

PARLAMENTOS:  
A LEI, A PRÁTICA E  
AS REPRESENTAÇÕES  
Da Idade Média à Actualidade

---

PARLIAMENTS:  
THE LAW, THE PRACTICE AND  
THE REPRESENTATIONS  
From the Middle Ages to  
the Present Day

---



UNIVERSIDADE DE COIMBRA

---



2



CEHC  
CENTRO DE ESTUDOS  
INTERDISCIPLINARES  
DO SÉCULO XXI  
DA UNIVERSIDADE DE COIMBRA

Título / Title Paramentos: a Lei, a Prática e as Representações. Da Idade Média à Actualidade

Parliaments: the Law, the Practice and the Representations. From the Middle Ages to the Present Day

Coordenação Científica / Scientific Coordinators Maria Helena da Cruz Coelho e Maria Manuela Tavares Ribeiro

Edição / Publisher Assembleia da República - Divisão de Edições / Publishing Department

Tradução / Translation Anouk Torres e Zara Almeida

Revisão / Revision Helena Alves e Sónia Nobre

Fotografias / Photography Pedro da Silva

Design Nuno Timóteo

Paginação / Pre press Undo, Lda.

Impressão / Printing Fernandes & Terceiro

Tiragem / Print run 600 exemplares / copies

Depósito Legal / Legal Deposit 321 212/10

ISBN 978-972-556-551-3

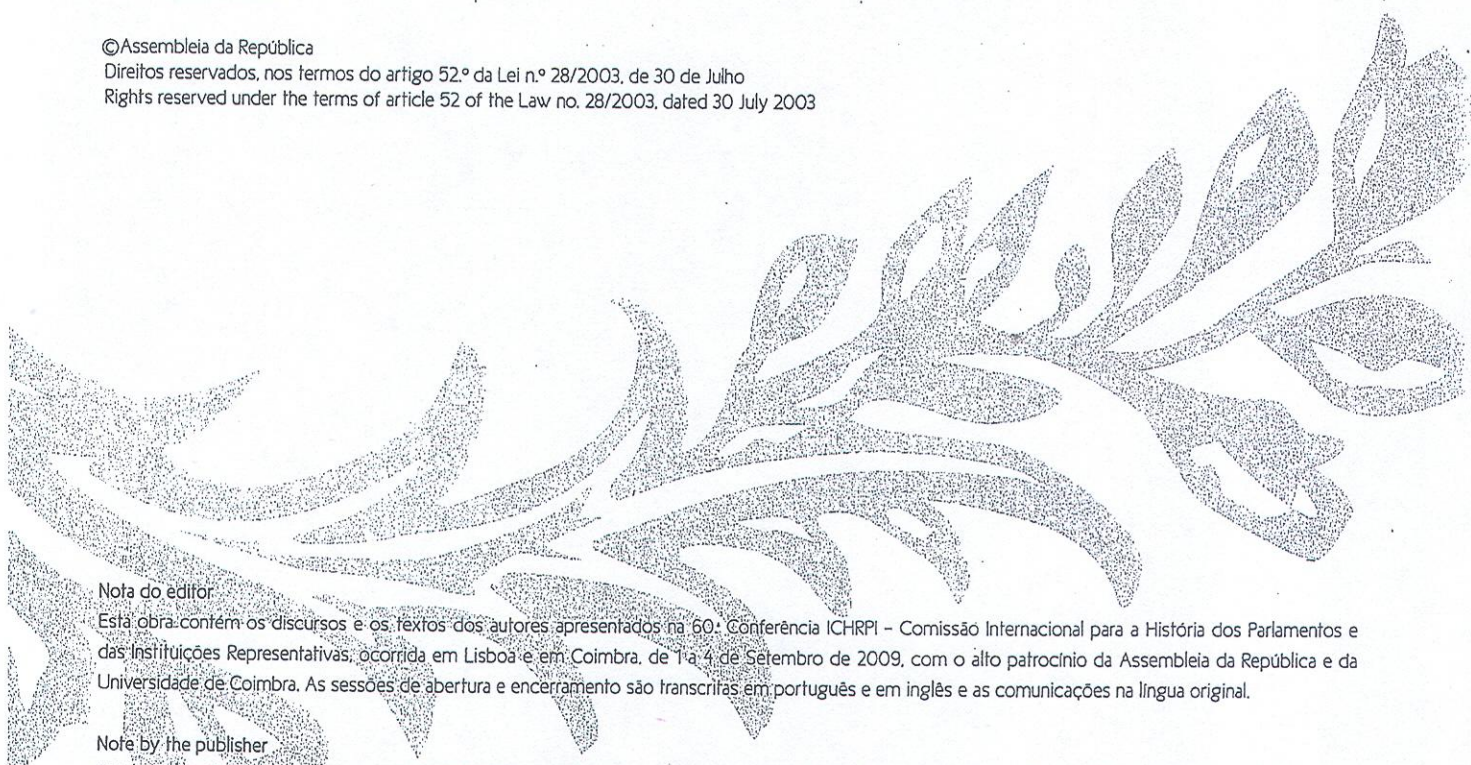
Lisboa, Dezembro de 2010

Lisbon, December 2010

©Assembleia da República

Direitos reservados, nos termos do artigo 52.º da Lei n.º 28/2003, de 30 de Julho

Rights reserved under the terms of article 52 of the Law no. 28/2003, dated 30 July 2003



**Nota do editor**

Esta obra contém os discursos e os textos dos autores apresentados na 60.ª Conferência ICHRPI - Comissão Internacional para a História dos Paramentos e das Instituições Representativas, ocorrida em Lisboa e em Coimbra, de 1.ª a 4.ª de Setembro de 2009, com o alto patrocínio da Assembleia da República e da Universidade de Coimbra. As sessões de abertura e encerramento são transcritas em português e em inglês e as comunicações na língua original.

