to the Zrinski (Zrinyi) family and lay midway between Varaždin and Lendava (Alsólendva). The first printer to appear in Nedelišće was the well-known Protestant printer, Rudolf Hofhalter.⁷ It is still not yet clear when exactly and why he came to these parts from Nagyvárad, whence he was expelled on 17 September, 1571, by order of the emperor.⁸ What is

Bučić found shelter on the estate of Juraj Zrinski in Međimurje. According to Klaić, Drašković even wrote a *Constitutio* against Calvinist doctrine and, more specifically, against Bučić's teaching. During a synod in 1570 he ordered that in addition to the Latin liturgy, there should every morning be a mass in the 'Croatian language' (*croatica lingua*). See Klaić, *Povijest Hrvata*, 5, pp. 666–667.

6 See the works cited here by Zvonimir Bartolić, Gedeon Borsa, Franjo Bučar, Neven Budak, Franjo Fancev, Krešimir Georgijević, Alojz Jembrih, Ivan Kostrenčić, Mijo Mirković, Valentin Putanec, Károly Szabó.

7 Rudolf's father was a famous Viennese printer, Rafael Hofhalter, a Polish nobleman, previously known as Skrzeutsky. He lived in Zurich and the Netherlands, where he worked in various printing houses. Rudolf was born in Zurich. In 1555/56 father and son moved to Vienna, where Rafael founded his own printing house. In 1562 they had to flee Vienna on account of their religious beliefs. They settled in Debrecen and, thereafter, in Nagyvárad (Oradea). In 1566/67 Rafael moved to Gyulafehérvár (Alba Iulia) after which all trace of him is lost. See Josef Benzing, *Die Buchdrucker des 16. und 17. Jahrhunderts im deutschen Sprachgebiet*, Wiesbaden, 1963, pp. 455–456; Pál Gyulász, 'Die Wiener Buchdrucker Rafael Hofhalter und sein Sohn in Ungarn', *Gutenberg Jahrbuch*, 1930, pp. 198–204. Rudolf worked in Nagyvárad from 1567 until 1570. In September 1571 he left the Partium. According to Borsa, he came to Lendava only in 1573. His activity between 1571 and 1573 and between the end of 1574 and 1577 is still not known. See Gedeon Borsa, 'Rudolphus Hoffhalters Typographie in der Gegend von Mur und Drau (1573–1574)', in *Vjesnik bibliotekara Hrvatske*, Vols 1–2, Zagreb, 1968, pp. 26–34 (p. 28).

8 Zvonimir Bartolić, 'Nedelišće — staro hrvatsko književno središte', in (ed.) Josip Buturac, *Nedelišće*, Nedelišće, 1993, pp. 210–227. See also Bartolić, 'Hrvatski književni i neknjiževni tekstovi na tlu Međimurja do 1918', in *Hrvatski dijalekološki zbornik*, 6, Zagreb, 1982, pp. 23–53; Bartolić, 'Hrvatska tiskara u Nedelišču u doba Zrinskih', in Bartolić, *Sjevernohrvatske teme*, Čakovec, 1980, pp. 5–24.

known, however, is that he was active in printing both in Bánffy's Lendava and Zrinski's Nedelišće.⁹

Miklós Bánffy was married to Uršula Zrinski, sister of Juraj Zrinski (IV). At the time he was *ispán* (*župan*) of Zala County. Since their properties were adjacent, the Zrinski and Bánffy families often visited each other.¹⁰ Both families owned extensive properties in south-western Hungary and Slavonia, and, being Protestant, both also welcomed Hofhalter. In Lendava there was a strong Protestant community led by Juraj Kulčar (György Kulcsár) which was supported by Miklós Bánffy. During Hofhalter's stay in Lendava, Kulčar published three religious books in Hungarian: the first in August 1573, the second two months later, and the third in May 1574.¹¹ He dedicated two of these works to Miklós Bánffy, and the other to the brothers Juraj, Nikola and Krsto Zrinski. One may conclude from this third dedication that the Zrinski family also encouraged and supported Kulčar.

Building on the recent work of Zvonimir Bartolić, we may make several more educated guesses.¹² The earliest surviving book coming from Hofhalter's workshop was published in Lendava. We have, however, indirect evidence of at least three Calvinist works written by Mihajlo Bučić which were printed by Hofhalter in Nedelišće in 1573. This suggests that Hofhalter may have gone to Nedelišće first, at the invitation of Juraj Zrinski. On the basis of a rather long and convoluted argument, Gedeon Borsa has sought to demonstrate that Hofhalter may have printed two further books in Nedelišće in 1573 before departing for Lendava later that year.¹³ Since none of Bučić's works survive, Borsa's speculation must, however, remain just that.

