Following certain introductory remarks about historic Dalmatian towns and the importance of medieval statutes for the study of their urban development, the discussion focuses on the urban landscapes of Split and Dubrovnik and urbanistic norms in their thirteenth and fourteenth century statutes. For both towns the thirteenth century was indeed an epoch of spatial as well as legal consolidation. Economic and population growth led to the increase in their size and the defensive walls were extended in order to encircle the former suburbs. The most common type of dwelling in those areas were wooden houses. The study of the relevant data in the statutes and notary books enables us to determine the historical causes and legal practices that were essential for the prevalence of wooden houses as well as the diverse circumstances that contributed to the process of them being replaced by masonry houses, completed by the beginning of the fifteenth century.

**Keywords**: Dalmatia, Middle Ages, urban development, legislation, domestic architecture, Split, Dubrovnik.

In 1440 Filippo Diversi, a Tuscan from Lucca and an appointed teacher of a municipal school in Dubrovnik wrote that [in the town] “there are many very beautiful palaces and houses and that the houses looked as if they had been laid out and built with the same material, by the same builder at the same time”.\(^1\) An atmosphere of the homogenous, stone-built urban entity – which could be enjoyed

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by a visitor to any other major Dalmatian centre at that time – can still be soaked up today. One gains a similar impression of consistency and order while turning the pages of their medieval law books. At first glance they strike us – especially those such as myself who are not experts in matters of legal history – as homogenous structures.

However, in the study of urban development both the statutes and urban entities should be considered within the extended sequence of historical events – not just of those that preceded them and were contemporary with their shaping, but also of the posterior ones. Post-medieval modifications of urban as well as legal environments changed their content and meaning but, in general, to a much lesser extent altered their appearance. Up to the present day, despite the fact that they were outlined seven or eight centuries ago, the statutes and urban entities have kept the quality of abstract, if not metaphysical, symbols of a rationally organized urban life. Nevertheless, while “cross-examining” them in order to understand the issues of the historic town development, we should bear in mind that we are dealing with a complex, a multi-layered, and a composite body of evidence.

In the opening lines of his book on the art of medieval town planning in Tuscany (1953),2 Wolfgang Braunfels passionately praises the “noble beauty and high orderliness” (die edle Schönheit und die hohe Ordnung) of medieval Tuscan towns. Braunfels’ work is significant for my topic for two main reasons: the attention it devotes to the legislative aspect of medieval urban development and the fact that the world of medieval communes also included the historic towns along the East Adriatic coast. Their rich and diverse relations with the cities of the Apennine Peninsula were reflected particularly in resembling political systems and intensive exchanges of people and goods.

These fundamental facts are emphasized by Cvito Fisković in his study “Our urbanistic heritage in the Adriatic” (1958).3 Not only is he one of the pioneers of the systematic investigation of the documentary sources in Croatian art history, but he is also the first among his colleagues who focuses on the municipal statutes. In his view, the law books are a first-rate testimony to the medieval urban past in Dalmatia and, at the same time, are the proof of his thesis on the autochthonous nature of its town-planning phenomena. Stating that neither our architecture, nor urban development could have been imported; they grew out of our economic and social conditions [and were shaped] in conformity with local circumstances, Fisković opposed the scholars who claimed that any quality work in Dalmatian towns was the deed of foreign artists and architects. He never tries to deny their presence and/or influence, but persists in his idea that the medieval artistic heritage of the eastern Adriatic coast was predominantly created by native people. He

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also insists upon “collective authorship”: the makers of one of the most valuable segments of our cultural heritage, urbanistic ensembles of the Adriatic, were not just individual masters and architects but also the governments of our medieval communes.

In 1972, when writing on the occasion of the seventh centenary of the Statute of Dubrovnik, Milan Prelog, yet another distinguished Croatian art historian, argued that it was indeed the thirteenth century that was crucial for the consolidation of the Dalmatian towns, not only in terms of municipal legislation, but also in terms of spatial growth. The joining of older cores with the suburbs led to the definitive fixing of the boundaries within which the urban communities were to live until the beginning of the nineteenth century.

The consolidation was prompted by the profound changes that had originated in the field of economy which was, until then, predominantly agrarian. Reorientation towards commerce and crafts production resulted in a considerable rise in the trade with other communal centres and a notable increase in wealth, which was soon followed by the advent of new inhabitants, attracted by new possibilities. Both processes, each in its own way – the population growth and the intensification of contacts with other towns – made the compilation of the statutes a necessity. The existing (written or customary) legal rules had to be systematized in order to create a set of stable, transparent rules for the future and to guarantee legal security not just for the inhabitants, but also for the newcomers and foreigners. In fact, regarding the latter, the making of law books was a vital step in accomplishing the legal compatibility of Dalmatian communes and communal centres of the wider region.

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The corpus of the municipal codes of law of medieval Dalmatia consists of some fifteen communal statutes, all written in Latin and compiled in the thirteenth and the first half of the fourteenth centuries. From the viewpoint of the history of art, however, any effort to identify and single out “urbanistic norms” in those legal collections may seem methodologically problematic. The rules and regulations that can be taken into consideration – particularly those concerning the building discipline, communal order and the matters of ownership and possession – belong to different branches of statutory law, namely the property law, building law, criminal law etc. The most important ones, i.e. building prescriptions, are, in some cases, grouped together. For instance, the Fifth Book of the Dubrovnik statute


5 In that respect, the statutes can be seen as an outcome of the processes which began with the bilateral peace and friendship agreements between Dalmatian and Italian towns that guaranteed the subjects of one commune the same legal rights within the jurisdiction of the other.

6 The most comprehensive account of historic law books in Dalmatia is still the one by Ivan Strohal, Statuti primorskih gradova i općina: bibliografički nacrt, Jugoslavenska akademija znanosti i umjetnosti, Zagreb, 1911.
of 1272 includes diverse rules regarding urban development and construction in the new parts of the town. Similarly, in the Statute of Split – the Statutum vetus, composed in 1312, by the town potestate Perceval of Fermo (Percevalus Iohannis de civitate Firmana), and thus also known as “Perceval’s statute” – the Fifth Book is dedicated to “streets, fountains, bridges, buildings to be made and their supervisors”.

