

LIMES

JOURNAL OF SOCIAL SCIENCES AND HUMANITIES

**THE BICENTENNIAL
OF THE CONGRESS
OF VIENNA 1815:
Legitimacy on the Periphery**

HESPERIA*edu*

LIMES

JOURNAL OF SOCIAL SCIENCES AND HUMANITIES

ISSN 1820-0869

Broj 3/2015

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Published by

HESPERIAedu

Belgrade, Francuska 14
E-mail: h.edu@eunet.rs
www.limesplus.rs; www.hedu.biz
www.komunikacija.org

For Publisher
Zorica STABLOVIĆ BULAJIĆ

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Sale and Subscription
h.edu@eunet.rs; +381 11 72 46 023

Printed by
Instant system, Beograd

AUTHORS:

Haris DAJČ, Faculty of Philosophy, University
of Belgrade, Serbia

Miloš ĐORĐEVIĆ, Faculty of Philosophy,
University of Niš, Serbia

Miloš JAGODIĆ, Faculty of Philosophy,
University of Belgrade, Serbia

Slaviša NEDELJKOVIĆ, Faculty of
Philosophy, University of Niš, Serbia

Luca ROSSETTO, Ca' Foscari University of
Venice, Italy

Nikola SAMARDŽIĆ, Faculty of Philosophy,
University of Belgrade, Serbia

Jelena TODOROVIĆ, Faculty of Philosophy,
University of Belgrade, Serbia

Josip VRANDEČIĆ, Faculty of Humanities and
Social Sciences, University of Split, Croatia

CIP - Каталогизacija u publikaciji
Народна библиотека Србије, Београд
32

LIMES plus : časopis za društvene i humanističke nauke /
odgovorni urednik Nikola Samardžić. - 2004, br. 1- . - Beograd :
Hesperia edu, 2004- (Beograd : Instant system). - 24 cm

Tri puta godišnje
ISSN 1820-0869 = Limes plus
COBISS.SR-ID 114047756

FOREWORD	5	THE BICENTENNIAL OF THE CONGRESS OF VIENNA 1815: Legitimacy on the Periphery
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Part I – THE BALKANS

- | | |
|----|---|
| 11 | Nikola SAMARDŽIĆ: European Legitimism and Serbian Revolution |
| 23 | Slaviša NEDELJKOVIĆ and Miloš ĐORĐEVIĆ: The Habsburg Monarchy and Serbs in the Ottoman Empire up until the Congress of Vienna (1739–1815) |
| 39 | Miloš JAGODIĆ: Failed Conspiracy: Organisation and Preparation of the Serbian Uprising against Ottoman Rule in 1840–1841 |

Part II – THE MEDITERRANEAN

- | | |
|----|---|
| 65 | Josip VRANDEČIĆ: Branding a Province: The Restorationist Dalmatia |
| 75 | Luca ROSSETTO: Habsburg Venetia From Status Quo to State of Exception (1815–1854) |
| 85 | Haris DAJČ and Jelena TODOROVIĆ: The Ionian Islands After Napoleon |

HABSBURG VENETIA FROM STATUS QUO TO STATE OF EXCEPTION (1815–1854)

Luca ROSSETTO
Ca' Foscari University of Venice,
Italy

This paper is intended to provide a concise overview of the political and institutional situation in the Habsburg Venetia between the re-establishment of the status quo after the Congress of Vienna (1815) and the state of emergency that began in the aftermath of the events of 1848 and lasted until the middle of the following decade. I will also briefly discuss the question of the end of Austrian presence in Italy in 1866. Through a structured and comparative examination of international bibliographic resources and a detailed analysis of complementary archive materials, the value of examined events that only apparently seemed local will be reinterpreted in the light of an overall governmental strategy designed by Vienna for the various territories of the Empire, allowing thus another view of history of the domains that had previously belonged to the former Venetian Republic visible simultaneously through rather unusual manifestations such as the size of power, society and law. The final result will be a useful guide for all those who want to deepen their knowledge of one of the most fascinating and interesting regional components of that unique European cultural mosaic that was represented by the Danube monarchy.

Key words: Congress of Vienna, Habsburg Empire, Kingdom of Lombardy–Venetia, Venetia, status quo, state of emergency, social control, crime, criminal justice, Military Commission d' Este.