A few stray words written by Ivan Pergošić additionally suggest that it was Juraj Zrinski who invited Hofhalter from Nagyvárád. In the preface to his Slavonian translation of the *Tripartitum*, Pergošić writes, referring

9 For Juraj Zrinski's life, see Nataša Štefanec, *Heretik njegova Veličanstva. Povijest o Jurju IV. Zrinskom i njegovu rodu, 1549–1603*, Zagreb, 2001, p. 316.

10 Hungarian National Archive (Budapest), Section P (Archive of Families, Corporations and Institutions), 1314/ 53571–2.

11 *Az halálra való készletről rövid tanossag*, Lendava, 1573; *Az ördögnek a penitencia tarto bünössel való vetekedéseiről*, Lendava, 1573; *Postilla az az evangeliomoknac, mellieket esztendő által a keresztyénec gyöleközetibe szoktác oluasi es hirdetni*, Lendava, 1574. See Borsa, 'Rudolphus Hoffhalters Typographie', p. 27; Bartolić, 'Nedelišće', p. 194.

12 Bartolić, 'Nedelišće', pp. 203–204.

13 These were a *Herbarium* of Péter Melius Juhász and a song of Ferenc Töke on the siege of Sziget, written in 1566 in Lendava. See Borsa, 'Rudolphus Hoffhalters Typographie', p. 32.

here to Juraj Zrinski, that he, Pergošić, wanted his work, 'to be printed by the printer of His Lordship [i.e. respectively Hofhalter and Zrinski], who was brought by His Lordship to the benefit and dignity of these few remnants of land [i.e. Croatia-Slavonia]'.¹⁴ Pergošić's statement permits the following sequence of events. First, Juraj Zrinski invited Hofhalter from Nagyvárád to this area, that is to Medimurje and to Nedelišće. Next, Hofhalter moved on to Lendava where he printed Kulčar's books. Finally (and as we will see), he returned to Nedelišće to print the *Decretum*.

In respect of the *Decretum*, it can hardly be coincidental that Rudolf Hofhalter's father, Rafael, had eight years earlier, in 1565, printed in Debrecen a Hungarian translation of Werbőczy's *Tripartitum*. The translation was done by Balázs Veres. Having arrived in Nedelišće, Rudolf printed a similar edition — a Slavonian translation of the *Tripartitum* in the kajkavian dialect. Rudolf inherited his father's printing works, which meant that the same letters and the same woodcut on the title page might be used in the Slavonian version as in the 1565 Hungarian edition.¹⁵ Even though settled on the Zrinski estates, the Hofhalter press retained its itinerant character, printing manuscripts in a variety of separate locations.¹⁶

Having briefly described the circumstances in the region and the background of the Hofhalter press, we will now turn to Ivan Pergošić, notary of Varaždin and translator of the *Tripartitum*. According to Pergošić's own words, 'Encouraged by some good people who seek the integrity and good reputation of their motherland, I took on this little task of translating the *Decretum* written by Istvan Werbőczy ... into the Slavonian language as best as I understood it, to benefit those wishing to read these books in

14 *Koiegha iaaz hotech vchiniti stampati Vassegha Ghošpocztua Stamparem koiegha Vasse Ghošpocztuo dopelia na korišt i na odychenie oueh neuolinih zauerseni h oštankou oršagha. Da od togha nye tottu potrebnou ghouriiti, Ier to vřaki koi ima kakou razum vydi daby to byl pravi fundamentum praue plemenite i ghošpoczke nature nořiti pařku na odychenie riechi Bosie, i na obrambu od nepriatelieu řuoie domouine: koterou chinu vasse ghošpocztuo gledaiuchi stořu dobra perua kerřtianřka ghořpoda chinyla. A akobi i na nikogha vasse ghořpocztuo ne ghledalo ima naasto doma ghledati na pokoinogha i řrechnogha řpomeneniāa i dobra ghlařa ghořpodina i occza řuoiegha Zrinřkogha Miklouussa, koi tem orřaghom i u Banřtue pořlussi, i u kraissniem Szigheczkom ghradu zeunoghimi kerscheniki i vitezi teh orřaghou polagh vere kerřtianřske i Czeřaroue řuetlořti kakoie Boghu bylo vghodno vmre.*

15 Borsa, 'Rudolphus Hoffhalters Typographie', p. 33; Georgijević, *Hrvatska knjiřevnost*, pp. 45–47.

16 The notion of a travelling printing house was introduced by Franjo Fancev in 1922 (Franjo Fancev, 'Počeci kajkavske knjiřevnosti i štampanje prvih kajkavskih knjiga', in *Jugoslavenska njiva*, VI, knj. 1, Zagreb, 1922).

