

## Czech Medieval Codifications: The Code of Vladislav (1500)

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*Legal culture in the Czech lands was based on customary law. The nobility did not trust codification efforts of the Bohemian kings Přemysl Ottokar II and Wenceslaus II. Wenceslaus' codification efforts were finally executed only in the sphere of special laws. Charles IV, King of Bohemia and Roman Emperor, tried to publish the Maiestas Carolina code in 1355. The last law code was written under King Vladislav II Jagiellon in 1500 ("Vladislavské zřízení zemské" / "The Code of Vladislav"). The essay follows the article "Czech Codifications in the High Middle Ages" published in 2014 and closely introduces the Vladislav Code.*

Key words: Czech medieval law; Bohemia; codification; the Code of Vladislav

### I. Introduction

For centuries, legal culture in the Czech lands was based on customary law, appended with the rulers' law-making acts. The nobility did not trust the rulers' codification efforts that emerged in the last third of the thirteenth century (the kings of Bohemia Přemysl Ottokar II and Wenceslaus II). Another attempt to codify Bohemian land law came in the mid-fourteenth century: Charles IV, King of Bohemia and Roman Emperor (1346–1378), tried unsuccessfully to promulgate a code written in Latin (Maiestas Carolina, 1355). Just like Wenceslaus II, he met with resistance from the nobles and the bill failed to become a valid legal code.<sup>1</sup>

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<sup>1</sup> Krafl, P. (2014). Czech Codifications in the High Middle Ages. In Maffei, P. – Varanini, G. M. (eds.). *Honos alit artes. Studi per il settantesimo compleanno di Mario Asheri. Il cammino delle idee dal medioevo all'antico regime. Dirrito e cultura nell'esperienza europea*. Reti Medievali E-Book 19/III. Firenze, pp. 237–244; Bláhová, M. (2006). Počátky kodifikace zemského práva v Čechách [Origins of codification of the land law in Bohemia]. In Barciak A. (ed.). *Kultura prawna w Europie Środkowej*. Katowice, pp. 80–81; Malý, K. V. (ed.) (1994). Kodifikace – mezníky právních dějin [Codifications – breaking points in the history of law]. *Prameny a nové proudy právní vědy*, nr 14. Praha, pp. 44–46.

The negative attitude of the Czech aristocracy to writing an official land law changed under the rule of Vladislav II Jagiellon (1471–1526) in the 1480s. The higher aristocracy – the nobility – sought restoration of their positions in the state diminished by the Hussite revolution. The revolutionary accomplishment of the Hussite movement was the establishment of the active participation of royal towns in the Bohemian land assembly. This newly-gained status of towns became a target of attack by the nobility; codification of the land law was to be used as a tool. The Code of Vladislav was established in 1500.<sup>2</sup>

## II.

The Code of Vladislav is the last code of the Bohemian medieval period (hereinafter referred to as VC).<sup>3</sup> The connection of codification with the nobles' efforts to eliminate the political role of royal towns has already been mentioned. The idea to restrict the rights of royal towns reappeared in 1484, when the towns' complaint about the denial of the third vote in the land assembly resulted in the king and his council's appeal to submit the privileges which confirmed the third vote. The towns, however, found no convincing argument to support their case and no privileges were conferred. The noblemen realized that by accentuating the purely legal aspect of the conflict, they could easily deny towns the third vote. An official collection of the land law, which would evidently specify nothing about the towns' political rights, would constitute a concerted attack from juristic positions. Moreover, as the nobility frequently pushed even royal power into the background in the fifteenth century, this initiative would strengthen its position against the king. The political benefits of the code were so great that they overshadowed the nobility's traditional distrust of codification and the fear of the restriction of their right to freely make the law. Moreover, in a situation in which the municipal court

<sup>2</sup> Malý, K. V. (ed.) (1994). *Kodifikace – mezníky právních dějin*, pp. 47–48; Janišová, J. – Janiš, D. (2016). *Moravská zemská zřízení a kodifikace zemského práva ve střední Evropě v 16. a na začátku 17. století* [Moravian law codes and the codification of provincial law in Central Europe in 16th and at beginning of 17<sup>th</sup> century]. Praha, p. 51.

