

TO LIVE AND DIE IN KVARNER COMMUNES: A COMPARISON OF THE MEDIEVAL STATUTES OF KASTAV, VEPRINAC AND MOŠĆENICE

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ABSTRACT

The aim of this paper is to provide insight into the day to day activities of the inhabitants of the medieval communes of Kastav, Veprinac and Mošćenice. By using the only remaining sources, the communal statutes, the paper will try to recreate the government organization of the communes, as well as how the statutory regulations shaped everyday life. With analysing these neighbouring medieval communes the paper will try to point out the similarities and differences of the three communal statutes, from the composition of the texts, to the subject of their articles. By researching these statutes the main focus of the paper will be to show their impact on the population.

Key words: Kastav, Veprinac, Mošćenice, Medieval communes, statutes, everyday life

VIVERE E MORIRE NELLE COMUNI QUARNERINE: LA COMPARAZIONE DEI STATUTI MEDIEVALI DI KASTAV, VEPRINAC E MOŠĆENICE

SINETSI

Lo scopo dell'articolo è illustrare le attività quotidiane degli abitanti nelle comuni medievali di Kastav, Veprinac e Mošćenice. Usando le fonti esistenti, gli statuti comunali, l'articolo intende ricreare l'organizzazione amministrativa delle comuni, come pure le regole statutarie che hanno formato la vita quotidiana. Con l'analisi di questi comuni medievali adiacenti, l'articolo metterà in evidenza le similarità e le differenze, dalla composizione dei testi, ai contenuti dei loro articoli. Con l'analisi degli statuti comunali l'obiettivo principale dell'articolo sarà dimostrare il loro impatto sulla popolazione.

Parole chiave: Kastav, Veprinac, Mošćenice, comuni medievali, statuti, vita quotidiana

INTRODUCTORY REMARKS: AN OVERVIEW OF THE COMMUNAL STATUTES^{1*}

In order to understand the way in which the people of the Kvarner communes of Kastav, Veprinac and Mošćenice led their lives, one can somewhat rely on the articles of conduct found in the communal statutes, since the general lack of sources for the medieval but also for the early modern period makes researching this problem a difficult task. However, as these statutes represented a codification of the older customary law, present in the communities from the early Middle Ages, we can count on them to provide us with a certain insight into the matter, albeit, a limited one.

The first codified statute, of the three mentioned, was that of Kastav, written down in 1400.² The codification of the statute of Veprinac followed more than a century later, in 1507.³ The last of the statute which will be analyzed in this paper, that of Mošćenice, is the most problematic one. Presumably the statute came to be in 1483, but the official codification dates from 1627.⁴ However, the fact that the statute of Moscenice was codified much later than the other two does not mean that it did not originate from the late Middle Ages. The evidence can be found in the text of the statute since it states several times that the present articles were copied from an “old book”, meaning old law book.⁵ Another argument in favour of placing the origin of the Mošćenice statute in that period is that some

- 1 *An abbreviated version of this paper was presented at the 19th International Medieval Congress Leeds, July 2012, as a part of the session entitled *Interpreting Rules and Regulations in Medieval Statutes on the Croatian North-East Adriatic Coast: Case Studies of the Statutes from Istria and Kvarner*. The author would like to thank Damir Karbić and Marija Karbić for their valuable suggestions and observations, many of which are included in this amended version of the paper.
- 2 Unfortunately the original text of the statute of Kastav has not survived; however, there are several translations in Italian, German as well as Croatian the productions of which spanned from the 16th to the 19th century. For more on the various translations and other editions of the statute see in Karbić, Karbić, 2013, 68–70. This paper will use the most recent edition of the text, that of Ljubo Margetić who published the statute (both the Croatian and the German texts) under the title *Srednjovjekovni zakoni i opći akti na Kvarneru*, knj. 2. (KS Margetić, 2006b).
- 3 The statute of Veprinac is preserved transcribed in the Glagolitic script from the 16th century. The subsequent authors who published this statute mostly used the two edited versions in the Latin script done by Anton Cora and Jakov Volčić. For more on the various translations and editions of the statute see in Karbić, Karbić, 2013, 71–73. The statute was published by Ljubo Margetić in the aforementioned 2006 edition, which will be used in the paper (VS Margetić, 2006b).
- 4 The statute of Mošćenice was preserved in Croatian and German. The first publication of the Croatian text was made by Žic, 1912, 1–24. That same year Rudolf Strohal (1912) published the statute as well. Other publications are as follows Kadlec, 1914b; Šepić, 1957, 233–285; Milović, 1975, 113–140. It must be pointed out that the codification year presented in this article was reputed since it was proven that the statute was actually codified in 1627. Ljubo Margetić also published this statute under the title *Srednjovjekovni zakoni i opći akti na Kvarneru*, knj. 1. *Mošćenički zakoni i statuti* and this edition will be used in this paper (MS Margetić, 2006a). The German manuscript was published as follows: Simonić, 1994, 97–112; Margetić, 1995a, 215–218; Margetić, 1995b, 23–65.
- 5 “... pisani va staroj kvaderne ...”; “Budući bil prepisan i rekopijan ovi zdola pisani štatut od grada Mošćenice, a to od jedne kvaderni stare, ka je bila sakrivana pred benatacku vojsku, zlo tratana, ale tarmana, ...” (“... written in an old book...”; “Since it was re-written and copied this written statute of the city of Mošćenice, from an old book, which was kept hidden from the army, mistreated and ruined, ...”). (MS Margetić, 2006a, 1r/pas. 2 and 2v/pas.2).