Slavonian'.¹⁷ At the end of the book, in his address to the reader (*Lectori bono*) Pergošić also stated that '...in some places you will find some abbreviations in chapters, especially in those in which there was no need to translate from Latin into Slavonian, where I partly followed Balas Veres who translated this *Decretum* into Hungarian'.¹⁸

The *Decretum* was dedicated to Juraj Zrinski, and from the dedication it is plain that Pergošić and Zrinski knew each other well. Pergošić was highly appreciative of Zrinski, his deeds and his patronage. The book starts thus — 'To a great and powerful gentlemen, Lord Juraj Zrinski, Perpetual Count of Zrin, Tavernicus, Counsellor and Captain of the Illustrious Emperor and King in the Hungarian Land, he [ie Pergošić] wishes all the goodness of God to his merciful lord'.¹⁹ Pergošić's words may of course be taken at face value. He and his lord were engaged in a joint-activity the aim of which was to render the *Tripartitum* available in a language which might be understood by Zrinyi's Slavonian subjects. Nevertheless, a few issues remain which require clarification.

At the time of Hofhalter's arrival, Juraj Zrinski was only 24 years old. As Pergošić remarked, his father had died a hero's death before Sziget in 1566, when Juraj was only 17-years old. Juraj immediately had to take over the management of the family estates. By 1574, he had already spent eight years looking after a swathe of properties which stretched in an unbroken line from the Adriatic coast to Kőszeg in western Hungary. Moreover, in the same year, 1574, Juraj was appointed Supreme Captain of the Lower Hungarian Border and Captain of Kanizsa. Living up to his father's international reputation cannot have been easy. Juraj also held the

17 *Po opomeneny nekih dobrih liudi koiše sivoie domouine pochteniu i dobru ghlašu radiu: prieħ ta mal truud, da od Verbeczi Istuana popyšan Decretom (koteroghaie Lašlou krali otecz Laiussa kralia koterie na muhachu poghinul ghdaibše pyšalo od Bosiegha poroda 1514 leto zeuše ghospode i obchine volium poterdi) na šlouienški iezik kolikošamgha moghal razmeti išpysem, onem na hašan koteribi radi šlouenški te khnighe chtali.*

18 *Neghde ter neghde naides Titulusse okraachene, poimene v oneh pošleh koterih nie bilo potreбно zdiachkogha na šlouenško preobrachiati, vkomšam v nekih malih meštah Veres Balasa koterie na Wgherški iezik te Decretom pretumachil našledoual.*

19 *Velikomv i Zmosnomv Ghospodiniv Ghospodiniv Iuriv Zrinškomu vekouechnomu knezu, od Zrinia Czešaroue i Kralieue šuetlosti na Wgherškom oršaghu Tarnikmestru, Tolnachniku i Capitanu vše dobro od Bogha šuomu miloštiuomu ghospodinu selye.*

hereditary title of *Tavernicus*, which by now served a purely honorific purpose. He did not know Latin.²⁰ Indeed, it is probable that his schooling was rudimentary. So far, I have not been able to trace any evidence of regular education, although his younger brother, Nikola, was registered in the Law School in Padua in 1584, at the age of 25.²¹ Doubtless, the family needed a lawyer.

Juraj was not able to survey all his huge possessions by himself, let alone settle the many legal disputes that arose on properties that stretched along the contested Ottoman-Christian border from the Adriatic Sea to the Burgenland. He had to rely almost entirely on managers, although he did so reluctantly. In judicial matters, he often authorized his noble retainers to judge in his name acting in the capacity of his *locumtenentes*.²²

In the course of managing the Zrinski estates, both Juraj and his father resettled numerous subjects and *familiares* from their lost possessions in Pounje to Vas and Zala counties in western Hungary, where different customary provisions prevailed. At this time, moreover, the remnant of the Croatian-Slavonian kingdom was subject to large population inflows from the south-east. The Zrinski estates and Međimurje did not escape this immigration, as may be demonstrated by the large number of alien surnames, including the ethnonym 'Vlach'.²³ Often the newcomers were awarded privileges by noble landowners (for instance, tax exemption over a period of 12 years or more); others were removed entirely from seigneurial jurisdiction and permitted to retain their own customary law and institutions. Vinodol, a substantial maritime property of the Zrinski family, had for centuries had its own legal codes. The Vinodol law code

20 Croatian State Archives, *Arhiv obitelji Čikulini Sermage*, Kutija 79. 1.2. The letter is incorrectly dated in Emil Laszowski, *Izbor isprava velikih feuda Zrinskih i Frankopana*, Zagreb, 1951, pp. 15–16.