**Note by the publisher**

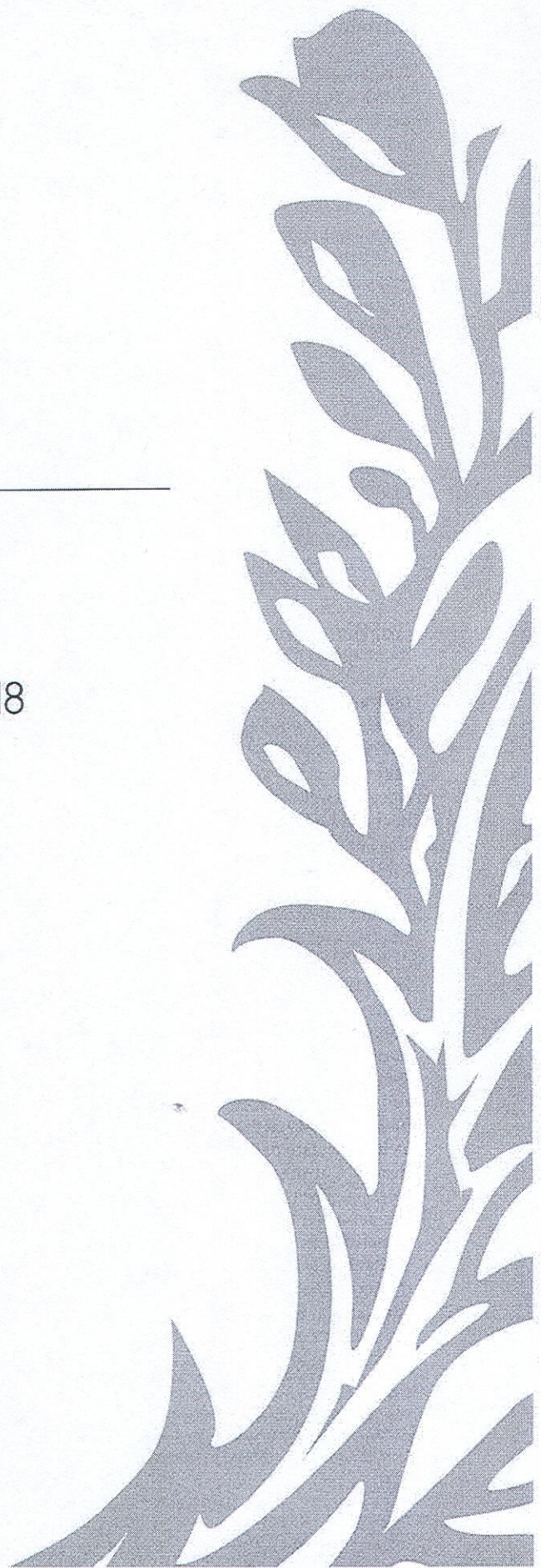
This book contains the speeches and the texts presented by their authors in the 60 International Commission for the History of Representative and Parliamentary Institutions (ICHRPI) which took place in Coimbra from the 1<sup>st</sup> to the 4<sup>th</sup> September 2009 under the high patronage of the Assembly of the Republic and the Coimbra University. The opening and closing sessions are transcribed in Portuguese and English. The presentations are written in the original language.

Dalibor Čepulo

University of Zagreb

---

CENTRALISATION, MODERNISATION  
AND NATION-BUILDING IN CROATIA  
AND SLAVONIA: REFORMS  
OF THE COUNTY SYSTEM 1848-1918



## Introduction

The period from 1848 to 1918 in Croatia and Slavonia was a time which saw the establishment of modern institutions and the formation of modern Croatian national identity. While this process was partly based on traditional foundations, it was influenced by a complex set of factors and it developed in non-linear fashion.

The nation-building process partly intertwined with the establishment of modern institutions and an important part of this process was administrative reform. It was particularly the reforms of the county system that were important due to the role of counties in the Croatian political tradition. The regulation of a small number of towns, on the other hand, was of lesser importance in a land that was insufficiently developed.

As many as six reforms were undertaken from 1850 to 1886, which swung from traditional autonomy and decentralisation to subordination and centralisation. However, despite the range of different reforms and their political contexts, the common denominator of these reforms was nonetheless a tendency toward centralism.

## Croatian autonomy, system of government and local government

The Kingdom of Croatia and Slavonia was an autonomous part of the Kingdom of Hungary from the 12<sup>th</sup> century until 1918. Its autonomous position was rooted in the fact that at the beginning of the 12<sup>th</sup> century the empty throne of the independent Kingdom of Croatia was occupied by the royal Hungarian Arpád dynasty following a compromise between the Croatian aristocracy and the new king. This distinct Croatian political subjectivity remained until 1918 and was based on the institution of the *Ban*, i.e. the highest executive official acting as a deputy of the king, and the legislative *Sabor* (Diet) of the Croatian aristocracy.