of the articles actually date from the later Middle Ages, as was the case with 3v/pas.3, 4, 5 were the years 1470, 1472 and 1525 are mentioned. Lastly, the German version of the text is entitled *Statut dern von Moschtscheniz vom 1483*, indicating the period in which the articles of the statute were written down.

There is a general consensus amongst the researches who dealt with this subject that these statutes originated from customary laws, as the population wanted to preserve their old laws and customs during the changes of government in the communes. In this respect the articles of the three statutes covered civil, judicial, communal and criminal law regulations, some of which will be presented in this paper.

Many cities on the Adriatic coast were no strangers to the custom of regulating life with the aid of statutes, and the three Kvarner communes of Kastav, Veprinac and Mošćenice were no exception to this rule. The codification of the customary law into a written one, in the form of a statute, was a result of historical circumstances which forced the inhabitants of the communes to regulate their legal customs as a matter of protection of the community from foreign feudal lords, who obtained the right to govern them.⁶ Precisely because of this the statutes have written down only those parts of the customary law which the code makers then deemed important. According to prominent Croatian historians, who researched this topic, like N. Klaić, L. Margetić, O. Mandić, Đ. Milović, D. Munić and V. Grozdanić these written codes represented a compromise for they included both the interests of the new rulers in addition to the interests of the people who wanted to preserve their old customary laws and some rights that stemmed from them. The statutes did not only codify the customary laws, but, in order to show that they were in step with the time and the changes, they also included some stipulations which altered the old customs, or entirely new prescriptions which had to deal with situations that were not regulated beforehand (Milović, 1983, 15; Margetić, 2006a, 13–34; Grozdanić, 2008).

Although the three statutes differ according to length and span they do share a large number of similarities. One of the things that they have in common is the wish to regulate the autonomous municipal rights as well as home rule and autonomy which mostly relates to the communities' right of jurisdiction that is clearly shown in the statutes' articles regarding penalties and prosecutions (Bačić, 1988, 683–709). Through these stipulations one can recognize the guidelines of the medieval judicial law, but also, a myriad of circumstances of communal, economic, political and cultural nature of the related period.

Another similarity between the statutes of Kastav, Veprinac and Mošćenice is the language. Usually, the statutes of the Adriatic communes were written in Medieval Latin, with the occasional addition of some Venetian Italian and Croatian phrases and terms. However, in small communes, such as these three, where the outside influence was not so substantial and ever-present the statutes were written exclusively in the Croatian vernacular.⁷

6 For instance Veprinac statute *proemium* states that these were “old laws which were always followed in this commune”. (VS Margetić 2006b, 29). The laws were also a way of guarantee for the new government that their rulership will be honoured in the communes.

7 All three statutes presented in this paper were written in the Croatian local dialect called *čakavština*

It must be also pointed out that there is an ongoing debate amongst Croatian historians whether it's correct or not to call these codes statutes (*Statut*), or to refer to them as law codes (*Zakonik*). While some of the researchers agree that the codes should be called statutes, since the majority of the codes that came from the Adriatic region were in fact called statutes, other argue in favour of calling them law codes as some of them refer to in their articles. For example the Veprinac and Mošćenice codes mostly refer to their articles as parts of a law code.⁸ On the other hand the Kastav one uses both terms frequently in its articles.⁹ However, as there aren't any conclusive remarks whether the appropriate term to use would be statute or law code this paper will side with the majority of opinions on the subject and refer to them as statutes rather than law codes (Margetić, 2006a, 27–31; Margetić, 2006b, 95; Karač, 2009, 1–20).

HISTORICAL BACKGROUND AND THE CODIFICATION OF THE COMMUNAL CUSTOMARY LAWS

These three communes shared similarities regarding their historical process as well since they were an integral part of the Kastav Captaincy during the Middle Ages. However, according to some historians such as D. Munić, their roots stem from the period of the Roman Empire, when this territory was included in the province named *Dalmatia*, i.e. its part that was called *Liburnia* (meaning the nowadays eastern part of Istria and Kvarner) (Suić, 1952, 273–296; Margetić, 1997, 11; Munić, 1997, 17).