21 1584. 16. 8-bris. *Insani ferians scire cursus secundus dabit. Nicolaus Comes de Zrinio supr. Dedit coronatum: Endre Veress, A paduai egyetem magyarországi tanulónak anyakönyve és iratai (1264–1864). Matricula et acta Hungarorum in universitatibus Italiae studentium*, Volume 1 (Padua: 1264–1864), Kolozsvár, 1915, p. 92.

22 In' Krašić, on November 30, 1581. *Wa toy Prawdy zydyły zw w kipw* (my emphasis). *G[ospo]d[fi]na m[ilostivog] knez my Herendych I knez Jwray Hreljac*; at the bottom, Herendić signed with Glagolitic and Hreljac with Latin letters. See Ivan Kukuljević Sakcinski, *Acta Croatica - Listine hrvatske*, Zagreb, 1863, pp. 283–284.

23 See thus Drago Roksandić's paper delivered at the 'Triplex Confinium' international conference (given at Križevci, June 26–28, 2002): 'Ethno-confessional changes in the Križevci County and the Varaždin Generalate, 1450–1750' (forthcoming).

(*Vinodolski zakonik*) was first compiled in 1288. *Urburaria*, recording the obligations of the urban communities of Vinodol were revised and rewritten several times between the fifteenth and seventeenth centuries — always, so it would appear, at the instigation of the counts of Vinodol, respectively the Frankopan family and, after 1550, the Zrinski. ²⁴ These legal codes were all characterized by strong elements of Croatian customary law. ²⁵ Throughout the Zrinski's numerous properties, migration had the consequence of spreading a complex mosaic of different legal practices and customary laws. Juraj, who spent most of his time fighting the Ottomans, surely felt himself obliged to sort out this situation. In this respect, he probably welcomed the *Tripartitum* as a way of bringing order and legal homogeneity to his far-flung possessions and their diverse populations.

While Juraj Zrinski may not have been able to read the original Latin text of the *Tripartitum*, he did know Hungarian and thus it is quite possible that he was aware of the text through Veres's Hungarian translation. As a consequence, he invited Rudolf, the son of the man who had originally put Veres into print, to come to Nedelišće to print Pergošić's Slavonian translation. As we have seen, Pergošić's own words demonstrate this point. Moreover, we know that the Slavonian translation of the *Tripartitum* was not without legal consequence, but acquired — as indeed we have suggested was Juraj Zrinski's intention — a wider currency. The judicial protocols of Krapina, which were also written in the kajkavian dialect, include on at least two separate occasions statements taken from Pergošić's *Decretum*. Further research will doubtless yield other examples. ²⁶

We should, however, note one signal curiosity. Juraj Zrinski and his brother-in-law, Boldizsár Batthyány — a distinguished Hungarian nobleman, humanist, patron of the arts, and an old friend of Juraj's father — corresponded for decades, discussing a broad range of topics and everyday events and problems. Yet nowhere in their correspondence is there any reference to the translation and printing of books, of either a

²⁴ In 1574 the Zrinski brothers and Stjepan Frankopan sent commissioners to survey all possessions and towns in Vinodol. Thereafter, they issued their demand that *dijak* Mihalj Grandić should transcribe the decisions (*odredbe*) of Bernardin Frankopan as recorded in *stare i razdrte hartije* in order thus to preserve the laws of Bakar and Grobnik (*bakarske i grobničke zakone*). See Laszowski, *Izbor isprava velikih feuda Zrinskih*, p. 4. In 1605 a number of urburarial registers were transcribed once again (those of Grobnik, Hreljin, Drivenik, Grižane i Bribir): *ibid.*

²⁵ See thus the studies of Miho Barada, Nada Klaić and Lujo Margetić.