After the Congress

TOO OFTEN IN THE PAST, UNINTENTIONALLY or sometimes even intentionally, we failed to think of the Venetian Provinces (as well as of Kingdom of Lombardy–Venetia in general) as of a region inserted into an “imperial dimension” rather than only into Italian national perspective. However, this imperial dimension cannot be neglected when trying to thoroughly assess actions of the Habsburg central administration and, hence, their peripheral administration too, not only in everyday life, but also in the particular field marked by work on the projects of reform in an attempt to improve the governing system.

Retrospectively, it should be remembered that mainly from 1750 onwards, firstly Maria Theresa, and then Joseph II, adopted a series of legislative measures that introduced a concept of an “organized state” to the Austrian monarchy, weakening thus its different composing territories, i.e. weakening the prerogatives of their higher classes and territorial nobility, but continuing to guarantee their existence and trying to tolerate their peculiarities at least partially.¹

Regarding more specifically the Kingdom of Lombardy–Venetia on the other hand, “after the Congress of Vienna, a new kingdom was founded (Stiftung) by enacting a new legal creation. This new creation was consciously linked to the Italian-Napoleonic tradition in order to maintain the dignity of a ‘kingdom’ also under the ‘Austrian rule’ (Mazohl Wallnig 2000, 98): the political and social reality of these regions, in fact, he had little in common with that of other regions of the Empire, since it didn’t have that combination of traditions linked to the person of the prince or to the classes, which was essential for forming a “*Land*”. There was neither an “autonomous royal state tradition” such the one existed in the Czech Republic or Hungary” (Mazohl Wallnig 2000, 100).

However, the modern administrative state, not completely implemented in the hereditary provinces of the monarchy, paradoxically existed in the Kingdom of Lombardy–Venetia in 1814, when the Austrians returned and it already had been functioning for a few years². Therefore, the intent in the Kingdom of Lombardy–Venetia must have been precisely the one to “transform and translate the old traditions of the *Ancien Régime* and of the empire into a new ruling situation within a

1 For this and other fundamental institutional passages, see: De Benedictis 2001, 62–68.

76 | 2 For such considerations, see: Meriggi 1981, 217–218 and Meriggi 1987, 270.

modern state, and to use the Napoleonic model for this purpose” (Mazohl Wallnig 2000, 100).

Rebus sic stantibus, it seems rather clear that in such situation also the public administration system must have differ visibly from the one prevailing in other Habsburg constituent lands, which was basically homogenous, especially for the fact that no administrative or judicial power laid within “the hands of nobility” (Mozzarelli 1981, 280).

In any case, the primary objective of such institutional system (i.e. imperial) which, despite the ‘modernizing’ reforms of Maria Theresa and Joseph the Second still had in fact various characteristics of the jurisdictional state of the old regime, was to guarantee those social balances and cultural values that were predominately traditional and conservative: a great number of collegial bodies in charge for most diverse political issues on the agenda (in the broadest sense of the term) were one of the most noticeable features in this regard.

Talking about jurisdiction let me paraphrase the historian Raffaele Romanelli: clearly there were significant differences between the Habsburg Empire and nation states. “The illegality of an imperial state form was opposed to the acclaimed legality of a modern state” (Romanelli 2008, 39). The empire was not an “empire of law” (Romanelli 2008, 39) but an orderly hierarchy of loyalty. Some consequences of this feature, although changed in time, still played an important role in the period examined here.

Besides, the scenario that is only sketched here, is in the focus of my recent study about an institutional figure who played a major role in the Venetian society during the period of the so-called “second Austrian administration” (1815–1848). This figure, almost unknown until now, was the one of the “District Commissioner”. However, since its introduction in 1819, due to its vast tasks, the figure of a district commissioner intruded significantly into network of local power developing an essential function as a link with the political organs and the police, being tasked as well with cooperating with the judicial authorities (which was of paramount importance given the persistent features of an ancient regime institutional system, as mentioned above). The above-mentioned study closely analyzes the cultural and professional dimension of men who were appointed to this position in the course of three decades, describing their role in the public order and the ‘social control’; it outlines general and fundamental characteristics of the so-called ‘Metternich

system³, and, above all, the lesser-known peculiarities of Italian and Venetian version of it. For instance, the privileged relationship of mutual respect between the Viceroy Ranieri and the chancellor, the tendency of Lombardocentrism that was, on the other hand, more balanced until 1835 due to the presence of Emperor Franz (the Emperor and Metternich almost never agreed on what to do), which was to the benefit of the Venetian Provinces⁴.