The Croatian territory underwent significant changes through history. The territory of the former Kingdom of Croatia included historical regions of Croatia, Dalmatia and Slavonia but the continuity of the autonomous power was preserved only in the Kingdom of Croatia and Slavonia. The coastal region of Dalmatia was annexed by Venice at the beginning of the 15<sup>th</sup> century but from 1797 to 1918 Dalmatia became an Austrian province, after an intermediate period of French rule from 1805 to 1813. Apart from this, at the end of 16<sup>th</sup> century a large part of the Croatian-Slavonian territory that bordered the Ottoman Empire was put under the administration of the Austrian military authorities as the *Militärgränze* (Military Border). This territory was gradually reintegrated into Croatia and Slavonia through the second half of the 19<sup>th</sup> century, ending in 1882, when the Croatian-Slavonian territory enlarged from 23.363 km<sup>2</sup> and a population of 1.194.415 in 1880 to 42.352 km<sup>2</sup> and a population of 2.168.410 in 1890.<sup>1</sup>

<sup>1</sup> For reviews of the constitutional and legal development of Croatia, see Dalibor Čepulo, *Autonomy, dependence and modern reforms in Croatia-Slavonia 1848-1918*, in *Separation of powers and parliamentarism*;

From 1848 onwards, the Kingdom of Croatia and Slavonia (hereafter: Croatia and Slavonia) underwent several changes of its constitutional framework. In 1848, it declared a break of all relations with Hungary but was soon subjected to the central government in Vienna during a period of so-called "false constitutionalism" from 1849 to 1851, as well as during the period of absolutism from 1852 to 1860. In the period of provisory constitutionalism from 1861 to 1867 Croatian institutions were partly restored, but the land was still governed from Vienna till the Austrian-Hungarian Compromise in 1867. It divided the Habsburg Monarchy in two halves and Croatia and Slavonia were defined as part of the Hungarian half. The sub-dual Croatian-Hungarian Compromise of 1868 set up a stable basis for Croatian autonomy in the framework of the Hungarian state, but it still assigned certain control functions to the "central government" (i.e. the Hungarian government).

The traditional local government system of Croatia and Slavonia was based on counties (*županije*) that enjoyed an extensive autonomy developed through the centuries. In 1848 there were six counties, but in the reforms that followed their number varied between five and eight. The territory of the counties was principally determined historically; after the last reform in 1886 their size varied between 2.412 km<sup>2</sup> and 7.049 km<sup>2</sup> with populations between 190.978 and 445.510 (1890).<sup>2</sup>

The traditional structure of power in the counties remained unchanged after the abolishment of feudalism in 1848 despite the change of its social basis, which extended political rights from aristocracy to the local population. The county head (*župan*) was appointed by and subordinated to the king and he presided over executive board that consisted of local clerks. However, power was actually concentrated in the County Assembly which, after 1848, represented the local population (although it was composed only of tax payers and clerks). The County Assembly enjoyed extensive competences and controlled the local executive apparatus: every three years it (re)elected local clerks and appointed judges of the County Court. The County Assembly thus indirectly controlled the execution of all laws and orders in the county. It could even refuse to execute the king's orders if it considered those orders to be unconstitutional or harmful to the county (*ius remonstrandi*). This right was occasionally, though not extensively, used in order to neutralise absolutist orders of the king. Until 1848 County Assemblies could also give obligatory instructions to delegations of the counties in the *Sabor*.<sup>3</sup>

Because of such a position, counties were an important part of the Croatian political system. At the same time, the particular

*the past and the present; law doctrine, practice*, Warsaw, Sejm Publishing Office, 2007; Dalibor Čepulo, *Building of the modern legal system in Croatia 1848-1918 in the centre-periphery perspective*, in *Modernisierung durch Transfer im 19. und frühen 20. Jahrhundert* / Hg. von Tomasz Giaro, Frankfurt am Main, Vittorio Klosterman, 2006, pp. 47-91.

<sup>2</sup> Božena Vranješ-Soljan, *Županijsko uređenje u posljednjoj fazi postojanja (1881-1918)*, in Ivo Goldstein et al., *Hrvatske županije kroz stoljeća*, Zagreb, Školska knjiga, 1996, pp. 102, 111.

<sup>3</sup> Ivan Beuc, *Povijest institucija državne vlasti kraljevine Hrvatske, Slavonije i Dalmacije (pravno-povijesne studije)*, Zagreb, Pravni fakultet u Zagrebu, 1985, pp. 212-219; Filip Potrebić, *Županije u Hrvatskoj i Slavoniji u 18. i prvoj polovici 19. stoljeća*, in Ivo Goldstein et al., *Hrvatske županije kroz stoljeća*, Zagreb, Školska knjiga, 1996, pp. 53-65.

rights that counties enjoyed did not develop into extreme forms. In fact, the counties lacked a stronger economic and social basis which would reinforce their institutional autonomy. Additionally, the institutional role of the *Ban* and the counties territorial proximity to the political centre made them a functional part of the Croatian political system. Because of these factors, the counties did not turn themselves into self-sufficient "confederated" units but were complementarily integrated into the Croatian-Slavonian feudal political community. All the same, they remained a traditional source and residuary of free political activity.

### Administrative reforms in Croatia and Slavonia from 1848 to 1918 in their political context

The Croatian-Hungarian union, which was based on constitutional and political complementarities, as well as feudal solidarity, was seriously challenged in the first decades of the 19<sup>th</sup> century. The tensions were a reflex of the nation-building processes taking place in both countries. On the one hand, the Hungarian Diet made attempts to further reduce Croatian autonomy, which was seen as an obstacle in the conversion of the Hungarian medieval kingdom into the Hungarian national state. On the other hand, the Croatian national movement defended Croatian traditional autonomous rights. The resulting tensions escalated to an open conflict in 1848:<sup>4</sup> Hungary enacted laws that unilaterally reduced Croatian autonomy, which provoked the Croatian annulment of all relations with Hungary (proclaimed together with the abolishment of feudalism).