²⁶ Franjo Fancev, 'Beiträge zur historischen serbokroatischen Dialektologie', in *Archiv für Slavische Philologie*, 31, 1910, pp. 367–381 (p. 375).

secular or religious type. This is indeed odd, especially in view of the difficulties which Juraj encountered on account of the activity of the Tridentine bishop of Zagreb, Juraj Drašković, upon which he often remarked. ²⁷

In view of the above, it must still remain an open question whether Juraj had any larger plans for Pergošić's *Decretum*, beyond using this edition for his own purposes on the family estates in a vernacular version. Perhaps Pergošić's translation just came fortuitously to him. Perhaps he simply wanted to emulate the rich literary activity of Batthyány's court. ²⁸ In view of his life, it is quite reasonable to assume that he was simply too occupied with military affairs to plan anything more serious or long term in respect of the *Decretum*.

The history of Pergošić's *Decretum* suggests that our last observation may not be too far from the mark. Difficulties of language and text were evident even at the time of its printing. Of the five remaining copies of Pergošić's *Decretum* (one in Zagreb, four in Budapest), ²⁹ there were three different editions. Each was composed using different dialectal versions

²⁷ On Juraj Drašković, see Ivan Kukuljević Sakcinski, *Poviest porodice Draškovića Trakošćanskih*, Zagreb, 1887, p. 14; Klaić, *Povijest Hrvata*, 5, pp 665–667.

²⁸ Manlius first worked in Ungnad's print-shop in Urach. In 1562 he moved to Ljubljana and established his own printing house with the encouragement of Juraj Dalmatin. Although at first opposed by the Carniolan Estates, with Dalmatin's help he managed to print his first book in 1575. In 1580, the Counter-Reformation started in earnest in Carniola and Carinthia and the Archduke Charles began attacking Protestant printers. Nevertheless, having one of the few printing houses in the region, Manlius did not print only Protestant books. With the support of the bishop of Zagreb, Juraj Drašković, in 1578 Antun Vramec printed with Manlius his *Chronicle* in the Slavonian language, dedicating it to Slavonian Estates. In 1582 Manlius was expelled from Carniola and was invited to the court of Boldizsár Batthyány. In Németújvár (Güssing), he printed sixteen books. In 1585, Juraj Zrinski invited him to his court in Monyorókerék. Over the next two years, Manlius also travelled to Varaždin where he printed four books: the *Postilla* in two parts of Antun Vramec in kajkavian (1586), Pergošić's *Praefationes et epistolae dedicatariae* (1587), and a book by Blaž Škrinjaric, *De agno paschali* (1587). In 1587 he moved to the Zrinski estates. He worked until 1592/93 in Monyorókerék (14 books) and Deutsch Schützen / Njemačke Šice (12 books). These books were mostly in Hungarian. Thereafter he returned to Németújvár, and in 1597 he finally moved to the Nádasdy estates, at Sárvár and Deutschkreutz, where he died. See Alojz Jembrih, *Antun Vramec i njegovo djelo. Prilog proučavanju starije hrvatske književnosti i povijesne dijalektologije*, Čakovec, 1981, pp. 70–84, 242–245; Jembrih, *O Vramčevoj kronici*, Zagreb-Varaždin, 1992; Karl Semmelweis, *Der Buchdruck auf dem Gebiete des Burgenlandes bis zu Beginn des 19. Jahrhunderts (1582–1823)*, Eisenstadt, 1972, pp. 7–15.

²⁹ See the comprehensive study by Karlo Kadlec (1909), above, note 2.

of the same text: one more kajkavian part, an ikavian part, and a second or *koine* kajkavian part.³⁰ Linguistic analysis has offered some possible answers in regard to the origins of these dialectal forms and mixtures and I will briefly give the basic results of this research. According to the latest scholarship, the text in all three editions is the same after the 51st chapter. It is a kajkavian dialect taken from Moslavina region rather than from Međimurje. As Pergošić said in his Preface, he translated the text into *Slavonian*, not into the Croatian language, 'as best he understood it'. Up to the 51st Chapter of Book One, what we are actually reading is a mechanical ikavization of the text. This conforms to the language of the so-called 'Ozalj Literary Circle', which was that used both in the Protestant literature of central Croatia (also supported by the Zrinski family) and which was spoken by the people living south of Zagreb and the River Sava. This ikavization of the text was probably undertaken by someone from the area of Ozalj who knew the language, and not by Pergošić himself. According to Putanec's hypothesis, someone probably saw the kajkavian translation as a first draft and told Pergošić that people living south of the Sava would not understand it. Pergošić accordingly rewrote this part of the text.³¹

At the same time, however, Pergošić was probably aware that even his kajkavian was not 'standard' enough. He originated from Moslavina, had lived in Zagreb, and then moved to Varaždin. Each place differed in respect of its form of the kajkavian dialect. In a small part of the text, Pergošić even began to employ some sort of *koine* kajkavian redaction, although it is still not clear how the redaction actually worked.³² As there exist today only five preserved copies of Pergošić's *Decretum*, representing no less than three separate editions, we may conclude that the work was incomplete and tentative in respect of the forms in which it survives today.