The attention should be given exactly to the concept of “social control” with a consideration that in certain way announce a new research that I am dealing with at the moment.

In fact, despite the fracture induced by a somewhat painful change at the helm of the Empire in 1835 – the death of Franz I and the ascent to the throne of his son Ferdinand who was unable to govern on its own for health reasons and was assisted by the ministers Metternich and Kolowrat and Franz’s brother, Archduke Ludwig, the period from 1815 to 1848 was marked by a relative institutional and overall stability⁵. Hence, it allows a deeper research of functioning of the Austrian administration in Venetia in those years, not in order to gain an “absolute truth”, but rather an “evidence, a most certain testimony of the concrete situation of that time” (Broers 2013, 13). At the same time, one should try to avoid the trap inherent to the profession of historians, that is to avoid to “chase the conflicts and reasons that stand behind the changes” (Broers 2013, 12), which in our case would be the revolution of 1848–49 and the beginnings of the Italian Risorgimento.

Emergency

That being said, there is no doubt that in the second half of the century the consensus enjoyed by the Austrian authorities suffered a decline. Although the important economic factors certainly played their role (famine and recessions were already present at least two years before the revolution), the attention should be

3 Where the unity of the territories held together by a bond of loyalty to the dynasty is contrasted to the relentless uniformity of Napoleonic administration. The inherent variety alive in the various provinces of the Empire was no longer seen as an annoying residual and as a failure of uniformizing and modernizing projects of Joseph II, who died too early to complete his work, but as a constitutive feature of the Empire itself. All of this is meticulously analyzed by Marco Bellabarba in his recent book on the history of the Habsburg Empire. See: Bellabarba 2014, 64.

4 On this issue, see: Rossetto 2013.

78 | 5 Regarding this, see: Rossetto 2013.

placed on government so to assess the extent of such consensus on the behalf of the population, and, specifically, of the ‘upper classes’.

In fact, the Restoration had revived the old governments in Lombardy–Venetia too, but it hadn’t been able to completely guarantee actual levers of power to that local nobility which was still deeply anchored in the old regime (contrary to the abovementioned old governments, this one was not revived). Moreover, it could not adequately respond to the desire for supremacy of the fast growing bourgeois elite, or to appease the fears of both of these components against the lower classes and the peasants (especially against that fraction that bordered the ‘margin’). Finally, there was also the fear against a certain social ‘disorder’ (this argument has been treated innovatively and originally in the Anglo-Saxon historiography by John Davis⁶ and Steven Hughes⁷, while Claudio Povolo gave an in-depth study of the subject narrowing it down for Lombardy–Venetia in his two books *La selva incantata* from 2006 and *Il movente* from 2011).

This was also the reason why, after the destabilization produced by the “collector of tensions” such was the period 1848–49, tensions coming from more or less far away and including threats of the ‘social disorder’, the general Austrian governor Radetzky (clearly having informed Vienna although not in the very first moment), decided to respond to that threat weighed more or less directly on the landlords of the Venetian plain (Lower Padua and, above all, Polesine). When duly urged to react, drawing on the state of siege, he employed summary procedures and used extensively the death penalty primarily on one part of the so-called ‘marginal society’⁸. Until then, these measures were utterly alien to the imperial judicial system (as regards the scope of common, not political, crimes).

Rather than the robberies and thefts committed in those areas during the revolutionary period, it was the harshness of repression carried out by a body created specifically for the occasion, the so-called ‘Military Inquiry Commission of

6 For the most interesting texts about this, see: Davis 1988 and Davis 2000.

7 Regarding this, see: Hughes 1994.

8 Regarding this, the solutions was always sought in the adoption of either preventive measures, such as the so-called ‘political precept’, deportation, forced recruitment, or the repressive measures, precisely like those envisaged by the Criminal Code; the application of the latter, however, did not produce the desired effects, not only for the guarantying features of the legislation in force, but also for the low skills of some of those figures that were called upon to apply it, despite some significant changes made in July 1833.