Needless to say, the terms used for what we perceive as matters related to the architecture and urban development in medieval Latin texts do not form a consistent glossary: a stable taxonomy for the area was non-existent. For instance, when it was decided to expand the defensive walls in the mid-thirteenth century Dubrovnik, the provision for the future development of the then suburb began with the following statement: Quia igitur, annuente Deo, urbi Ragusii alia nova civitas est adiuncta que burgus actenus vocabatur. Urbs is a term used for the older part of the town, whereas the new one, which used to be called burgus, is named civitas. Similarly, many other medieval Latin terms were used both in their generic and specific, context-dependent sense. Thus, via, ruga, strata or platea could mean any street, but also different kinds of open public spaces. The same could be said of ballatorium, solarium and balchio, the terms that were concurrently used for the (upper) floors, balconies or open terraces on top of buildings. Finally, there is also a number of locally used technical terms (e.g. amblitus longobardiscus in the Statute of Dubrovnik) that are a peculiarity of the region and are not self-explanatory.

To understand the meaning of terms and expressions related to the social and spatial realities that have since disappeared, it is necessary to get acquainted both with their general and specific contexts: the juridical and the spatial one. With regard to the latter, however, despite the first impression that the statutes offer a rather rich mosaic of data, a surplus of information is not likely to be found in the texts of single chapters. In actual fact, despite our expectations of the contrary, medieval statutory texts show minimum redundancy: the legislator is never as “eloquent” as we would like him to be nor does he, as a rule, explain the obvious of the period. The study of the similar source material, therefore,

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8 Ibid, p. 338: In quinto libro tractatur de viis, fontibus, pontibus et de edificiis faciendis et de suprastantibus ad ipsa edificia facienda. (...).
10 The same terms are still used in local dialects in a variety of meanings.
11 The Statute of Dubrovnik of 1272, o. c., Book V, ch. 2 (De domibus tectus quarum descendit versus montem), p. 210: Platee autem et domus que vadunt de oriente in occidentem, si de novo volueritfacere amblitum, faciant amblitum longobardiscum in se, qui habeat gradum unum de foris.
proves to be indispensable. When examined against similar texts from the wider Adriatic-Apennine area, the urbanistic rules of Dalmatian statutes become more comprehensible and many of them that might appear to be locally specific reveal themselves as *loci communes*.

Although the statutes, as well as the political systems of medieval Dalmatian communes do generally resemble, their thirteenth century urban forms, especially those of the habitat, were diverse, reflecting their different historical backgrounds. While the traditions of urban life in Zadar and Trogir go back to the times long before the advent of the Roman rule (1st c. BC), medieval Split, founded by the refugees from the nearby Roman colony of Salona in Late Antiquity, was created within the walls of the palace of Emperor Diocletian, whereas the two major urban centres of medieval origin – Dubrovnik and Šibenik – emerged from the positions without prior urban settlements.

However, as the Statute of Šibenik briefly states: “the laws and the statutes show the shape of current and future, not past affairs”. Accordingly, medieval Dalmatian statutes do not provide much information about the urban fabrics built before they were compiled. Generally speaking, municipal codes of law were aimed at the maintenance of the existing order, also in socio-political and spatial sense. Regarding the latter, by incorporating the rules of the old customary law the legislators intended to acknowledge the actual state of affairs in urban environment. In reality, in spite of the proclaimed sake of the common good, their primary concern was to protect individual and collective interests of the members of the legislative body: the urban nobility assembled in the Major Council.

Despite the fact that every Dalmatian medieval town had its own dynamics of spatial growth, it can be argued that the statutes of “new” centres contain more information on their urban development than those of the “old” ones. The defensive walls, street grids and the entire townscapes of the latter were predominantly fashioned by structures dating from the Ancient Roman and/or Late Antiquity period. On the other hand, when I mentioned the monolithic character – frequently perceived as impenetrability – of medieval law books, I mainly had in mind their primary corpora and, to be more precise, the fact that the times when particular provisions were enacted are not known. Their dates were not recorded and the dates of compilation (e. g. in Dubrovnik in 1272, in Split in 1312) in that sense remain merely *termini ante quem*. The laws that followed, however, were added in chronological order – systematized in the new books (usually entitled *Statuta nova* or *Libri reformationum*) or even, as is the case in Dubrovnik, entire

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12 Knjiga statuta, zakona i reformacija grada Šibenika / Volumen statutorum, legum et reformationum civitatis Šibenici, ed. Zlatko Herkov, Muzej grada Šibenika, Šibenik, 1982 (which includes the reprint of the 1608 edition, Venetiis, apud Nicolaum Morettum), Book III, ch. 39, f. 37r: (...) *leges et Statuta praesentibus et futuris, et non praeteritis prebent formam negotiis* (...).
new volumes\textsuperscript{13} – making it easier for us to orient ourselves in space and time. That is why, for example, the dynamics of the horizontal growth of Dubrovnik and Šibenik during the late thirteenth and the fourteenth centuries respectively can be, among other things, traced rather well in the provisions added to their statutes.

The substantial growth of population in the thirteenth century had diverse consequences for all Dalmatian urban centres, and the increase in their size was the most notable one. The town limits had to be extended and thus the new defensive walls encircled the former suburbs. Due to the need for as many new dwelling premises as possible, all available building surface was divided into rather small building lots that were to be rented. The areas of the former suburbs soon became replete with numerous houses which were modest in size and appearance and the rental value of the land increased considerably.

The documentary sources from the second half of the twelfth and the thirteenth centuries testify that the dwellings of the new townsfolk in the suburbs were largely made of wood.\textsuperscript{14} Their positions, number and density varied, depending on the size and features of a particular urban environment. Wooden houses were undoubtedly the dominant type of buildings in the suburbs of Trogir, Split and Dubrovnik.\textsuperscript{15} In Zadar – whose perimeter, inherited from Roman Antiquity, was

\textsuperscript{13} In 1335, the new law collection entitled The Book of All Provisions (\textit{Liber omnium reformationum}) was introduced, and includes the laws passed from 1305 onwards. In 1409–1410, it was substituted by The Green Book (\textit{Liber viridis}), and finally by The Yellow Book (\textit{Liber croceus}) in 1460, see Ivan Strohal, o. c., 60–89; Nella Lonza, “The Statute of Dubrovnik of 1272: Between Legal Code And Political Symbol”, in: \textit{The Statute of Dubrovnik} of 1272, o. c., p. 14.


by far the largest in Dalmatia – they are grouped in a limited, peripheral part of the urban ensemble.16

The full scale of the phenomenon of wooden housing can, perhaps, be best grasped in Dubrovnik, where the thirteenth century extensions more than tripled the surface of the inner town area. What one notices in the notary books of the late thirteenth century is indeed a striking proportion of wooden homes in the former burgus – the area which was later to become the very centre of the city.