Perhaps the work of editing and refining the text was never completed. Mihajlo Bučić, probably the first person to have been printed in Nedelišće, was excommunicated in 1574. A fierce post-Tridentine persecution of Protestants loomed, and Rudolf Hofhalter had to leave the area

30 Valentin Putanec, 'Jezik "Decretuma" (1574) Ivana Pergošića', *Hrvatski dijalektološki zbornik*, 6, 1982, pp. 269–277.

31 Ibid, pp. 269–277.

32 Ibid, pp. 274–276; Kadlec, 1909 (analysis of Juraj Polivka — see above: note 2); Putanec, 1983, pp. 333–334.

as soon as possible.³³ A letter of Maximilian II to Ladislav Bánffy, brother of Miklós, in February 1574 testifies to the intensification of religious conflict. Maximilian wrote that he had learned that there was a printer on Ladislav's estate in Lendava, who had been expelled from Transylvania for embracing the Arian heresy, but who persisted in printing and selling Hungarian heretical books.³⁴ Under this sort of pressure, Pergošić was probably obliged to finish his own work quickly and to submit his text to the printing house. If so, his haste was not unwarranted, for it would be thirteen years before the next printer, Manlius, came to Varaždin.

While it is certain that it was Juraj Zrinski and not the Bánffy family who invited Hofhalter and supported the printing of the *Tripartitum*, it is less sure who actually promoted the work of translation. Could it have been Juraj Zrinski or was Ivan Pergošić acting alone? In his foreword to the *Decretum*, Pergošić initially said that 'there were several good people' who urged him to translate the *Tripartitum*. In the next sentence he mentions Juraj, but solely in the context of bringing a printer to the area. If Juraj Zrinski had been behind the translation and had invited the printer, would Pergošić not have connected these two actions and attributed them both to Juraj? On the contrary, he clearly distinguished between the 'several good people' and Juraj Zrinski. It should be recalled that Juraj was a young gentleman with no established educational record at the time when the translation started, which might have even been begun several years before 1574.³⁵ So, who could those 'several good people' be? Was it Pergošić himself, modest enough not to mention himself as the initiator, but vain enough not to credit it to some other person by name? Or were they the people from Pergošić's immediate surroundings, the so-called 'Varaždin literary circle'?

33 Putanec, 'Jezik "Decretuma"', pp. 274–276. Mihael Bučić is mentioned as a priest (*plebanus*) without an office in the list of priests who participated in a synod of the Zagreb diocese held on 8 March, 1574. In addition to him, eleven priests from Međimurje were mentioned, and Belica and Turnišće parishes recorded as vacant. See the Archives of the Archbishopric of Zagreb (Nadbiskupski arhiv u Zagrebu), *Acta Ecclesiastica*, 8/25.

34 Bartolić, 'Nedelišće', p. 194.

35 I agree with Bartolić that Pergošić most probably began his translation before Hofhalter's arrival, possibly even several years earlier: Bartolić, 'Nedelišće', p. 196.

And who actually was Ivan Pergošić? Valentin Putanec³⁶ and Franjo Fancev have indicated some aspects of Pergošić's life and career. Basing his research on two charters from the Academy Archives in Zagreb, Putanec partially reconstructed Pergošić's family tree from the fifteenth century onwards. He established that Ivan Pergošić's predecessors were *praediales* of the bishop of Zagreb in Mikulinci.³⁷ They remained *praediales* until at least 1586 when we have the last written confirmation of their status by the bishop of Zagreb, Juraj Drašković. Putanec also pointed out that the language of the *Decretum* might be a version of the kajkavian dialect from Moslavina region and not from Međimurje or Varaždin.