A far more known fact is that these settlements were in the early Middle Ages inhabited by the Slavic-Croatian immigrants that merged with the pre-existing indigenous population. During this period the territory of Istria and Kvarner was contested between the Franks and the Byzantines. The Franks prevailed, which resulted in the fact that the three communes became a part of the Carolingian kingdom of Italy, and stayed as such

(Ivančić, 1966; Kuzmić, 2001; Holjevac, 2005). There are also several authorised translations of the texts. See more about the statutes of Kastav and Veprinac in Karbić, Karbić, 2013, 68–73.

- 8 For instance the Mošćenice code in its *proemium* states the following: "Ovo su knjige od zakona kaštela Mošćenice, va keh knjigah su pisani svi zakoni ..." ("These are the books of laws of the castel of Mošćenice, in which books all the laws were written down ...") (MS Margetić, 2006a, 1r/pas1). However, the code also sometimes uses the word statute to describe itself: "... zdola pisani statut od grada Mošćenice ..." ("... below written statute of the town of Mošćenice ..."). (MS Margetić, 2006a, 2v/pas.2). The *premium* of the Veprinac code states that the chancellor ordered the writing down of the old laws which were always honoured in the town of Veprinac and will be always be valid in the future ("... tre mani kancelaru niže podpisanom zapovedaše zakoni stari zapisati ki [e] su vazda bili držani v tom počtovanim gradu Veprinci id a budu i z[a] napreda držani id a se vazda v pisme naidu") (VS Margetić, 2006b, 29).
- 9 The Kastav code is entitled twofold, on the starting page of the code it is stated *Statut kastavski leta 1400* (The Statute of Kastav from the year 1400), while on the subsequent page lies another title *Zakon grada Kastva po rojstvu Isusovem leta 1400* (The law of the town of Kastav of the year of our Lord 1400). In the text of the code there are several mentions of the words law and statute, such as for example in the article no. 63 "... tako vsi više imenovani spored z gospodinom namestnikom štatuju i zakon čine ..." ("... and so all of the aforementioned with the lord governor make the statute and the law ...") and in the article no. 65 "... odsada unapervo narejujemo i štatujemo..." ("... and from now on we state [by statute] and order beforehand ..."). (KS Margetić, 2006b, art. 63, 65).