Este' (because it had its headquarters in the Euganean town, although its activity was rather an itinerant one) that represented and symbolized the new temporary political and institutional orientation (mainly but not only for the crimes for which the Commission was in charge). Comparing this to the usual *modus operandi* of the bodies of the Kingdom of Lombardy–Venetia, it can be concluded that the latter were more accustomed to “adopt the dynamics that animated the social forces and not quite to direct them or to correct them according to specific objectives” (Povolo 2011, CXIV).

This phenomenon of relatively short duration (four years), was, however, characterized by such intense action that had a truly disruptive effect on local communities involved. Actually, between 1850 and 1854 more than a thousand people were processed for acts related to robberies or grave burglaries, whereas only a handful of these people was acquitted, while one third of them was shot and two-thirds ended up sentenced to long imprisonment.

Trying to get on top of these problems, it is clearly revealed that historiography completely lacks an updated and specific studies which would, while focusing on the combination of local crime/heroes, insist on the activity of that particular body of punitive justice that was the Commission d'Este and on the effects it had on the Venetian rural communities in mid-nineteenth century. The only references on the subject, although limited, are traceable in two works on the topics that are only bordering this issue and that are, however, produced some thirty years ago. Still, they retain the merit of understanding the “importance of the work of the mentioned institution for analyzing broader legal, historical and anthropological issues”⁹.

There are also some less refined researches dated at the same time and produced by local scholars, which are in any case to be kept in mind since they combine pros and cons of anecdotal type of investigation.¹⁰

Research on this subject primarily puts the emphasis on the analysis of political impact of the actions of a special state body of punitive justice in a customary legal system such as the one of the mid-nineteenth century rural Venetia, even in the moments as peculiar as the situations of public judgments delivery or executions; secondly, it allows profiling of criminal figures that were protagonists of

⁹ Regarding this, see: Brunello 2011 (1981) and Ginsborg 1991, who also witnesses a live interest of the Anglo-Saxon historiography in this matter.

80 ¹⁰ As an example, see: Lugaresi 1986, Piva 1984 and Soster 1960.

proceedings conducted by this body, as well as the possibility that the communities affected by their activities, particularly the representatives of female gender, could have perceived them as local heroes; finally, it facilitates the study of the cultural and social dynamics that made some districts of the country more resistant to penetration of investigations, with a persistence in denying any wrongdoing while facing the threat of the extreme torture following the confession of accomplices coming from other more or less contiguous environments.

Conclusion

But I want to move on to conclude this brief intervention in a less specialized (less historical and institutional) manner, highlighting what Claudio Magris notably affirms in that beautiful *fresco* on the peoples and cultures of Central Europe – his book *Danube* (even though on the background of a work that remains fundamentally literary)¹¹: the absolutist or, better, neo-absolutist policy adopted by the Habsburgs between 1849 and 1860, and more generally, the trend towards a centralizing and uniform modernization, both represent an exception in the secular routine of Habsburg sovereignty, which rather “managed the resistance that medieval universalism and particularism set against the modern state ... and, instead of invading and overwhelming cultures and societies, tried to touch them as little as possible” (Magris 2011, 286–287).

Consequently, the term “Austrian” applied to the Empire, to quote Magris once again, indicated an abstract strength of an idea rather than actual reality and it was, at the end of the day, a result of a subtraction – once the individual nationalities were removed, this was element that remained common to each of them and not alike any of them.¹² Although, I think it would be better to say that what was removed were the individual “small motherlands” that used to constitute the Empire since, as rightly pointed by Brigitte Mazohl, the category ‘nation’ as a fundamental constitutional element had not yet been fully punctuated either at an ideal or legal level, and since (just as in the case of other ‘national’ aspirations

11 This should never be overlooked, because literature fundamentally differs from historiography, even though it shares some common elements with it, most important of them being the corpus of written texts: literature is an art and as such the best tools to interpret and evaluate it are of aesthetic nature, just to take some of the considerations of the American scholar Richard Posner in his *Law and Literature* in 1998.