Given that the Dalmatian Adriatic abounds in building stone, the phenomenon of wooden habitat intra muros in coastal urban centres was explained in the older historiography as a consequence of availability, i.e. lower price of (organic) material, and/or the limited financial and technological means of their builders. Moreover, a large number of wooden houses in certain quarters was interpreted by scholars as an indication or even the proof of social zoning. Although the aforementioned assumptions are plausible to a certain extent, the true reasons for the prevalence of wooden housing in the former suburbs should be sought elsewhere, namely in contemporary legal practices, the basic indications of which can be found in their normative parts: the statutes.

The law stating that the “wooden house adjacent to the stone house may not make prejudice to it” in the Statute of Split,17 shows that the two types of houses were considered as distinct categories of real property and that it was indeed the building material that made all the difference. Therefore, from the legal point of view, wooden houses were hierarchically inferior in comparison to the stone ones. An analogous, equally laconic law in Dubrovnik proclaims “that no wooden construction may imply [stable] possession or a stable terminus”.18

Apart from wooden houses (domus lignaminis), the Statute of Split also mentions huts (camardae), in the sense of provisory, most probably single-storey houses.19 The provision entitled De camardis regulates a legal relationship between their owners and the proprietors of the ground on which they were built.20 The dominus loci (or paratînë) was not authorized to arbitrarily change the stipulated

17 Statut grada Splita, o. c., Book VI, ch. 25 (Quod domus lignaminis non preiudicat domui lapidum), p. 766: Item statutum et ordinatum est, quod domus lignaminum adiuncta domui lapidum, nullo modo faciat preiudicium domui lapidum.
18 The Statute of Dubrovnik of 1272, o. c., Book V, ch. 11 (De laboreriis lignaminum), p. 212: Antiqua consuetudo est quod nullum laborerium lignaminis habeat possessionem vel terminum stabilem.
19 For reasons of public safety, it was expressly forbidden to build camardae on the strip of land along the city walls – Statut grada Splita, o. c., Book V, ch. 9 (Quod nullus ponat camardam sub muro burgi), p. 724.
20 Statut grada Splita, o. c., Book VI, ch. 26 (De camardis), p. 768: Item statutum et ordinatum est, quod siquis posserit camardam in loco alicuius, dominus loci non possit expellere eum, nec conturam mutare, nisi ipse absque licentia domini mutauerit tectum, vel furcas ipsius camarde; excepto, si dominus locum pro se, vel pro domo sua habere voluerit,
amount of the lease paid for the land (contura) or expel the owner of the building, unless the latter carried out major repairs (such as replacing the roof or wooden beams of the construction) without his prior consent. If the owner of the ground had the intention to use it for his own or the needs of his family and/or as his home, the value of the building had to be estimated and its owner remunerated. The same constraints applied to whoever bought the ground.

To those who want to gain a thorough understanding of the aforementioned rules, the notary books of Dubrovnik offer certain particularly useful information. The notarial acts reveal that, in the last quarter of the thirteenth century, the majority of wooden houses (domus lignaminis, cappanae) were owned by the people who did not possess the building ground underneath. Regardless of the nature of legal transaction (sale, mortgage, inheritance), apart from the house owners, the owners of the ground (territoria) were also recorded: private persons, religious institutions or the commune. For all these, the lands in the recently adjoined burgus were an important source of revenue. Apparently those possessions had been divided into building lots even before the burgus became civitas nova. In the law regulating the division of patrimony between brothers, in the 1272 Statute of Dubrovnik, they were labelled as a distinct category of real property – terrena prope civitatem.21

Similarly, there is no doubt that the general rule— that the intrinsic legal status of buildings intra muros was determined by the building material they were made of – had been established long before the law books were compiled. The chapter of the Statute of Dubrovnik I have been referring to above,22 explicitly states that this was an “old custom” (antiqua consuetudo), i.e. that it was taken over from the traditional, customary law. In actual fact, the corresponding legal practices in Split and Dubrovnik demonstrate the permanence of an Ancient Roman rule of property law – superficies solo cedit or: “the surface yields to the ground”. Namely, according to the principle of accessio, the structures above the ground belonged to the owner of the ground unless they were of moveable nature. In other words, the houses made of wood (domus lignaminis) or other organic material (camardae/capannae) were not recognized as stable (i.e. real), but moveable property.

In order to protect the legal status of their owners, the solution that was adopted was a long-term lease of the building lots, during which the lessee (the person who built a wooden house on somebody else’s land) enjoyed certain real rights. Not only was he legally entitled to sell, mortgage and bequeath it, but he

\[\text{tunc lignamen examinetur, seu extimetur et quantum examinatum fuerit, dominus paratinee sibi componat et camardam in se recipiat. Et similiter teneatur qui ipsum locum emerit.}\]

21 The Statute of Dubrovnik, o. c., Book IV, ch. 79 (De divisione patrimonii inter fratres facienda, et partium assignacione post divisionem, et eciam inter sorores), p. 208: (…) Si fuerint fratres volentes inter se patrimonium dividere, iunior, id est minor frater, sive sit clericus sive laicus, teneatur dividere domos, casilia, staciones, furnos, tam de lignamine quam de petra, terenera prope civitatem, ortos et molendina ad suam velle. (…).

22 See note 18.
also had the right not to be expelled (except under the specific, aforementioned conditions). In addition, during the lease term the amount of lease (paid annually) could not be arbitrarily raised by the owner of the building lot. According to the notarial acts of Dubrovnik, single building lots (*territoria*) were rented for longer periods of time (usually 6, 12 or 20 years). If the term expired and the lease agreement was not extended, the owner of the house was obliged to take it apart and leave the site in immaculate condition.