Croatian politics in 1848 were influenced by the Croatian national movement whose principal goals were the integration of the Military Border and Dalmatia with Croatia and Slavonia and the establishment of the Croatian state on the modern ground. The political basis of this movement was expressed in a petition of rights entitled "Demands of the People", which saw the state-building process as a synthesis of modern principles of government and traditional municipal institutions.<sup>5</sup> The ideas of Croatian nation-building and state-building were closely intertwined because the forming of the modern nation was identified by the political and cultural subjectivity of the nation, embodied in the state. The road towards the establishment of the modern state was seen as grounded in traditional autonomy and in municipal institutions that should be merged with modern principles. Traditional municipal institutions were seen as "carriers" of national identity and as a verified bulwark against external unconstitutional interference, as well as a guarantor of independent political life. In reality, though, the idea of a merge of the traditional with modern principles was an "instinctive" concept that lacked rational elaboration. Because of this, and in spite of its broad acceptance, it provoked

dilemmas about whether municipal institutions could be adapted to the requirements of modern government at all.<sup>6</sup>

The short-lasting Sabor of 1848 (it remained in session only one month) did not undertake any serious institutional reform so the old municipal institutions remained in force in the new context. However, the Draft Law on the Organisation of Counties of 1849, shows that the legislators projected that a modified municipal system should remain the basis of administrative organisation. According to that draft the feudal *ius remonstrandi* would be abolished and county clerks partly subordinated to the Croatian government that would be formed. The modernisation of the county system was seen as the replacement of the institutional autarchy of the county with moderate control by the national government which, however, would not challenge the essence of the municipal system.<sup>7</sup>

In fact, administrative reforms in Croatia and Slavonia were imposed by the central government in Vienna during the periods of false constitutionalism and Bach's absolutism, when Croatia and Slavonia lost its autonomy and was turned into one of the "crown lands". Both regimes promoted the concept of a unified and centralised administrative and judicial organisation for the whole Austrian monarchy. This concept can be seen as a state-building model that encompassed the whole monarchy, probably with modern administrative organisation as its most important component. The public administration system in Croatia and Slavonia was reorganised twice, in 1851 and 1854. Both reorganisations introduced the Austrian model based on strong centralisation and the principles of rationality, hierarchy, subordination and professional civil service. The reform of 1851 abolished the county assemblies and introduced a three-degree administrative model consisting of districts, counties and a land government that was directly responsible to the central government in Vienna. Through this reform, the number of districts was reduced to a total of 20.<sup>8</sup> The reorganisation in 1854 introduced a two-degree model with five counties ("circuits") becoming a mere transmission between the districts (whose number was raised from 20 to 46) and the land government.<sup>9</sup> These reforms created a state administration organised on a rational (and not historical) basis, without any traces of municipal government except in the local communities. Such an administrative unification and integration of the monarchy would set a ground for further modernisation and complementary development of various regions administered from a single centre. Institutional unification and modernisation in the other fields (civil law, criminal law, organisation of judiciary etc.) complemented the administrative reorganisation.<sup>10</sup>

<sup>4</sup> Čepulo, *Autonomy...*, p. 514; Tomislav Markus, *Hrvatski politički pokret 1848.-1849. godine: ustanove, ideje, ciljevi, politička kultura*, Zagreb, Dom i svijet, 2000, pp. 89, 123-124, 144-147.

<sup>7</sup> Čepulo et al., *op. cit.*, pp. 111-116. Cf. also Tomislav Markus, "Zakonske osnove odbora Sabora Hrvatske i Banskog vijeća 1849. godine", *Časopis za suvremenu povijest*, vol. 28, Zagreb, 1996, p. 145.

<sup>8</sup> Beuc, *op. cit.*, pp. 263-264; Milan Smrekar, *Priručnik za političku upravnu službu u kraljevinah Hrvatskoj i Slavoniji*, I, Zagreb, Naklada Ignjata Granitzta, 1899, pp. 13-15.

<sup>9</sup> Beuc, *op. cit.*, p. 268; Smrekar, *op. cit.*, pp. 16-20.

<sup>10</sup> Gross, Mirjana, *Počeci moderne Hrvatske: neoapsolutizam u civilnoj Hrvatskoj i Slavoniji 1850-1860*, Zagreb, Globus, Centar za povijesne znanosti Sveučilišta u Zagrebu, 1985, pp. 100ff; Hodimir Sirotković, "Organizacija uprave u Hrvatskoj i Slavoniji u njenom građanskom razdoblju (1848-1918)", *Godišnjak Pravnog fakulteta u Sarajevu*, vol. 23, Sarajevo, 1975, p. 178.

<sup>4</sup> Čepulo, *Building...*, pp. 52-54.

<sup>5</sup> Dalibor Čepulo, Mirela Krešić and Milan Hlavačka (eds.) *Croatian, Slovenian and Czech Constitutional Documents 1818-1849*, München, K. G. Saur, 2010, pp. 37-44; Jaroslav Šidak, *Studije iz hrvatske povijesti za revolucije 1848-49*, Zagreb, Centar za povijesne znanosti, 1979, pp. 33-74, 51-52.