According to Putanec's calculations, Ivan Pergošić was probably born some time after 1521 as a sixth child in one of the branches of the Pergošić family. Due to major Ottoman offensives in the second half of the sixteenth century, the village of Mikulinci and indeed the whole area was plundered and the Pergošić family was obliged to flee. It is not known where Pergošić acquired his education, but he became a *diak* or *litteratus*. We find him first in Zagreb, than in Varaždin. For a short time Pergošić was rector of the lyceum in Zagreb,³⁸ and some time after 1564 he came to Varaždin with his sister Agata. In Varaždin he began a judicial career and was connected to members of the 'Varaždin literary circle' such as Antun Vramec, Blaž Škrinjarić, Blaž Antilović and others. Many small clues, though mainly from the 1580s onwards, indicate that he was an influential member of this group.

Antun Vramec (1538–1588),³⁹ who was perhaps the most famous member of the Varaždin circle, published his *Chronicle* in 1578, which he dedicated to the Slavonian estates, and his two-part *Postilla* in 1586. Both

were composed in Slavonian. Vramec was generously supported by Bishop Juraj Drašković, who encouraged use of the vernacular and fought at the Council of Trent for the abolition of celibacy. After Trent, however, all printing in the vernacular was considered problematic and Vramec was attacked on account of his writing in Slavonian. He was even suspected of heresy. In the preface to his book, *De agno Paschali*, printed in 1587 by Manlius, Blaž Škrinjarić expressed fears for the reception of his own, anti-Calvinist writings in a situation where everything was viewed with suspicion, where even Vramec's work had run into disapproval, and where there were so many envious and malevolent people around.⁴⁰ The situation was such that any literary activity which was connected to Manlius or which set store on the use of the vernacular might be the subject of malicious tittle-tattle and even of the accusation of heresy.⁴¹ Pergošić also found himself in trouble on this account. In 'his'⁴² second book, *Praefationes et epistolae dedicatariae*, a commentary on the epistles of Erasmus of Rotterdam printed in 1587, Pergošić confessed that, 'he did not want to translate it into the vernacular as he did not want to have to experience the same ingratitude again'. For all this though, he again had it printed in the Protestant printing house of Joannes Manlius, although this was probably because Manlius's was the only press available.⁴³

It is not known whether Pergošić held office in Varaždin at the time when he was making his translation of the *Tripartitum*. Apart from the *Decretum*, where he is mentioned by date and name as the translator, information on him only starts to appear in 1581. In that year, Pergošić

36 Valentin Putanec, 'Porijeklo moslavačkih Pergošića i povezano s tim porijeklo kajkavskog pisca Ivana Pergošića', in *Čazma u prošlosti i danas*, Čazma, 1979, pp. 123–136.

37 A *praedialis* belonged to a category of vassal retained on the estates of church dignitaries who held a *praedium* (arable land, pastures, buildings). A *praedium* was awarded to free men, as an inheritable right in the male line. The vassal had a duty to serve under the flag of his benefactor. The right to award a *praedium* belonged to prelates in Hungary and Croatia. See Vladimir Mažuranić, *Pravno-povijesni rječnik*, 2, Zagreb, 1908–1922, p. 1089. Mikulinci is a now vanished village in the district of Ivanić in Moslavina, which used to lie between Božjakovina and Ivanić.

38 In *Monumenta historica liberae regiae civitatis Zagrabiae*, ed. Emilij Laszowski (vol. 16, Zagreb, 1939, p. 184), we find the following entry: 1564. *Solutio rectoris s(chole). FERIA secunda proxima post Quasimodo magistro Ioanni Pergwssych, qui seruiuit in officio rectoratus a festo Blasii, vsque festum Ascensionis domini, cui dedi flor. 3. den.*

39 He was born in Styria, studied in Rome and Vienna, and having made a successful church career as a canon of the chapter of Zagreb, married. On Vramec, see Jembrih, *Antun Vramec i njegovo djelo*; Jembrih, *O Vramčevoj kronici*; Vjekoslav Klaić, *Antonii Vramecz. Kronika*, Zagreb, 1908.

40 Franjo Fancev, 'Ein Beitrag zur Geschichte des Schrifttums in Kroatien', *Archiv für Slavische Philologie*, 34, 1913, pp. 464–483 (p. 469); Olga Šojat, 'Pregled starije hrvatskokajkavske književnosti', in *Kaj*, Nos. 9–10, Zagreb, 1975; Georgijević, *Hrvatska književnost*, p. 50; Kukuljević Sakcinski, *Poviest porodice Draškovića Trakošćanskih*, p. 14.