Although the technical terms relevant to the matter in the statutes of Split and Dubrovnik are somewhat different, it should be emphasized that they refer to the same physical realities. Thus *paratinea* (in the Statute of Split) is an equivalent to *territorium* (in Dubrovnik), *camarda* to *domus lignaminis*; *dominus paratineae* (or *dominus loci*) to *patronus territorii*; *dominus camardae* to *patronus domus*.\(^{23}\) Hence both owners – the one of the ground as well as that of the house – are called proprietors (*domini, patroni*).

Therefore the nature of the discussed legal arrangement can be defined as an *emphyteusis* – which is essentially similar to a long term lease of agricultural lands, a practice also attested in Split and Dubrovnik. *Emphyteusis* was not a medieval invention, but a legal concept that had emerged in late Roman law and was further developed in Byzantine legislation.

Due to the importance of its effects on urban landscapes, the legal practice concerning wooden houses included several implicit corollaries that should be particularly emphasized. Notwithstanding the fact that some wooden (movable) houses might have actually been built by the owners of the land, (for their own purposes or to rent), all stone (immovable) ones belonged to the owners of the ground, because it was only them who were legally entitled to build them. Thus a large proportion of wooden housing in former suburbs shows that the proprietors of the building lots were seldom interested in such investment. In its mere appearance the stone house was therefore an unambiguous sign that its owner was also the proprietor of the land beneath since he was the only one who had the *ius edificandi*.

When we, therefore, read the Dubrovnik law which – allowing the inhabitants in Burgus to keep the victuals in their homes – expressly states that the wine could

\(^{23}\) Domestic architecture within the walls of Dalmatian towns can not be reduced to merely two main types. As regards *camarda* (in the Statute of Split), it was probably a generic name for buildings made of organic material, covering not just huts, but also single-storey wooden buildings, the ones that are in Dubrovnik called *cappanae*. The term, however, can not be found in the Statute of 1272; thus the term *cappanae* was probably covered by the syntagm *domus lignaminis*. Non-masonry houses mentioned in the sources also include those made of straw (*domos de palea*) as well as those partly made of dry stone and partly of wood (*domus partim de maceria et partim de lignamine*); the legal status of the latter was seemingly equal to masonry houses. Furthermore, masonry houses often had some structural parts, sometimes the entire upper floor(s), made of wood (*domus partim de muro et partim de lignamine*).
not be stored elsewhere but in the houses built of stone, we should not interpret it as the concern of the commune for the quality of wine. Its goal was, on the contrary, to protect the interest of the owners of the ground, mostly the wealthiest citizens and members of well-established patrician families, since it was exclusively them who could possess stone houses in that part of the town.

Wooden houses eventually vanished from the Dalmatian urban landscapes and were replaced by the stone ones. Although the dynamics of the process varied from one town to another, the principal concern was a common one: wooden houses were doomed to disappear mostly because they posed a major security risk. Thomas Archdeacon of Split – who witnessed the attack of the enemy troops in 1243, during the war between his hometown and nearby Trogir – wrote that on that occasion in the suburb of Split, apart from some twenty stone houses, five hundred wooden ones were destroyed by fire.

The stages of the progressive elimination of wooden houses are best documented in Dubrovnik, where the sequence of restrictive provisions regarding the material of the buildings within the city walls can be traced back to the 13th century, from 1272 onwards. Conceivably, all preventive measures provided by the laws, i.e. reformationes passed in the Major Council, were provoked by the specific incidences of fire. Apart from many small-scale ones, two particularly devastating conflagrations deserve to be singled out: the great fire of 1296, and the equally disastrous one of 1370.

In the Statute of 1272, there were no restrictions concerning wooden buildings. It was, however, forbidden to build straw houses. The fire of 1296 that

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24 The Statute of Dubrovnik, o. c., Book VI, ch. 27 (De victualibus que possunt haberi in burgo), p. 238: Cum post constructionem muri burgus pro civitate habeatur, statuimus: quod habitantes in burgo possint ibidem tenere victualia, vinum autem ibidem habere non possint, nisi habentes domos lapideas, id est de petra: illi enim possint habere vinum ad voluntatem suam; ch. 38 (De hiis qui tenent vinum in burgo), p. 244: Quicunque in burgo tenerit vel vendiderit vinum, exceptis illis qui habent domos lapideas, id est de petra, solvat yperpera duo pro banno, et vinum ipsum stampanetur, cujus banni medietatem habeat accusator.


27 The Statute of Dubrovnik, o. c., Book VI, ch. 57 (De palaeariis), p. 254: Domos de palea infra muros civitatis nullus facere possit.
turned the best part of urban surface into *tabula rasa* enabled the municipal authority to implement a town development plan on an unprecedented scale. Although prescribing the regular shapes of the building blocks – with double rows of houses, separated by the streets of equal width – the provision enacted by the Major Council, only three weeks after the fire, contained no limitations regarding the building material for the dwellings.28 Nevertheless, ten years later, the wooden projecting parts of the houses, which were until then explicitly tolerated,29 were forbidden. In other words, in 1306, the owners of the houses with wooden jutties and balconies were given eight days terms to remove them, and from then on the jutties and balconies had to be made of masonry.30

The fire fighting provision of 1309 clearly shows that wooden houses (or wooden parts of those which were partly made of stone and partly of wood) were indeed considered the most dangerous.31 The provision prescribed that in case of fire emergency all adult males should run to a fire scene. Shoemakers and furriers were obliged to carry buckets of water, while carpenters and caulkers were supposed to bring their axes. Moreover, in order to facilitate the demolition of houses, the officials of the commune were ordered to buy a hundred and twenty axes and distribute them evenly among the six town *sexteria*. It was strictly prohibited to take one’s possessions from a house in flames and, regarding the potential risk of damage, the commune promised to reimburse the owners of those that had to/ were to be destroyed.