<sup>3</sup> Editions: Palacký F. (ed.) (1862). *Zřízení zemské království českého* [Law code of the Kingdom of Bohemia]. Archiv český, Vol. 5. Praha, pp. 5–266; Kreuz, P. – Martinovský, I. (edd.) (2007). *Vladislavské zřízení zemské a navazující prameny (Svatováclavská smlouva a Zřízení o ručnicích)*. Edice [The Code of Vladislav and related sources (St. Wenceslaus' Covenant and Constitution on Rifles). Edition]. Dolní Břežany. Kreuz, P. (2001). *Edice zemských zřízení a ústavně historických pramenů k dějinám českých zemí v raném novověku (1500–1619)* [Editions of law codes and constitutional historical sources on history of Czech Lands in Early Modern Times]. In Malý, K. – Pánek, J. (eds.). *Vladislavské zřízení zemské a počátky ústavního zřízení v českých zemích (1500–1619)*. Praha, pp. 267–269, 278–280.

as the supreme judicial forum had not worked since 1437, a demand to strengthen the legal order and stabilize the judiciary became acute.<sup>4</sup>

In 1487, both of the higher estates (the higher nobility and the lower nobility) proposed an initiative to compile the findings of the land court and the privileges in a code. However, only a register of the noblemen's traditional demands towards the king and the royal towns was produced.<sup>5</sup>

The nobility revived the issue of creating a code at the May 1497 land assembly. There, among other things, a resolution to compile and print old and new findings from the land court in a single public book was adopted. The assembly approved a number of articles, from which a large proportion (about two thirds) were adopted in the VC. The towns threatened to boycott the land assemblies; the noblemen took advantage of this and started to invite the royal towns to the assemblies only when it suited them. The towns' resignation did not pay off; the creation of the law code became an exclusive and undisturbed matter for the noble and knightly estates. In 1499, Vladislav II summoned the lords and knights to Prague Castle to look at the findings of the land court and choose articles necessary for the codification. The selection was entrusted to an editorial commission of seventeen members. At an assembly held in Prešburg (in old Czech Prešpurk, today Bratislava) in the first half of November 1499, the commission members submitted several sets of older and newer findings from the land assembly and land court (the so-called *Zuostanie prešpurské*). The Code of Vladislav was finally completed in 1500. A land assembly held in March 1500 approved the completed manuscript, appended it and recommended it for printing. The main contributor to the final version of the manuscript was Albrecht Rendl of Oušava, assisted by Petr of Šternberk and Zdeněk of Šternberk.<sup>6</sup>

The final elaboration of VC proceeded without heed to the towns' opinions. The authors of the text gave the right to make decisions on issues of an all-land importance at the land assembly only to the higher and lower nobility (together with the king); in *Zoustanie prešpurské*, the right had explicitly been given to all three estates. The royal towns were to make decisions only in matters that concerned them. Representatives of the nobility did not even care about the king's

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<sup>4</sup> Martinovský, I. (2001). Vznik a počátky Vladislavského zemského zřízení [The origin and outset of Vladislav's Code]. In *Vladislavské zřízení zemské a počátky ústavního zřízení v českých zemích (1500–1619)*, p. 87.

<sup>5</sup> Martinovský, I. (1979). Okolnosti vzniku Vladislavského zřízení zemského [Circumstances of the origin of Vladislav's Code]. *Ústecký sborník historický*, p. 109; Martinovský I. (2001). Vznik a počátky, p. 88; Janišová, J. – Janiš, D. (2016). *Moravská zemská zřízení*, p. 51.

<sup>6</sup> Martinovský, I. (1979). Okolnosti vzniku, pp. 118–121; Martinovský, I. (2001). Vznik a počátky, pp. 89–90; Janišová, J. – Janiš, D. (2016). *Moravská zemská zřízení*, p. 53; Vinař, O. (1997). Albrecht Rendl z Oušavy [Albert Rendl of Oušava]. *Heraldika a genealogie*, vol. 30, nr 3–4, pp. 163–166.

approval in the final edition of the code. The king resided in Hungary; he did not come to Bohemia and the editors did not bother to submit the final proposition to him. They were sure of his approval and did not regard it necessary.<sup>7</sup>

The main content of the code is the procedure in the land court, its verdicts, the protection of the court, and the enforceability of its verdicts. There are also provisions on the lower land court, the chamber court, the court tribunal, and the burgrave court. VC pays great attention to the land officials, but is not much concerned with lower components of the administration (on a regional level). Little attention is paid to holding assembly sessions. In private matters, we find provisions regarding family law (the position of woman, widows, and orphans, and guardianship), the right of heritage (escheat, testament, fellowships, *nedil*), and obligatory law (property liability, out-of-court repossession, pledges, immovable collaterals). The criminal law specifies punishments for criminals and the competence of the nobility and royal towns. The clergy was subject to various restrictions in procedural law and property law. Many articles in VC deal with the serfs and have, of course, a restrictive character.<sup>8</sup>