41 One should recall that at the Council of Trent even the highest members of the Catholic clergy (such as Andrija Dudić and Drašković) fought for the abolition of celibacy. Antun Vramec was married, and Dudić married later on in life. The relationship between the vernacular and heresy was only clarified at the Second Vatican Council.

42 Fancev, 'Ein Beitrag', pp. 468–469. According to Fancev, Pergošić should not be considered the author of the *Praefationes*, as this work is actually a compilation. See Fancev, 'Ein Beitrag', pp. 470ff.

43 Putanec, 'Jezik "Decretuma"', pp. 275–276. Pergošić in his *Praefationes* says, in *qua a Translatione in linguam domesticam ob id abstinere volui, ne similem gratiam, quae mihi in versione Decreti Trypartiti ab aemulis olim accidit, consequeretur*. See Fancev, 'Ein Beitrag', p. 469.

signed a charter as a notary (*notarius civitatis varasdiensis*) but it is not known when exactly he assumed this role.⁴⁴ In 1587, Škrinjarić occupied the position of a judge and Pergošić was referred to as *juratus civis* like Blaž Antilović and several others (*Georgius Flajlsman, Lucas Jakopchijch, Leonardus Pethrowijch Pileator, Franciscus Barber Zwerssijch*). During that period he was always referred to as a *testis judicis et auditor causarum*. In 1587 he participated in the distribution of Christmas gifts.

In 1587/1588 Pergošić went to Pozsony as *nuntius* of Varaždin with 'Zwerssijch'. Zveršić was judge of Varaždin in 1592, 1594, 1596 and again in 1600, the year of his death. (During his office, in 1592, he produced oath formulas in kajkavian). While Škrinjarić was *judex civitatis* from 1586, Antilović acted as his notary. Antilović became a judge in 1588/89.⁴⁵ Already in 1561 Blaž Antilović had translated the Rules of the Weavers' Guild from Latin into kajkavian.⁴⁶ After 1588, Pergošić was involved as a witness in a trial against Škrinjarić on grounds of his adultery. He died in 1591/92 as *notarius comitatus ex civitatis Varasdiensis*. Although married, he left no heirs and his property passed to his nephew, Tomo Šiprak, who was the son of his sister, Agata.⁴⁷

The biographical information given here indicates the people with whom Pergošić communicated.⁴⁸ In this circle of writers, lawyers and judges, Pergošić was prompted to publish something on his own. Perhaps he thought his *Decretum* might be widely used and thus would further his career. Possibly he even started to translate the *Tripartitum* as a way of launching his career in the Varaždin magistracy. A translation of the *Tripartitum* would in this respect serve to secure his reputation, which was exactly what he, as a newcomer to Varaždin, needed.

In respect of what we have seen, I would not connect the translation of the *Tripartitum* to Juraj Zrinski but instead, albeit tentatively, to Pergošić's own circle and to the particular circumstances prevailing among the intellectual elite in the city of Varaždin.

44 Putanec, 1983, p. 334; Putanec, 'Porijeklo moslavačkih Pergošića', p. 124.

45 Fancev, 'Ein Beitrag', pp. 472–475.

46 Putanec, 'Porijeklo moslavačkih Pergošića', p. 123.

47 Fancev, 'Ein Beitrag', pp. 472–475.

48 Valent Putanec has also drawn attention to the relationship between Pergošić and the leading Hungarian lawyer, Ivan Kitonić, who at one time owned one of the five extant copies of Pergošić's *Decretum*. See Valent Putanec, 'Kajkavski pisac Ivan Pergošić kao Varaždinac (novi prilozi za njegovu aktivnost u gradu Varaždinu i za njegove veze s pravnikom Ivanom Kitonićem)', in *Varaždinski zbornik*, Varaždin, 1983, pp. 333–337.

In Croatian historiography, the genesis of the Pergošić's Slavonian translation of the *Tripartitum* has been the subject of much debate. It has not yet been possible to find sufficiently reliable sources to enable us to resolve some outstanding questions concerning this text. By utilizing the results of other researchers as well as my own, I have sought to bring together what information we have, to present some of my own conclusions relating to the historical context in which the translation appeared, and to outline some of the possible motives of the main players. In summary, I consider that the translation owed its inspiration to Pergošić himself and to the immediate circle of Varaždin office-holders among whom he moved. Juraj Zrinski, owner of the huge Međimurje estate set beside the free royal city of Varaždin and patron of Protestant printers, only created the background against which the *Decretum*, as well as many other works, might be printed.