Absolutism was replaced by provisory constitutionalism in 1860. Although the Sabor and the counties were restored in Croatia and Slavonia in 1861, the land continued to be ruled by the imperial government in Vienna. Provisory regulation on counties restored the principle of "free local government" and reinstated counties as almost fully independent units outside the system of state administration. The County Assembly was returned its central role with general competences, it acquired the right to re-elect two deputy-heads of county (for administrative and judicial affairs) and local clerks, but lost the right to elect judges.<sup>11</sup> The pendulum swung back to tradition (although not fully) and the counties were again to become centres of political life. Such a concept was a momentary and instinctive reaction to the experience of absolutism – in parliamentary discussions it was admitted that the absolutist system of administration was more effective than municipal administration, but that it was used to suppress political freedom.<sup>12</sup>

Administrative reform was followed by an extensive set of other reforms prepared in the Sabor in 1861. Discussions in the Sabor stressed the necessity to combine tradition (as a guarantor of identity and of free political life) with modern governance principles. In reality, however, most of the laws were prepared on the basis of Austrian models that were amended with pieces of traditional Croatian legislation. In any case, the Sabor was dissolved for political reasons only half a year after it was summoned and the king refused to approve the already enacted laws.<sup>13</sup>

The reforms of 1861 were based on a slightly more elaborated idea of nation-building, grounded in the concept of the political community as a complementary system of self-government. The people could express their free political will through the Sabor, which controlled the government accountable to the Sabor, as well as through county assemblies that controlled the execution of the government's orders. Conflicts between general and particular interests could be resolved by the government's rights to supervise and annul particular decisions of the County Assembly.<sup>14</sup> The institutional premises for such a concept were full and uncontrolled autonomy of Croatia and Slavonia, responsibility of the Croatian Home government to the Sabor and an efficient administrative apparatus in counties controlled by county assemblies. In reality, Croatia and Slavonia was governed by the (unaccountable) government from Vienna after the Sabor was dissolved in 1861 and the new one summoned only in 1865. In such a constellation, the government and counties appeared as concurrent forces. Tensions were reflected in the government's suspensions of counties' acts and in appointments of government commissioners in the counties, while the

counties petitioned against the government to the Sabor – to whom the Austrian government was not accountable.<sup>15</sup>

The constitutional provisorium ended with the Austrian-Hungarian Compromise in 1867 that set a stable constitutional ground for the monarchy dividing it into the Austrian and Hungarian halves. The sub-dual Croatian-Hungarian Compromise in 1868 delimited common and autonomous competences. Croatia and Slavonia was granted autonomy in the areas of governance, religion, education and the judiciary and was granted its own legislation (the Sabor), a Home government responsible to the Sabor and a Supreme Court (established in 1862). However, the central government and the Common (Croatian-Hungarian) Diet remained under full Hungarian control with only minor Croatian participation. Apart from this, the central government indirectly controlled Croatian autonomy. The government's most important instruments were the appointment of the *Ban* by the king (with the consent of the Hungarian Prime Minister) and full control of the public finances that were defined as part of the "common" competences with a set quota for Croatia and Slavonia. Another important means of indirect influence of the central government was its control of the process for the approval of Croatian laws by the king. The laws enacted in the Sabor were sent to the king through the central government, which could express objections on the ground that the Croatian laws breached the common competence or violated common interest. The king theoretically appeared as arbiter but in practice he always accepted Hungarian arguments and denied approval of the Croatian laws. It was similar with the pre-approval of the draft-laws of the Croatian government that were submitted to the king through the central government. For this reason, the Croatian government and the Sabor, acting in the framework of autonomous competences, had to take care in advance of the opinion of the central government in Budapest.<sup>16</sup>

The Croatian-Hungarian Compromise therefore set a "half-open" yet stable constitutional pattern for Croatian autonomy, which was a precondition for undertaking institutional reforms and modernisation. A Home government was established in 1869. The head of government and all governmental departments (internal governance, religion, education and the judiciary) was the *Ban*.<sup>17</sup> He alone was accountable to the Sabor on a legal, not political, basis; but, even this legal accountability, regulated in 1874, was more symbolical than practical in nature.<sup>18</sup>

<sup>11</sup> Čepulo, *Building...*, pp. 57-60; Mirjana Gross and Agneza Szabo, *Prema hrvatskom građanskom društvu*, Zagreb, Globus, 1992, pp. 191-213; Fran Vrbanić, *Rad hrvatskoga zakonarstva na polju uprave od god. 1861. do najnovijega vremena*, I. dio preštampan iz 94. knjige *Rada jugosl. Akademije* (p.o.), Zagreb, 1889; pp. 35-38

<sup>12</sup> Dalibor Čepulo, „Zakonodavna djelatnost Hrvatskog sabora 1861 – autonomija, modernizacija i municipalne institucije”, *Pravni vjesnik*, vol. 18, Osijek, 2002, pp. 136.

<sup>13</sup> Čepulo, *op. cit.*, pp. 145-154; Gross and Szabo, *op. cit.*, pp. 140-150.

<sup>14</sup> Vrbanić, *op. cit.*, pp. 49-51.

<sup>15</sup> Vrbanić, *op. cit.*, p. 53.