As regards the form and origin of the individual articles, the VC is a collection of court findings, parliamentary resolutions and royal recounts, mostly performed at assemblies. The formulation of the individual articles is based on the so-called general findings and special findings (the general findings had a general binding, were abstractly formulated, and involved a permanent regulation of specified legal relations; the special findings were court verdicts in particular cases). The wording of the special findings was modified and adapted to the form of general findings. Three hundred and seventy-eight findings were adopted in VC; two thirds include their time of origin. Of these findings, more than one hundred originated between 1496 and 1500, another hundred between 1485 and 1495.<sup>9</sup> The characteristic features are superficiality and a lack of system. Some of the articles appear twice, in identical or almost identical wording. Articles in the original version of VC are not

<sup>7</sup> Martinovský, I. (1979). *Okolnosti vzniku*, p. 121; Martinovský, I. (2001). *Vznik a počátky*, p. 90; Janišová, J. – Janiš, D. (2016). *Moravská zemská zřízení*, p. 53.

<sup>8</sup> Martinovský, I. (1979). *Okolnosti vzniku*, pp. 123–124; Kreuz, P. – Martinovský, I. (edd.) (2007). *Vladislavské zřízení zemské a navazující prameny*, pp. 49–50; Janiš, D. (ed.) (2005). *Práva a zřízení markrabství moravského z roku 1545 (Pokus moravských stavů o revizi zemského zřízení)*. Historický úvod a edice [The law and code of the Moravian Margraviate of 1545 (The Moravian Estates' attempt to revise the law code). Historical preface and edition]. *Prameny dějin moravských*, Vol. 9. Brno, p. 38; Malý, K. (2001). *Ochrana vlastnictví ve Vladislavském zřízení zemském* [Protection of property in the Code of Vladislav]. In Malý, K. – Pánek, J. (eds.). *Vladislavské zřízení zemské a počátky ústavního zřízení v českých zemích (1500–1619)*. Praha, pp. 207–215.

<sup>9</sup> Janiš, D. (ed.) (2005). *Práva a zřízení markrabství moravského*, p. 37; Janišová, J. – Janiš, D. (2016). *Moravská zemská zřízení*, pp. 54–55.

numbered. They were numbered in 1527 by Roderik Doubravský, who translated them from Czech into Latin for Ferdinand I., King of Bohemia.<sup>10</sup>

The entire VC was read and approved by attendees of a land assembly held in February 1502; an entry in a memorable register read that it was approved by the king, who approved of it on his own behalf and on behalf of his chamber, which also incorporated the royal towns. The towns were not invited to the assembly. The Code of Vladislav was an officially drawn-up collection of laws; it only became a code after the king's authorization and the ruling of the Bohemian land assembly in 1502.<sup>11</sup>

### III. Conclusion

Codification efforts contradicted the essence of Bohemian law, which was customary. Adoption of the king's written code would have limited the role of the nobility in forming the law and making the law at the land court. The nobles were provoked by the fact that it was to be exclusive. The initiative of Charles IV thus failed.

In the end, the actual nobility initiated establishment of the law code in the 1480s. The motives behind their initiative were purely political. The last code of the Bohemian medieval period and at the same time the first valid law code was the Code of Vladislav. This codification stood at the beginning of a new epoch in which law codes played the role of a basic source of law, unlike in the preceding centuries, when law books, private compilations of customary law, were essential. Nevertheless, the resistance of towns to the Code of Vladislav, its imperfection, and dynamic juridical development soon led to the need for its extension.

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<sup>10</sup> Kreuz, P. – Martinovský, I. (edd.) (2007). *Vladislavské zřízení zemské a navazující prameny*, p. 48; Janišová, J. – Janiš D. (2016). *Moravská zemská zřízení*, p. 56.

<sup>11</sup> Martinovský, I. (2001). *Vznik a počátky*, pp. 90–91; Kreuz, P. – Martinovský, I. (edd.) (2007). *Vladislavské zřízení zemské a navazující prameny*, pp. 51, 54.