12 Regarding this, see: Magris 2011, 391.

within the monarchy) the national-ethnic categories mingled with those political-legal and those of historical rights.¹³

This all happened right in the nineteenth century and in territories so peculiar as those constituting the so-called Kingdom of Lombardy–Venetia which, on the one hand, kept essentially alive the backbone of the Napoleonic state model (although reformulated through, for example, the ability to appeal to a number higher collegial instances, as already mentioned)¹⁴ while on the other, it was still considered a part of a whole that had Vienna as its referent point of cohesion and of forced balance. It suffered all the consequences of the tragic fate together with the Empire¹⁵ that, as recalled by Marco Bellabarba in his recent book, became a political structure *sui generis*¹⁶ with the Peace of Prague of 23rd August 1866 which confirmed the final loss of the Venetian region and the cessation of all federal bonds between the German states, together with the following compromise (*Ausgleich*) with the Kingdom of Hungary. Such a political structure, to cite the Austro-American historian, Robert Kann, can still be called ‘Habsburg Empire’ only figuratively¹⁷.

13 Mazohl Wallnig 2000, 110–111.

14 According to Meriggi 1983, 198: “If Napoleon had made the justice executive (administrative), the Austrian Government made the executive administration juridical”.

15 “It is obvious, that the ‘transnational’ conception of the Austrian Empire (concept inherited from the Holy Roman Empire) built on the basis of the traditional rights of the *Länder* imposed on the historical level, was no longer possible in the concept of the in the nineteenth century. Conversely, the ‘nations’, as constitutional elements in the variety of the rights of the *Länder*, could not be instructed with speed and ease desired by the logic of a nation state that was progressively imposing itself. This was, and remained, the fundamental contradiction and the secular mortgage of Austria until its definite sunset”, Mazohl Wallnig 2000, 110–111.

16 Regarding this, see: Bellabarba 2014, 149–151.

17 See: Kann 1998, 411. See: Bellabarba, 2014 on this matter, as well as on the matter of the neo-absolutist project of Franz Joseph, on his connections with the military world and with the long-lasting situations of the state of siege, then on the policies Schwarzenberg and Bach governments, one the project of constructing a *Gesamtstaat*, namely a unitary Austrian state, as well as on its substantial failure which was due to being practically disabled to influence the foreign policy and thus to enjoy a favourable international environment.

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Rezime:***Habzburška Venecija od statusa quo do vanrednog stanja (1815–1854)***

Cilj ovog rada jeste da pruži u uvid u politički i institucionalni kontekst u Veneciji između Bečkog kongresa (1815) i vanredne situacije koja je usledila kao posledica promena uzrokovanih Revolucijom 1848. godine i nastavila se i u narednoj deceniji 19. veka. Dakle, rad se odnosi na središnju fazu istorije Habzburške monarhije, odnosno na praćenje istorije Italije od Pariskog mira i Bečkog kongresa do nastanka Kraljevine Italije 1866. Radi produbljenog razumevanja referentnog perioda, autor je smatrao neophodnim da se posebno osvrne na kraj austrijske uprave u Italiji 1866. godine. Kroz uporednu analizu različitih istorijskih diskursa, među kojima su i publikovani arhivski izvori, događaji za koje se činilo da imaju isključivo lokalni karakter i značaj interpretirani su u ovom radu kroz prizmu opštih tendencija austrijske politike. Ovakav pristup omogućio je drugačiji istorijski uvid u način upravljanja Venecijom preko promena u političkom, administrativnom i pravnom sistemu. Rezultati ovog rada biće važan doprinos budućim istraživanjima regionalnih – čini se fascinantnih i interesantnih – osobenosti i mehanizama upravljanja koje je Habzburška monarhija primenjivala na različitim teritorijama, od kojih je Kraljevstvo Lombardija–Venecija, interpretirano u ovom radu, samo jedna od teritorija.

Ključne reči: Bečki kongres, Habzburška monarhija, Kraljevstvo Lombardija–Venecija, Venecija, status quo, vanredno stanje, društvena kontrola, kriminal, krivično pravo, Vojna uprava D'Este

Paper received: 03. 11. 2015.

Paper reviewed: 16. 11. 2015.

Paper accepted: 01. 12. 2015.