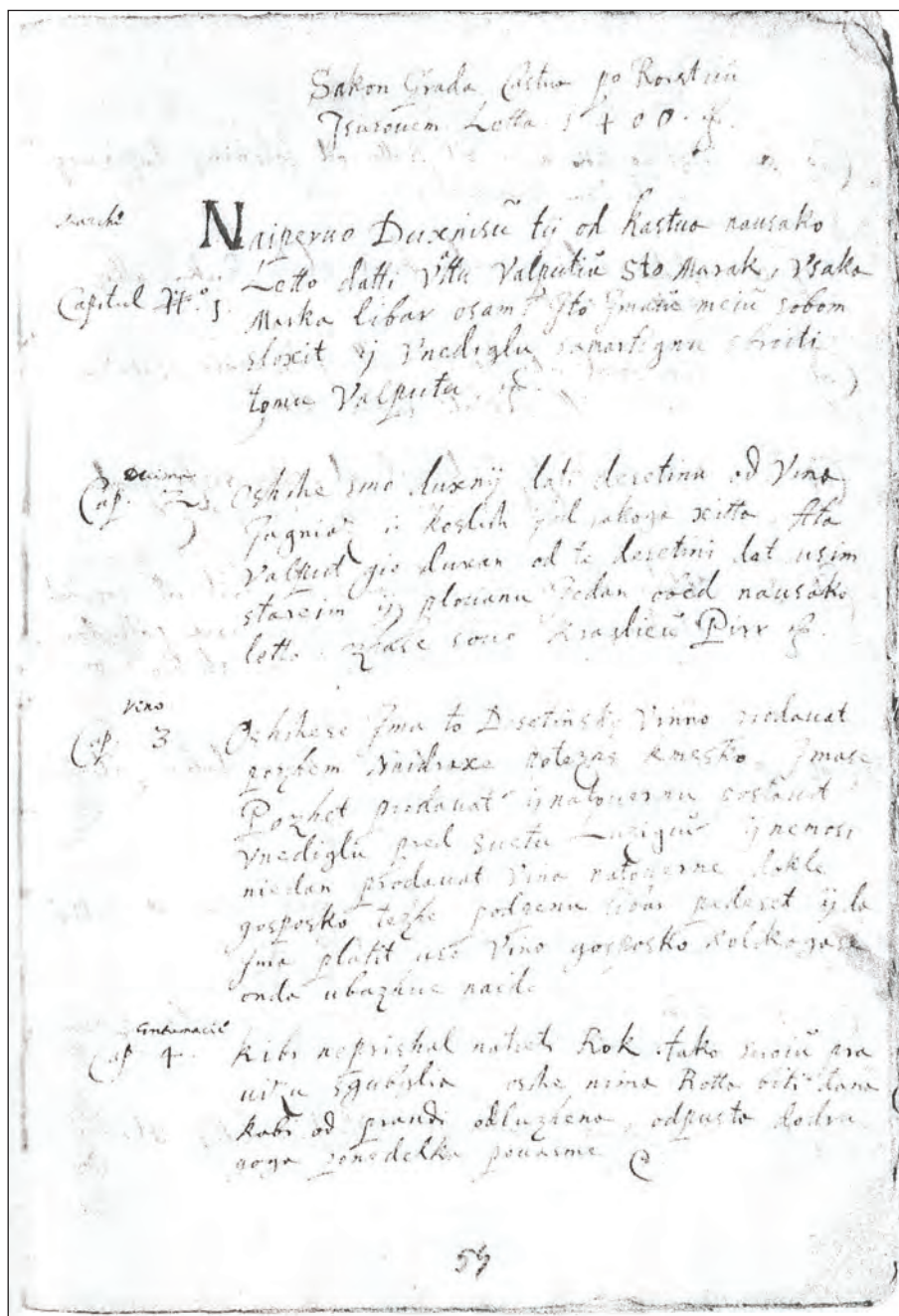


Fig. 1: Kastav statute (Croatian version) (Margetić, 2006b)

until the late 10th century. For a brief period of time Kastav, Veprinac and Mošćenice, in addition to some of the other Kvarner communes, were under the bishopric of Pula but in the early 11th century they changed owners once again as the family Weimar-Orlamünde were granted by Emperor Henry IV to extend their rule on the east part of the Istrian peninsula (Munić, 1997, 26).

The situation changes again in the late 11th and 12th century. In the second half of the 11th century, after an unsuccessful attempt at gaining back its territory, the borders of the Croatian kingdom were moved from the mountain Učka to the river Rječina which meant that the Kvarner communes were permanently severed from the rule of the Kings of Croats, and later of Croatian-Hungarian Kings, subsequently placing them firstly under the jurisdiction of the Patriarchate of Aquileia. In the beginning of the 12th century the aristocratic family of the counts of Duino (near Trieste) received these territories as vassals of the Patriarchate (Margetić, 1997, 11–12; Munić, 1997, 32). The rulership of the Duino family lasted up until the 14th century, in which time the communes of Kastav, Veprinac and Mošćenice grew even closer together, as a way of protection from the outside element. In the late 14th century these communes had annotated *urbarium* decrees and obligations, which defined the relationship between the population of the communes and their feudal lords.

In the late 14th century the last member of the house of Duino struck a deal with the counts of Walsee, from the territory of the present day Austria, who took over the possessions of the Duino family in Kras and Kvarner, such as for example the communes of Rijeka, Kastav, Veprinac, Mošćenice, Brsec and some other smaller settlements. Another *urbarium* was created for the change of rulership between the Duino and the Walsee, but in it the obligations and rights were just a repetition of the ones already established in the past. From this *urbarium*, which was drawn in the year 1400, we have a list of all joint and separate obligations of the Kvarner communes under the Walsee family rule. In addition, approximately at this time, the first of the three statutes was codified, the Kastav one.

In the second half of the 15th century the last member of the Walsee family left the land on the Kvarner coast to Emperor Frederic III which then resulted in having the communes of Kastav, Veprinac and Mošćenice placed under the rule of one of the most influential families of that time, the Habsburg family (Margetić, 1997, 12–13; Munić, 1997, 37–38). Following the well-established praxis the Habsburgs had drawn another *urbarium*, which again repeated all the obligations and rights as well as left the autonomy to the communes and acknowledged the old statutory stipulations from the communal statutes (Munić, 1997, 47). The Habsburg family had little interest in the lands they acquired and so they had them pledged to other noblemen for substantial monetary compensation (Kadlec, 1914a; Margetić, 1997, 14; Munić, 1997, 47–48).

It seems that the constant change in ownership over these lands was a stimulus for the subjects of the communes to regulate their status towards their lords. In the light of this one might wonder why was it necessary to have three different statutes for close, neighbouring, communes, which were all under the same governance. The answer as to why the Kastav law was codified is simple; this commune had a higher administrative and governing function than the other two. Kastav, organised as a Captaincy, needed to codify

its customary laws because it was the administrative centre for the territory. The answer to the question why both Veprinac and Mošćenice had their own statutes is not so clear. However, when reading their articles, one can notice that the texts clearly show their need to differentiate their land and customs from those of Kastav.¹⁰ The fact that both the statute of Mošćenice and that of Veprinac were codified significantly later than that of Kastav can be an indicator that the two communes have not accepted their subordination to the Kastav Captaincy, but attempted to show their particular and separate identity.