<sup>16</sup> Čepulo, *Building...*, pp. 64-67; Gross and Szabo, *op. cit.*, pp. 232-239; Dalibor Čepulo, „Hrvatsko-ugarska nagodba i reforme institucija vlasti u Hrvatskom Saboru 1868-1871”, *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, vol. 22, Rijeka, 2000, Supplement 1, pp. 117-148; Josef Pliverić, *Beiträge zum Ungarisch-kroatischen Bundesrecht*, Zagreb, L. Hartman, 1886.

<sup>17</sup> For more on the organisation of the Home government, see: Smrekar, *op. cit.*, 49ff; Ivan Pretočki-Zigrović, *Upravno pravo Kraljevina Hrvatske i Slavonije s obzirom na ustav: s abecednim kazalom*, Bjelovar, vlastita naklada, 1911, pp. 92-103.

<sup>18</sup> Čepulo, *op. cit.*, p. 71; Dalibor Čepulo, „Odgovornost i položaj bana i članova hrvatske zemaljske vlade 1868-1918. i ministarska odgovornost u Europi”, *Zbornik Pravnog fakulteta u Zagrebu*, vol. 49, Zagreb, 1999, pp. 248ff.

The Home government was expected to be the main creator of reforms. Reforms were considered as necessary and urgent due to the provisory status of current regulations and the difficult conditions in the public administration and judiciary. However, the *Ban* at the time, Levin Rauch, a member of the pro-Hungarian Unionist Party who was fully backed by the Budapest centre, was an old-fashioned real estate owner who ruled in authoritative style and avoided to undertake more extensive reforms, fearing that these would undermine his power.<sup>19</sup> Nonetheless, administrative reform remained a priority because the establishment of the Home government responsible to Sabor was seen as incompatible with the existing administrative organisation of 1861. The latest reform of the county system would therefore be based on two principles: firstly, it should grant control of the public administration by the Home government regarding its accountability to Sabor; secondly, the county system should be preserved due to its traditional place in the political system and to ensure consistency with free constitutional life.<sup>20</sup>

The reform of 1870 retained the traditional view of the county as a "self-governing body". The County Assembly retained general competence but lost its vital right to effectively control county clerks. County clerks who were previously re-elected became professionals appointed for an indefinite time by the *Ban* and county-head, who had disciplinary authority over them. In reality, the new clerks were mainly members of the Unionist Party. The county-head presided over the assembly and the executive board. Nominally, the County Assembly had the "right to control" county clerks and the right to petition the Sabor, while the deputy-head of the county was proclaimed accountable to the County Assembly regarding execution of its decisions. In fact, all that the County Assembly could do was to demand information from the county clerks and complain to the government or petition the Sabor. A new body, the Administrative Board, replaced the assembly when it was not in session, although only half of its members were chosen by the assembly while the other half consisted of county clerks. In accordance with such a position, the County Assembly passed the county budget. But even this budget was funded entirely from the land budget because the counties did not have the authority to introduce local taxes or other revenues.<sup>21</sup> The reform of 1870 therefore preserved the municipal framework but deprived the County Assembly of efficient mechanisms to control execution of even its own decisions, instead empowering the Home government with means of direct and effective control. However, such an inconsistent model led to problems in practice, so changes were necessary for systemic reasons alone.<sup>22</sup>

Radical changes would subsequently be undertaken during the period of the *Ban* Ivan Mažuranić, a member of the National-Liberal Party that ruled from 1873 to 1880, when extensive reforms were undertaken in all fields of autonomous

<sup>19</sup> Čepulo, *Hrvatsko-ugarska...*, pp. 135-136, 138, 140-144; Gross and Szabo, *op. cit.*, pp. 387-388.

<sup>20</sup> Vrbanić, *op. cit.*, pp. 40, 55.

<sup>21</sup> *Idem, ibidem*, pp. 39-42; Dragutin Pavličević, *Županije u Hrvatskoj i Slavoniji u prijelaznom razdoblju od 1848. do 1881.*, in: Goldstein et al., *op. cit.*, pp. 87-88.

<sup>22</sup> Dalibor Čepulo, *Izgradnja hrvatske moderne uprave i javnih službi 1874 - 1876*, *Hrvatska javna uprava*, vol. 3, Zagreb, 2001, p. 93.

jurisdiction. Croatian liberals perceived reforms of institutions as a necessary improvement of the system and as a part of the more complex process of establishing a modern Croatian society. Institutional reforms would consolidate Croatian autonomy, which was the precondition for the neutralisation of external influences, primarily from the Budapest centre. The modernisation of institutions would be based on the adaptation of institution models from developed European countries. This would not only improve the Croatian legal system but would also confirm modern national subjectivity and identify Croatia as a modern European nation. Croatia's historical delay in developing its society and institutional infrastructure was to be bridged by accelerated development based on enlightened and rational policy and by the adoption of models that were already proven successful in developed countries. This consolidated institutional and social basis would be the foundation for the gradual development of autonomous institutions toward state forms (Croatian theoreticians interpreted Croatian autonomy as the state *sui generis*). Such a development would also set a proper political foundation for the annexation of the regions of Dalmatia and the Military Border, which otherwise could not be demanded by an insufficiently developed country.<sup>23</sup> The National-Liberal perspective therefore saw modernisation as an important part of the nation-building programme, which - although better elaborated this time - was still only presented through occasional discussions rather than as a generally accepted strategic concept.