A comprehensive legal reform that proved to be crucial for the fate of wooden houses began with a series of provisions passed in Major Council in 1367.32 From then on, if somebody showed their interest in building a masonry house instead of a wooden one on a communal land, the value of the existing house had to be estimated by the town officials. Actual owners were given priority: anyone will-

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29 Jutties are explicitly mentioned in the Statute of 1272 – *The Statute of Dubrovnik, o. c.*, Book V, ch. 1 (*De gayfis et coquina*). The owners of multi-storey houses were allowed to make jutties, i.e. extensions attached to the facade, but liquids were not to be spilled from them.
ing to replace his wooden building was to receive a sum equal to its value, paid by the commune. Otherwise he was obliged to clear the building lot whereas the financial compensation had to be paid by the highest bidder, i.e. the person who made a commitment to build a masonry house and offered the highest price for the lease of the building lot at a public auction. The new dwellings had to be covered with tiles and completed over a period of five years. Moreover, those who wanted to build stone houses on communal lands – above St Nicholas Street (in the sexterium of St Nicholas, in the northern part of the town) – were guaranteed, by the commune, that their rights to the lease would be perpetual.

Three years later, on the aftermath of the great fire of 1370, it was absolutely prohibited to build any new wooden houses within the city walls. Only those that were not structurally damaged, i.e. that needed not their beams or their roofs replaced could be repaired.

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33 Ibid: (...) captum fuit quod si quis voluerit laborare supra terreno comunis, ubi erit edificata aliqua domus lignaminis, quod illa domus debat extimari et solvi patrono dicte domus, et si patronus noluerit dare pro illa extimacione, quod debat auferre suum ligneamen et expedire dictum terrenum communis, et ista extimacio debet fieri pro domo, quam extimationem debet solvere ille, qui incantaverit dictum territorium.

34 Ibid: Item in dicto consilio captum fuit, quod quicunque acceperit de dicto terreno communis ad laborandum infra quinque annos inde proxime futures, debet laborasse suum laborerium de muro et coheoperuisse de cuppis sub pena solvendi yperperos V pro quolibet passu ultra affectum quem solveret comuni pro dicto terreno, donec coheoperuerit dictum laborerium.

35 Ibid: In maiori consilio (...) captum fuit, quod terrena communis, que sunt supra viam sancti Nicole usque ad frates minores, dari beaent ad affectum in perpetuum pro edifficacione domorum lapidis et calcis.

36 Liber omnium reformationum civitatis Ragusii, o. c., Pag. XV, ch. 10 (De domibus lignaminis non construendis et cetera), pp. 85–86: MCCCLXX die XXVIII Maii. In maiori consilio (...) captum fuit et firmatum per omnes quod a modo in antea intra muros Ragusii nullibi possit fieri nec dehinc aliqua domus lignaminis, sic in loco combusto sicut non combusto, sic communis sicut aliarum personarum et ecclesiarum.

37 Liber omnium reformationum civitatis Ragusii, o. c., Pag. XV, ch. 11 (De domibus lignaminis repeçandis), p. 86: Sed domus lignaminis que sunt a domo Crisse versus hostariam a via sancti Nicolai inferius versus plateam, lacerate qui sunt occasione ignis, possint repeçiari exceptis duabus domibus lignaminis iuxta hostariam que sunt supra plateam, que debent diruinari in terram et fieri de muro lapideo. Et omnes domus lignaminis que sunt intra civitatem sic in burgo sicut in omni alio loco, ita communis sicut omnis alterius persone exceptis domibus supradictis, debeant uti et frui usque ad voluntatem domini tali modo quod in nulla dictarum domorum debet nec possit mutare travatura vel furchame de novo nec tabule pro faciebus et portis et fenestris, sicut opus possit repeçiari et tectum repeçiari, sed non coperiri de novo. (...) The tolerable extent of the damage in the Dubrovnik law of 1370 brings to mind similar restrictions imposed on the owners of wooden houses in the Statute of Split of 1312: in particular those regarding the lifespan of the structures. Thus time was on the side of the owner of the ground and there can be no doubt that the common rule – according to which the wooden house could not be repaired structurally without his consent – originated in ancient customary law.
Striving to minimize the risk of future fires, the decisions of the Major Council passed between 1370 and 1372, absolutely in line with those of 1367, brought a definitive end to an ancient rule of the customary law – the one concerning the legal status of the buildings whose investors did not own the ground beneath. The initiative was (again) headed by the commune that had possessed nearly all of the land to the north of the main street (Platea). Provided that they committed themselves to building masonry or dry-stone houses, the owners of the wooden houses on communal lands, which had been burnt out, were promised to keep their positions, i.e. their rights to the building lots. What is more, they were to be exempted from rent during a ten year period, after which the amount of rent would not exceed the amount that had been paid before the fire.

In addition to finding finances, a campaign intending to replace the (moveable) wooden houses with the (unmoveable) masonry structures, however, raised another major question, that of legal nature. Contrary to the previous legislation, which was aimed at protecting the owners of the (wooden) houses, the new circumstances emphasized the need to protect the rights of the owners of building lots. The only possible solution was to create a new kind of public record registers.

The Minor Council was therefore made responsible for establishing a detailed inventory concerning the territoria owned by the commune. The records were supposed to contain the exact data on the position and size of any building lot, the name of the lessee and the amount of the annual rent (affictus) paid. The practice was immediately followed by other proprietors of the land – churches or

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38 Liber omnium reformationum civitatis Ragusii, o. c., Pag. X V, ch. 12 (De domibus construendis), pp. 86–87: Item omnes illi quorum domus combuste fuerunt super terreno communis, si voluerint facere domos de muro vel de macerie quibus super terreno communis, ubi habeant domus lignaminis que combussit, debeant esse franchi et non solvere affictuum communi pro dicto terreno usque ad X annos proxime futuros. Et finitis X annis debeant solvere comuni pro dicto terreno illum affictum quem solvunt ad presens. (...).