MUNICIPAL ORGANIZATION

By researching the various *urbarium* ordinances as well as codified statutes one can see that even though through the period from the early Middle Ages to the early modern times the three communes changed their owners quite often the people nonetheless managed to preserve their autonomy and rights and that every new power that came to these territories had no alternative but to honour the autonomy they encountered.

Speaking of home rule, Kastav, Veprinac and Mošćenice all had well established governments, the rights, responsibilities and obligations of which we can see in the articles of their respective statutes. The statute of Kastav, for instance, informs us, besides what was expected of its Captain, also on how the government of the Captaincy was organized. The head governor was a Captain, appointed on this position by a seignior. The chosen Captain was not someone who was of local descent. Once established, the Captain received some of the powers and duties of the seignior which made everyday situations easier to handle, since the seignior was not present at the estate for most of the time, or at all. The statute also defined where was the Captain residing during the time he was in this office, as well as what were the obligations of the people towards him.¹¹ Some of his many obligations included the following: he was in charge of collecting the yearly tribute for the seignior; he was present at the municipal council meetings and took part in the decisions regarding the commune, as well as the execution of these decisions. The Captain also participated in court and had the obligation of providing defence for the town and the commune (KS Margetić, 2006b, art. 33; see also Munić, 1997, 130). The Captain of Kastav, as a direct governor in the name of the seignior, had seniority over Veprinac and Mošćenice, especially in the matters of court jurisdiction. Even though the communes of Veprinac and Mošćenice always stated their autonomy and independence, some of the articles from their statutes show their subordination to the Kastav Captaincy (KS Margetić, 2006b, art. 48; VS Margetić, 2006b, art. 1–5; MS Margetić, 2006a, 14(7v) 1). However, in effect the Captain of Kastav usually only presided in the disputes in Veprinac and Mošćenice for

10 For example the Statute of Veprinac states in article 41 “Zakon e da ovde Veprince moremo za vsaku reč pravdu sudit, zač imamo pun stol i rihtu i nigdore nismo hodili v Kastav na niednu pravdu ...” where the people of Veprinac proclaim their judicial independence from the Capitancy by stating that they never sought out any judicial help from Kastav. (VS Margetić, 2006b, art. 41; Žontar, 1945–1946, 186–187; Margetić, 1997, 15).

11 Articles on the Captain: 1, 18, 20, 31, 35, 38–39, 42, 48, 58–68, 70–76; articles on the duties of the people: 60–62 (KS Margetić, 2006b; see also in Munić, 1997, 129).