The Home government undertook an intensive programme of reforms based on adaptation of the Austrian institutions. Among the most important pieces of legislation were the regulations of the responsibility of the *Ban* to the Sabor, the separation of the judiciary from public administration, the guarantee of judicial independence, the rational organisation of the judiciary and of the public administration, the introduction of modern criminal procedure and jury trial for publishing offences, guarantees of freedom of the press, the regulation of the right of assembly, the secularisation of elementary schools, the foundation of the university etc.<sup>24</sup>

This administrative reform was considered as being of vital significance. In general, the reform programme implied activity of the government not only in drafting new laws but also in executing the rational policy of their implementation. Such a role for the government was seen as crucial in a society that lacked the capacity to properly implement modern solutions. For this reason, the government would control the execution of new laws through a rational, competent and efficient public administration system, while the hybrid administrative model (with incompetent and corrupted staff inherited from the previous government) would be replaced.

The *Ban* Mažuranić first intended to introduce a combination of the Austrian models of 1850 and 1854, which completely neglected the traditional system of local government. Twenty circuits directly subordinated to the Home government were

<sup>23</sup> Čepulo, *Building...*, p. 78; Dalibor Čepulo, *Prava građana i moderne institucije: europska i hrvatska pravna tradicija*, Zagreb, Pravni fakultet Sveučilišta u Zagrebu, 2003, pp. 181-184.

<sup>24</sup> Čepulo, *Building...*, pp. 70-80.

introduced instead of eight counties while limited self-government was reserved only for local communities. However, the central government blocked this attempt on a formal basis, as a violation of the Croatian-Hungarian Compromise that explicitly enumerated eight counties. In fact, the counties were enumerated in the Compromise as a description of the Croatian-Slavonian territory, but the central government still interpreted that clause as a principal recognition of the county system. The real reason for the Hungarian obstruction was its reluctance to accept that the administrative organisation in Croatia and Slavonia could be based on a radically different model than the (county) system in Hungary. For this reason, the *Ban* Mažuranić made a compromise solution. Eight counties with county assemblies remained, but their competences were severely reduced – the only important competences being the resolution of disputes between circuits and the right to petition the Sabor. Twenty circuits, whose territory was defined by the government's decree, were the first degree bodies subordinated directly to the Home government, while the county served only as a transmission body. The county-head was explicitly defined as an administrative functionary of the Home government, with disciplinary authority over county clerks, and the counties and circuits were directly funded by the land budget.<sup>25</sup> It was thus a case of open centralisation in the formal shell of the county system.

The new system was greeted by a large part of the public as the introduction of modern governance principles based upon the central role of the government responsible to the Sabor, and as an unavoidable break with the archaic principles of feudal municipal local government. The conservative fractions criticised the break with tradition, but the popularity of the government neutralised the opposition.<sup>26</sup> However, the new system had a number of problems at the functional level: the Home government was not politically strong enough to replace incompetent staff, and there was lack of educated candidates to do so; the twenty circuits turned out to be too large as the first degree units; the two-degree system buried the Home government with a large number of appeals in minor cases instead of allowing it to deal with strategic policy. For the above reasons, speculations about the restoration of the traditional concept of local government appeared rather soon. The situation even worsened after the annexation of the former Military Border to the Croatian civil administration in 1882.<sup>27</sup>

The Croatian reform program was initially tolerated by the sceptical (yet politically weak) central government, which until 1875 was burdened with internal political tensions in Hungary. However, during the nationalist government of Kálmán Tisza, who ruled from 1875 to 1890, Croatian reform legislation was gradually suppressed, which resulted in the resignation of the *Ban* Mažuranić in 1880.<sup>28</sup>

The new law that returned the municipal framework and the three-degree system was drafted by a new moderate Unionist

government in 1881. However, this project was stopped due to political instabilities in the country and the resignation of the new *Ban* Pejaković as early as 1883.<sup>29</sup> He was succeeded by Karoly Khuen Héderváry who ruled as the *Ban* from 1883 to 1903. Khuen Héderváry was an ethnic Hungarian noble from Slavonia and was a man fully trusted by the king and the Hungarian nationalist government. His main task was to put Croatian autonomy back into its "proper" provincial limits. Khuen Héderváry turned the National Party into the governmental party and ruled in an authoritarian, yet skilled manner, veiled in constitutional forms. Contrary to the nation-building politics of the *Ban* Mažuranić, Khuen Héderváry suspended or revised the laws that prevented him to rule in an authoritarian style, such as the laws on the separation of the judiciary from the executive or on the practice of holding jury trials for publishing offences.<sup>30</sup>

The centralised administrative system introduced by the Mažuranić government was in a way favourable to Khuen Héderváry's style of rule, but he nonetheless soon undertook the sixth, and last, administrative reorganisation. He restored the traditional county system, but modified it in a substantial way. The main reason for this reform was the incapacity of the two-degree centralised system to efficiently govern the enlarged territory, although political reasons were also determinative. By reintroducing municipal forms, Khuen Héderváry once again "harmonised" the outlook of administrative organisation in Hungary and Croatia and Slavonia. However, certain modifications of the system granted the Home government undisputable control and influence over public administration. The system was once again organised around three hierarchical administrative levels: districts, counties and the Home government. The competences of the County Assembly were significantly extended so that it could enact statutes, discuss all important issues and "control" the administration within the county and districts. But the position of the county-head and clerks fully neutralised these "self-governing" competences of the county. The county-head presided over the County Assembly *ex officio* and was empowered to supervise decisions of the Assembly, as well as control the county administration. Clerks retained their previous status and were accountable to the county-head and the *Ban*. The county-head also presided over the Administrative Board which this time consisted of eight clerks and six deputies of the County Assembly. This Board was an operative body with extensive competences and was much more influential than the same named body from 1870. This time, the law did not even mention the county budget and all the activities of the county were directly funded by the land budget.<sup>31</sup> While the county system of 1870 was a hybrid between centralisation and decentralisation, with predominance of the centre, the "return" to municipal forms in 1886 in fact established a model based on strict centralisation. The differentiation of that model eliminated the dysfunctional elements of the overly "simple" centralisation of 1874. The principal function of this last administrative reorganisation was to technically improve the government's capacity to administer the land and to carry out

<sup>25</sup> Čepulo, *Izgradnja...*, pp. 94ff.