40 The register of communal real property made in 1382 begins with the following words: Questo e lo libro delli terreni et delli affecti delli terreni del comun de Ragusa, del borgo sovra la via et della Plaça, in lo qual se contene chi tene quelli terreni et case et quanti passi sono et quanto pagano. The volume (of which only the first eight leaves survive) was subsequently replaced with new ones covering the periods of 1417–1449, 1449–1481 and 1481–1722, see: Irena Benyovsky Latin – Danko Zelić, “The books of communal real property and the system of rent of the Dubrovnik Republic”, in: Knjižne nekretnine dubrovačke općine (13–18. st.) / Libri domorum et terrenorum Communis Ragusii deliberatis ad affictum (saec. XIII-XVIII) I (Monumenta historica Ragusina VII/1), ed. Irena Benyovsky Latin and Danko Zelić, Hrvatska akademija znanosti i umjetnosti, Zavod za povijesne znanosti u Dubrovniku, Zagreb–Dubrovnik, 2007, pp. 85–94.
religious institutions (Bishopric, Cathedral chapter, monasteries), confraternities as well as private persons.

Furthermore, the older law demanding that all real estate sales should be “publicized throughout the city and the publication recorded in the communal book”, was supplemented in 1372. All future proclamations and sales contracts concerning the masonry houses that “are built and will be built” on the lands of either the Commune, Church or private persons, were to include the precise data about the owner of the land and the (annual) amount of the rent paid.\textsuperscript{41}

The campaign was apparently successful: by 1406, within the walls of Dubrovnik, there were less than two hundred wooden houses left. Thus in the same year the Major Council decided that a list of all wooden houses in the town should be made and that in each of the following years twenty-five wooden houses, chosen by lot, should be destroyed.\textsuperscript{42} Among the owners, those who agreed to build a masonry house were to receive, by the commune, a substantial subsidy, the amount of which depended on the position of the house. Between 1406 and 1412, at least one hundred and seventy-five wooden buildings were destroyed; the list of the remaining ones, made in 1413, included merely seventeen houses.\textsuperscript{43}

Although the procedure of eliminating wooden houses was probably not applied elsewhere as methodically as it was in Dubrovnik, by the beginning of

\begin{footnotes}
\item[41] *The Statute of Dubrovnik, o. c.*, Book V, ch. 35 (*De preconiçacione rei que vendi debet*), p. 222: (...) *quod que domus de lapidibus et calce edificate sunt et que de cetero edificabuntur super territorio comunis vel ecclesiariurn vel aliarum spetialium personarum, que solvunt affectum pro territorio, si venduntur, debeant vendi et banniri secundum ordines et statuta aliarum possessionum stabilium, cum quibus alia stabilia venduntur et banniantur. Et quod in dicta venditione debeat contineri, super quo territorio fuerit dicta domus et quantum solvitur de affectu; et tam si continetur in dicta venditione cuius sit territorium et quantum solvitur de affectu dicti territorii, quam etiam, si non continetur, illis qui habent ius in dicto territorio nichil preudicet dicta venditio et bannitio, sed semper sit salvum ius ipsorum de territorio prelibato* (...).

\item[42] *Liber viridis*, ed. Branislav M. Nedeljković, Srpska akademija nauka i umetnosti, Beograd, 1984, ch. 118 (*De domibus lignaminis destruendi et de novo non faciendis in Ragusio*), pp. 84–85: (...) *captum et firmatum fuit per LX dictorum consiliariorum quod cum in civitate Ragusii reperiantur multe domus de lignamine pro quibus ignis intrante in una magnum periculum ignis portaret tota civitas. Ideo ad obviandum periculo quod incurere posset occasione dictarum domorum, quod omnes domus que reperiantur de lignamine in civitate Ragusii totaliter dirui debeant per modum infrascriptum. Et quod de cetero aliqua domus non possit hedificari de lignamine intus civitatem Ragusii, salvo fiant de lapidibus vel de macere. Et quia diruendo omnes ipsas domos in unum tempus multum gravarentur pauperes persone habentes ipsas domos, quod dicte domus diruendo ponantur ad sortem que primo dirui debeant et que postea per intervalum, in sex aut plures cetulas secundum quantitatem domorum que reperientur, ad domos vigintiquinque pro cetula, ponendo nominata quorum et in quo sextero sunt dicte domus et quolibet anno a nunc incipiendo trahatur una ex dictis cetulis donec fuerunt tracte. Et secundum quod eveniet per tezeram sors dictis domibus, sic quolibet anno dicte viginti quinque domus in cetula tracta contente debeant dirui infra unum annum a die quo fuerit tracta dicta cetula. (...).

\end{footnotes}
the fifteenth century the number of wooden buildings had significantly reduced everywhere: the remaining ones could only be seen in the towns’ peripheral quarters. The provisions concerning wooden buildings were not removed from the statutes, notwithstanding the fact that they were to be subsequently altered and, to a certain extent, purged.

The legislation related to wooden houses is, however, not the only example of how the statutes kept a certain surplus of information. A chapter in the Split Statute of 1312, for instance, contains a provision regarding the removal of the (not necessarily wooden) houses obstructing the defensive walls. Each of the future counts was obliged, during his term, to buy at least one of them on behalf of the commune, i.e. to remunerate its owner, and then see that it was demolished. When, in 1395, Michael, a friar from Split, translated the Statute into Italian, he noted, in the margin beside the aforementioned chapter, that the ordinance made no sense any more, because the task had been accomplished a long time before.

The fact that many comparable, i.e. out-of-date provisions were not removed from the statutes provokes some thought: what role did they play? In an attempt to answer that question, I shall quote Milan Prelog who asserts that the thirteenth century statutes and the contemporary urban structures are “a testimony of diverse attempts to define the town as a specific form of social collectiveness”. Undoubtedly, they were to serve as the reminders of the times when the foundations of the spatial order were laid by the commune. The communal sovereignty would remain undisputed only in Dubrovnik, the only major centre on the East Adriatic that managed, from 1358 onwards, to stay outside the Venetian realm.

The fifteenth century urban landscape of Dubrovnik that was praised by Filippo Diversi disappeared in 1667, in the most disastrous earthquake in town’s history. In the aftermath of the catastrophe several proposals for the new town plan were presented. Although they were better suited to the needs of the seventeenth century urban population, they were turned down and the main features of the town plan – the perimeters of the blocks and the street grid – remained basically intact, in full accordance with the aforementioned provision of 1296.