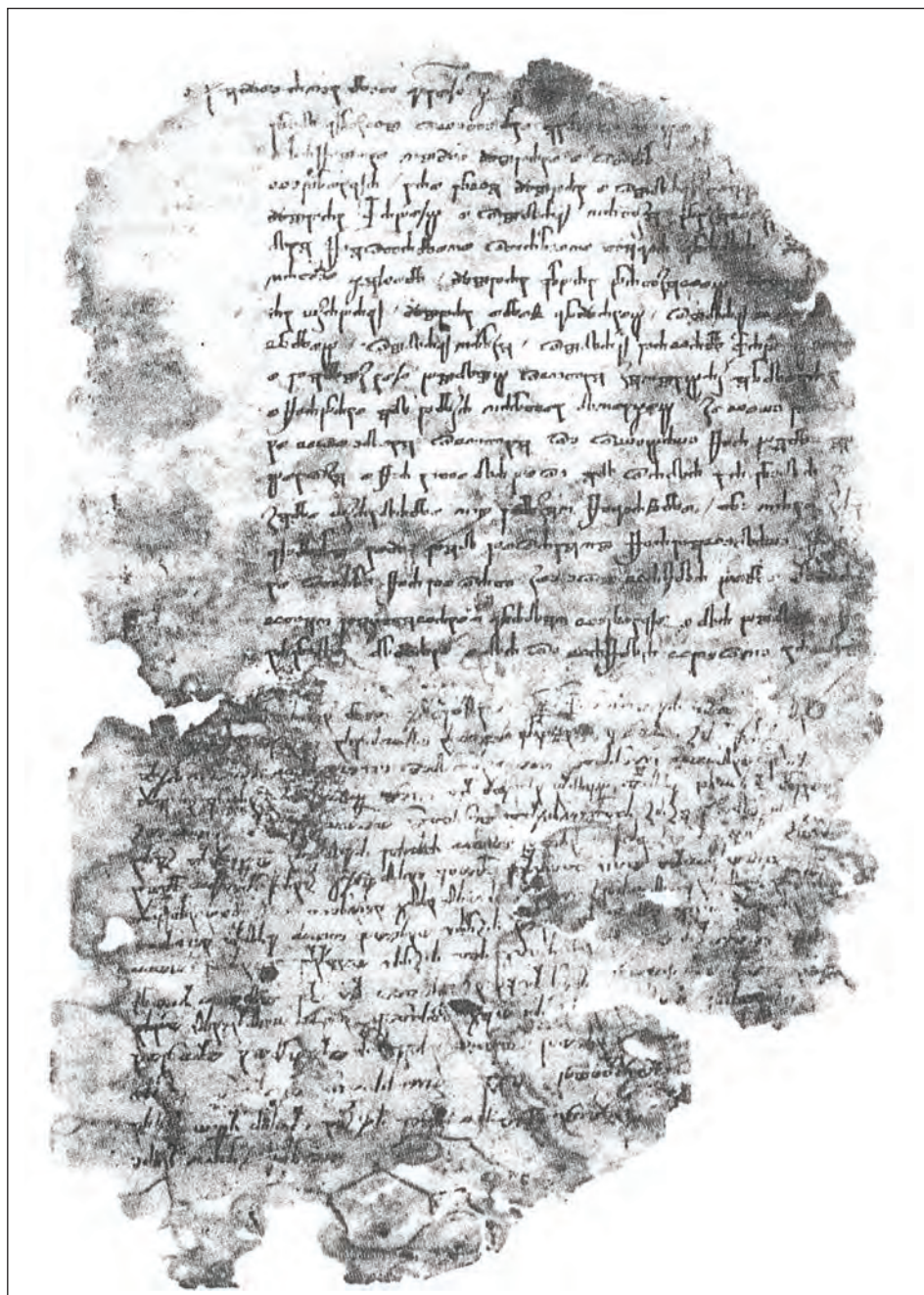


Fig. 2: Veprinac statute (Margetić, 2006b)

penalties of more than 50 libars (VS Margetić, 2006b, art. 42; MS Margetić, 2006a, 16v/pas. 4; see also in Margetić, 1997, 15).

Although it can be stated that both Veprinac and Mošćenice were placed under the judicial jurisdiction of the Captaincy their statutes insist on their courts being held separately from those of Kastav. Veprinac and Mošćenice had one judge each but according to their statutes he was sufficient enough to preside over disputes in the commune and only should the need arise the communes were to ask for additional judges to be sent from Kastav (VS Margetić, 2006b, art. 41; MS Margetić, 2006a, 13r/pas. 4).

Apart from the office of the Captain, who was considered to be outside of the communal system and above all communes, of other offices that existed in the Kastav Captaincy, the statute also mentions communal officers known as the *judices ordinari* that dealt with everyday occurrences and activities in the commune, making their jurisdiction vastly spanned.¹² The two ordinary judges (in the local dialect referred to as *suci ordinari*) were elected in office for the duration of one year and could be re-elected for more terms afterwards. They usually came from prominent Kastav local families (Munić, 1997, 131).

Apart from the office of the Captain and the bigger number of the *judices ordinari* the three communes shared in common other offices making their municipal organization not only resemble each other, but also the neighbouring communes from Istria and other parts of the Kvarner. All three communes had a council, with the members' number varying between them. For instance in Mošćenice there was a Great council, consisting of thirty six older members of the community. They elected twelve members for the Small council, who then were the overseers of all governing and judicial matters in the commune. Other communal officers were selected from the members of the Great council, their election held in the presence of the Captain. The Mošćenice commune thus had a rector (*župan*), a judge, a *satnik*¹³ and his assistant (*komunščak*), as well as a chancellor (*kancalar*) (MS Margetić, 2006a, 2r/pas.3, 4). These officers all had to take an oath to the communes' priest (*plovan*), verifying their will to perform their duties with the outmost honesty and dedication. In addition, the chancellor had the obligation to present the work of the other officers to the public and, if needed, sanction their trespasses. The mandate of each office lasted for one year (MS Margetić, 2006a, 10r/pas.1; see also in Šepić, 1957, 233–285).

The commune of Veprinac had a similar municipal organization which consisted of a council of twelve elders (*stareji*), presided by a rector (*župan*), and one *judex ordinarius*, in addition to a *satnik* and his assistant (*komunščak*). The duty of the *satnik* here also consisted in taking care of proclaiming all of the judicial and council decisions to the public (VS Margetić, 2006b, art. 36, 37; see also in Margetić, 1997, 14–15). In Kastav, on the other hand, the task of the *satnik* was to organize military and executive duties as directed by the council or the judges. According to the statute of Kastav his main day to day job was to apprehend criminals and hold them in custody and to provide peace and order in

12 Articles on judges: 18, 20, 32, 34, 36–40, 42–43, 46–47, 49, 51–54, 58, 63–68, 71–72, 74–76; articles on penalties and the court: 4–20, 29, 31 (KS Margetić, 2006b; see also in Munić, 1997, 131–133).