<sup>26</sup> *Idem, ibidem*, pp. 103-109.

<sup>27</sup> *Idem, ibidem*, p. 112; Smrekar, *op. cit.*, pp. 128-129; Vrbanić, *op. cit.*, p. 45.

<sup>28</sup> Čepulo, *Building...*, pp. 71-76; Gross and Szabo, *op. cit.*, pp. 373 ff.

<sup>29</sup> Smrekar, *op. cit.*, p. 128.

<sup>30</sup> Čepulo, *Prava...*, pp. 66, 67-68, 186-189.

<sup>31</sup> Vrbanić, *op. cit.*, pp. 46-49; Vranješ-Šoljan, *op. cit.*, pp. 104-107; Pretočki-Zigrović, *op. cit.*, pp. 92-103.



a politically relevant "harmonisation" of the administrative structure of Croatia and Slavonia with that of Hungary.

Thus, at the end of the "evolutionary" line, the traditional municipal system turned from one extreme to another, though preserving the same principal forms. The most essential part of the traditional county system was "free local government" and monopoly of execution and consistent control of the execution of the government's orders. On contrary, the revised form of the county system in 1886 turned the "self-governing" bodies into powerless mechanisms deprived of any efficient instrument to control the execution of even their own decisions.

## Conclusion

The political and social changes that Croatia and Slavonia underwent in 1848 triggered the process of establishing modern forms of government through reforms of institutions. However, the transition from traditional to modern principles was very complex. It depended not only upon circumstances within the country, but was determined by Croatia and Slavonia's position in the constitutional structure of Hungary and the Habsburg Empire.

The administrative reforms in Croatia and Slavonia were undertaken in an environment characterised by traditional municipal county organisation based on extensive decentralisation and a strong local autonomy that developed through the centuries. Additionally, municipal organisation was politically imprinted as a bulwark of Croatian constitutional rights. The turn towards modern principles of government created a dilemma for Croatian reformers as to whether to combine the traditional model and the rational principles of government or to abandon tradition and embrace new models of regulations.

At the conceptual level, two basic models appeared – the traditional municipal model and the centralised model imported from Austria. The dynamism and variety of the reforms – as many as six reforms of the county system from 1850 to 1886 were undertaken – reflected the turbulent political environment and suggested that the experiments carried out in this field were not accompanied by a clear and elaborated strategic concept. Such dynamism indicates the search for an adequate organisational model in a changing constitutional and political environment. The reforms relied upon a constitutional framework, as well as upon technical aspects, but their primary determinant were the political intentions of the reformers themselves.

The reforms undertaken by the Sabor corresponded to the nation-building orientation of the reformers, although this orientation was manifested in a variety of forms. The government and administrative organisation was seen as being of great importance for the nation-building process. Yet, the nation-building concept itself was not extensively elaborated but seemed instead to appear "instinctively", especially during the periods from 1848 to 1849 and from 1861 to 1868. The reforms that were undertaken at that time were based on the idea of combining the traditional municipal model and

extensive decentralisation with the modern principles of government as a basis for modernisation and nation-building, itself based upon traditional values, traditional identity and rational government. The concept of nation-building seemed to be more operatively elaborated in the reform of 1874, which almost completely broke up with the municipal tradition and introduced a centralised pattern based on the Austrian model. Such a model was to serve as an instrument for implementing the efficient and rational policy of the Home government, which aimed at modernising the Croatian society in a top-down manner, giving it a modern identity and neutralising its dependency upon external influences through the state-building process. This reform closely connected centralisation, modernisation and nation-building. All of the three above-mentioned reforms were inspired by nationalistic parties and focused on integration and modernisation, though in different forms.

In contrast, reforms of 1870 and (especially) 1886 were less motivated by nation-building ideas than by the intention to grant the Home government efficient control of political processes in order to limit Croatian autonomy in the interest of the Budapest centre. These reforms restored the municipal framework, but changed its essence and turned it into a more or less hidden centralised mechanism that granted the Home government full and effective control over counties. Unlike the previously mentioned reforms, their common focus was on centralisation, integration and political control.

Despite the various forms of the administrative reorganisations undertaken, and despite their different political motives and the different frameworks in which they took place, their common denominator was a tendency toward centralisation (with the obvious exception of the reform project of 1849 and the reform of 1861). This tendency toward centralisation indicates the growing role of the state and the political elites supporting it in the shaping of modern society in the 19<sup>th</sup> century. The political elites in power perceived decentralisation in an under-developed land as an obstruction of their intentions, no matter whether they were of nationalistic or pro-Hungarian orientations.

One of the most important determinations of the reforms was the influence of the central government from Budapest and its interest to limit Croatian autonomy – although this influence was indirect and sometimes less prominent or well-hidden. In the circumstances of the indirect but effective control of Budapest, the Croatian state-building and nation-building attempts could only be limited or virtual, which in specific ways is reflected in the reforms of public administration as well.