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44 Statut grada Splita, o. c., Book V, ch. 33 (De emendis domibus extra civitatem), p. 772: Item statutum et ordinatum est, quod rector, qui pro tempore fuerit, teneatur omni anno de domibus, qui sunt extra civitatem iuxta murum civitatis, a monasterio sancti Benedicti usque ad turrim Duymi Johannes Dobrulli emere pro communi adminus unam domum et ipsam demolire et diruere usque ad fundamentum ita quod locus dictæ domus remaneat plathea. Et si pro competenti precio dominus domus ipsum dare nollet, quod non possit in ipsa habitare.


46 Grga Novak, o. c., p. 488.
In actual fact, along with the subsequent collections of laws that had been compiled over the centuries, the Dubrovnik Statute of 1272 remained valid until the fall of the Dubrovnik Republic in 1808. The same applied to the statutes of the centres that, in the first decades of the fifteenth century, became parts of the Venetian commonwealth. In the treaties signed with Zadar, Šibenik, Trogir, Split etc., the Venetian authorities explicitly acknowledged their old municipal legislation. The recognition of Venetian supremacy was, however, immediately followed by the process of purging the municipal law-books. It was guided, to paraphrase Antun Cvitanić, a distinguished scholar of the statutory law of Split, by “both the principle of legality and the principle of opportunity”. In other words, the only laws that were removed were those which were politically unacceptable. Since the provisions that were related to the physical aspects of urban environments were politically irrelevant, the purging of the statutes was, for them, a rather merciful act.

Moreover, despite the fact that the legal systems of Dalmatian towns saw important changes under Venetian rule, it was until 1797 – when Napoleon’s conquests brought it to an end – that their statutes officially remained in force. Over the centuries, however, the law corpora had become increasingly complex and, inevitably, the importance of the medieval statutes in legal practice had steadily diminished. The same can be said of the patrician elites of Dalmatian towns, assembled in the municipal legislative bodies. The great councils were not dismissed although their effective political power significantly decreased.

The case of wooden houses definitely shows that the matters of the past were not necessarily removed from the statutes. Although they were subsequently (but not substantially) altered, purged and supplemented, they were eventually fossilized. As the principal bearers of historical memory of the times when the communes were the sole legislators, the Dalmatian statutes and the urban landscapes each in their own right turned out to be a certain type of conserved historical monuments.

Ultimately, during the long centuries of Venetian domination, the members of the Dalmatian urban elite showed growing public concern for local historical memory preserved in old books of laws and privileges as well as in the physical aspects of their hometowns. Thus the two major types of medieval “artefacts” –


48 Based on the local initiatives, the statutes of all Dalmatian towns under Venetian domination (with the exception of Split) were published in print in Venice between 1564 (The Statute of Zadar) and 1708 (The Statute of Trogir), see Ivan Strohal, o. c., pp. 5–6.
the legal ones and their physical counterparts, the urban landscapes – were greatly admired and fostered as the tangible remnants of the glorious, communal age.

DRVENE KUĆE U STATUTIMA I URBANIM PEJZAŽIMA SREDNJOBROĐAČKIH DALMATINSKIH GRADOVA

Sažetak

Filip de Diversis zapisao je godine 1440. da u gradu Dubrovniku “ima mnogo prelijepih palača i kuća, te da se dubrovačke kuće doimaju kao da su zasnovane i izgrađene od iste građe, od istog graditelja i gotovo u isto vrijeme”. Toskančev doživljaj kompaktnog kamеног grada, koji je u to doba nedvojbeno mogao osjetiti i posjetitelj bilo kojeg drugog dalmatinskog urbanog središta, blizak nam je na neki način i danas. Sličan dojam zaokruženosti i monolitnosti stječemo i kada listamo stranice njihovih komunalnih statuta, sastavljenih u drugoj polovici 13. i prvoj polovici 14. stoljeća, istodobno kada im i povijesne jezgre bivaju urbanistički definirane u opsezima koje će zadržati sve do početka 19. stoljeća.

Ovaj je tekst posvećen drvenim kućama koje su – prema podacima u vrelima – u vremenu postanka gradskih statuta tvorile glavninu stambenog fonda u predgrađima urbanih središta poput Trogira, Splita i Dubrovnika, nedugo prije okruženima novim gradskim bedemima. Premda su se s vremenom prorijedile i postupno, uglavnom do prvih desetljeća 15. stoljeća, išezle iz gradskih prostora, drvene su se kuće zadržale u njihovim komunalnim statutima. S obzirom na općenitu važnost te vrste izvora za istraživanja povijesti srednjovjekovne gradogradnje, u uvodnom dijelu ističu pionirski prinosi Wolfganga Braufelsa posvećeni gradovima na jednoj strani Jadrana te Cvite Fiskovića i Milana Preloga onima na drugoj.

O fenomenu drvenih kuća u gradovima raspravlja se ponajprije na temelju vijesti o građevinama u Splitu i Dubrovniku u drugoj polovici 13. i prvoj polovici 14. stoljeća. Analiza podataka u izvorima pokazuje kako je brojnost drvenih kuća u tamošnjim urbanim ambijentima u najužoj vezi s činjenicom da je glavnina građevinskog zemljišta u recentno priključenim predgrađima bila u vlasništvu uskog kruga imućnih pojedinaca, crkvenih ustanova ili komunalnih vlasti. Nije prijeporno da su ti posjedi svojim vlasnicima donosili znatne prihode, kao ni to da su prostori predgrađa bili podijeljeni na čestice i iznajmljivani za gradnju kuća i prije vremena u kojem ona postaju sastavnim dijelovima gradova. Činjenica da se u dubrovačkim notarskim spisima pri svakom spomenu drvenih kuća, bez obzira na prirodu pravnog posla, uz ime vlasnika kuće bilježi i vlasnik zemljišta govori da su na unajmljenim građevinskim česticama građene isključivo drvene
kuće. U tekstu se ishodišta i razlozi te pojave pokušavaju promotriti polazeći od relevantnih zakonskih normi zapisanih u statutima.