13 The role of the *satnik* was to provide protection for the castle and its inhabitants which could be somewhat equal to the role of the *praefectus castrum*.

the town as well as to monitor in the case a fire should occur (KS Margetić, 2006b, art. 18, 20, 42, 43, 47, 64, 71, 72; see also in Munić, 1997, 135–136).

The Great council of the commune of Kastav consisted of twenty four members (named differently as *stareji*, *svetnici*, *deputati*, or *dvajsčeti od puka*). Amongst them they choose the so called Small council which was made of twelve members. The seat in the Small council was lifelong and hereditary (KS Margetić, 2006b, art. 2, 29, 32, 34, 39, 41, 42, 47, 51, 64–68, 70–73; see also in Munić, 1997, 134). In addition to the council members and the *satnik*, the municipality of Kastav also had a *dvornik* who was considered a lower ranking communal officer and had various duties in regards to the obligations of the inhabitants (*kmeti*).¹⁴ Kastav also had a chancellor, who took care of the administrative business of the commune, which mostly consisted in annotating communal records (KS Margetić, 2006b, art. 36, 42, 47, 65, 72, 74, 76; see also in Munić, 1997, 137).

All three communes had their own parish priest (*plovan*) who was in charge of the church related obligations. Although their duties were supposed to be exclusively associated with church affairs and spiritual life *plovans* also had a great impact on the secular matters since they were the ones who were closely connected with the inhabitants. In the ecclesiastical matters the communes were under the jurisdiction of the bishopric of Pula.

KMETI AND POPULUS

The statutes of the communes of Kastav, Veprinac and Mošćenice regard all their inhabitants as *kmeti*. They are also referred to as commoners (*populus*), by most part in the statute of Kastav. In addition, all three statutes differentiate the population of the commune from the lords (*gospoda*) or the noblemen that govern them. They vigorously explain which were the obligations and rights pertaining to these groups. Although the *kmeti* were considered to be subservient to their respective commune they had personal freedom and were regarded as free villagers who possessed their own land. The statutes guaranteed the *kmeti* of the communes' legal freedom, however, their status was conditioned by their economical dependency. The *kmeti* in these communes usually worked in farming, cattle breeding, viticulture, beekeeping, cutting and selling wood and, in the maritime parts of the communes, fishing (especially in the coastal village of Volosko). They also had a hand in various crafts such as butchering, vine trade and the making of some house craft products (they worked either as blacksmiths or on boat crafting) (Mandić, 1963, 153–205).

All the *kmeti* were liable to pay several tolls to the commune and their seignior. In Kastav, as prescribed by the statute,¹⁵ the *kmeti*, along with all the other inhabitants of

14 The role of the *dvornik* was of a somewhat mediator between the commune and the *kmeti*. *Dvorink* usually oversees that the *kmeti* fulfil their obligations. There were different meanings associated with the term *kmet* or *kmeti*; depending on the region they were either considered as castle-warriors (*jobagiones castrī*), peasants or serfs. In the case of these communes the term denotes wealthier peasants. (KS Margetić, 2006b, art. 43, 49, 57; see also in Munić, 1997, 136).