Premda se u Dubrovačkom statutu iz 1272. i Splitskom statutu iz 1312. drvene kuće spominju na više mjesta (najčešće kao domus lignaminis, u Splitu i kao camaradae), pozornost prije svega treba obratiti na odredbe kojima se definira njihov položaj u odnosu na kamene kuće: quod domus lignaminis non preiudicat domui lapidum u Splitskom, odnosno quod nullum laborerium lignaminis habeat possessionem vel terminum stabilem u Dubrovačkom statutu. Iz njih je moguće zaključiti da je pravni status građevine bio striktno vezan uz njezin fizički aspekt (materijal kojim je građena), pri čemu su, razumljivo, kamene kuće imale viši hijerarhijski status. Odgovor na pitanje o podrijetlu takve prakse, tj. “nejednakoosti” kamenih i drvenih kuća, nalazimo u spomenutom poglavlju Dubrovačkog statuta, gdje se izričito tvrdi da je posrijedi bio stari običaj (antiqua consuetudo). U obama je gradovima zapravo vrijedilo rimsko pravno načelo superficies solo cedit, prema kojem je vlasništvo nad zemljištem podrazumijevalo i vlasništvo nad građevinama koje su na njemu stajale. Od tog su pravila, međutim, bili izuzeti objekti pokretne naravi, a upravo su takvima – ne nekretninama, nego pokretnom imovinom – smatrane drvene kuće. Onaj tko bi unajmio građevinsku česticu i na njoj podigao drvenu kuću bio je, naime, po isteku ugovorenog roka dužan svoju kuću rastaviti i osloboditi građevinsko zemljište.

Premda su termini koji se u latinskim tekstovima komunalnih statuta rabe za građevinske čestice i drvene kuće u Splitu (locus ili paratinea; camarad) različiti od onih u Dubrovniku (territorium; domus de lignamine), nije prijeporno da se odnose na iste realitete. Važno je, također, primijetiti da se i onaj koji je iznajmio građevinskih česticu i onaj koji je na njoj izgradio kuću nazivaju vlasnicima: u Splitu – dominus loci i dominus camaradae; u Dubrovniku – patronus teritorii i patronus domus. Njihovi su međusobni odnosi bili uređeni zakonskim propisima. Za trajanja najma vlasnik zemljišta nije smio svojevoljno povisivati godišnju novčanu naknadu niti raskinuti ugovor, osim u nekim specifičnim, izričito nabojenim slučajevima. Ako bi se, primjerice, prije isteka ugovorenog roka naumio sam nastaniti u kući ili u nju smjestiti nekoga iz svoje obitelji, vlasniku kuće bio je dužan isplatiti iznos u visini njezine procijenjene vrijednosti. Vlasnik kuće, pak, nije smio na njoj izvoditi opsežnije popravke (mijenjati krov ili nosive dijelove konstrukcije) bez pristanka vlasnika zemljišta.

Ugovori o najmu građevinskih čestica za gradnju kuća sklapani su na dulje vrijeme; prema dubrovačkim izvorima najčešće na 6, 12 ili 20 godina. Interes vlasnika zemljišta bio je pritom zaštićen spomenutim načelom superficies solo cedit prema kojem je isključivo on imao pravo na gradnju trajnog, kamenog ili zidanog objekta (ius edificandi). S druge strane, najmoprimca, tj. vlasnika drvene kuće od samovolje vlasnika zemljišta štitili su posebni, već spomenuti propisi, a uživao je i stanovita stvarna prava; svoju je građevinu mogao založiti, prodati ili ostaviti u nasljedstvo. Taj se pravni odnos može stoga okarakterizirati kao po-
dijeljeno vlasništvo ili *emfiteuza*. Posrijedi nije srednjovjekovno iznašašće, nego pravni koncept razvijen u kasnorimskom i bizantskom pravu. Osim za građevinska zemljišta, slična su pravila vrijedila i za dugoročni najam agrarnih čestica – praksu također posvjedočenu u dubrovačkim i splitskim izvorima – tijekom kojeg je najmoprimac uživao stanovita vlasnička prava vezana uz rezultate svoga rada, primjerice vinograde ili voćnjake koje je zasadio na tuđem zemljištu.

Premda je gradnja drvene kuće neprijeporno iziskivala manje novčanih sredstava, odabir materijala za gradnju, drugim riječima fizički aspekt svake pojedine kuće, nije proizlazio iz imovinskih prilika, staleške pripadnosti ili dostupnosti materijala, nego upravo iz vlasničkih odnosa. Brojnost drvenih kuća pokazuje stoga, među inim, i to da vlasnici zemljišta u predgrađima – pripadnici gradske elite, crkvene ustanove i komunalne uprave – nisu bili zainteresirani za investiranje u gradnju kamenih kuća. Ne treba isključiti mogućnost da su neki od njih na svojim zemljištima podizali vlastite drvene kuće, ali u najvećem broju slučajeva drvena je kuća bila nedvosmislen znak da njezin vlasnik nije vlasnik zemljišta, tj. da je građevinska čestica na kojoj se nalazila bila unajmljena.

U završnom se dijelu teksta raspravlja o okolnostima koje su utjecale na postupno nestajanje drvenih kuća iz prostora dalmatinskih gradskih središta te se ukratko, na primjeru Dubrovnika (budući da je taj proces ondje najbolje dokumentiran), izlažu podaci o zamahu i dinamici tih promjena te njihovim pravnim aspektima – pojava novih zakonskih rješenja kojima su definitivno istisnute dotadašnje pravne norme, nedvojbeno zasnovane na običajima starijim od vremena postanka statuta. Nadalje, na temelju nekoliko primjera iz višestoljetne povijesti zajedničkog “dugog trajanja” statuta i urbanističkih cjelina ukazuje se i na činjenicu da su tim “artefaktima” stvorenm u 13. i 14. stoljeću kasnija povijesna zbivanja mijenjala sadržaj, funkcije, pa i smisao, ali ne i (srednjovjekovni) oblik. Stoga se – polazeći od misli Milana Preloga o tome da su i statuti i urbanističke cjeline iskazi raznovrsnih nastojanja da se grad definira kao specifičan oblik društvenog zajedništva – u zaključku iznose nanaljena i na činjenici da su te dvije vrste spomenika, nastale u vremenu komuna, do danas ostale najvažnije, ne samo samo tvari, nego i apstraktni, gotovo metafizički simboli povijesnog identiteta urbanih zajednica jadranske Hrvatske.