15 Articles about the *kmeti* 2, 41–42, 47, 65 (KS Margetić, 2006b).

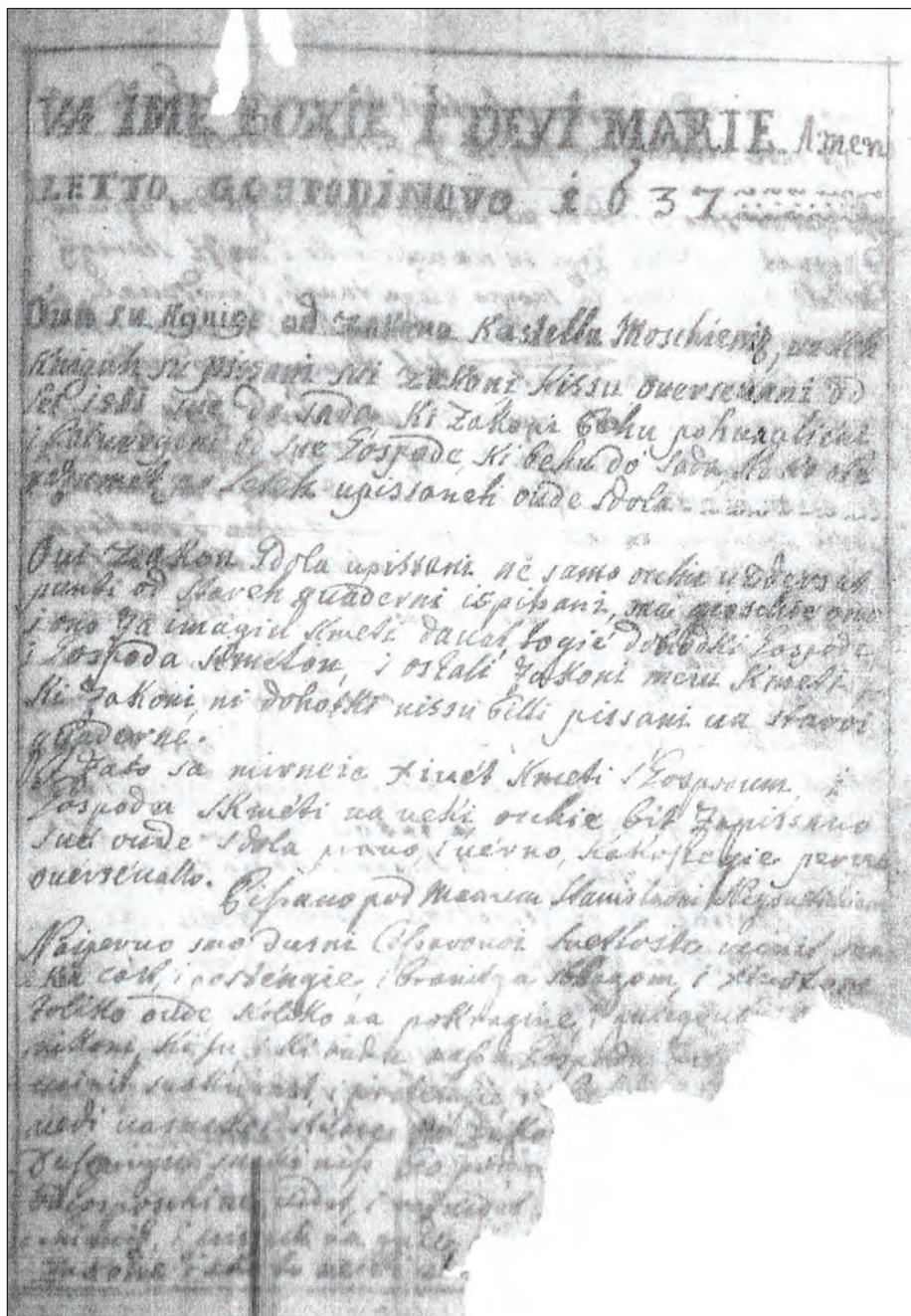


Fig. 3: Mošćenice statute (Margetić, 2006a)

the commune, had to pay a yearly toll in the amount of 100 marks in addition to some other acquiescence, such as the tithe (Munić, 1997, 139). The subjects of the commune of Kastav were expected to provide either monetary toll or a payment in nature on the first Sunday after Saint Martin's day. Furthermore, some of the *kmeti* had obligations towards the *satnik* and the Captain, such as guarding and similar military activities (KS Margetić, 2006b, art. 42, 43, 55, 60, 62, 64, 68).

According to the statute of Veprinac the *kmeti* of that commune had the following obligations: a yearly toll of 21 marks and 6 libars; tithe in grain, vine and lamb, out of which a quarter was to go to the *plovan*; a labour fee in the form of cutting trees, as well as some other smaller fines (VS Margetić, 2006b, art. 35; see also in Mandić, 1963, 184–185; Margetić, 1997, 17–18). A *kmet*, as a member of the Veprinac commune, had certain obligations and duties of economic nature to fulfil towards his seigniors, either directly or through the municipality, while at the same time he retained his personal freedom. An indication of the fact that the *kmeti* in this commune were free is shown by the custom of allowing the *kmeti* to participate in electing the commune officials as well as the fact that a *kmet* was also eligible to be a candidate for an office.

The position of the *kmeti* in the commune of Mošćenice did not differ from that of Veprinac or Kastav. The commune was expected to pay to the seignior a yearly toll of 28 marks, which then in the 17th century rose to 125 marks. The same sum was charged in Veprinac, while Kastav was expected to pay 200 marks.¹⁶ In addition, it was expected of all of the subjects, with the exception of the rector, to pay a tithe in vine, grain and live stock.¹⁷

Although all three statutes mention it in some form, either in the articles or in the *proemium*, the term *populus* was generally used to identify the entire population of the commune and not to specify a different class of the society. The statutes do not stipulate different penalties pertaining solely to the *populus* which also goes along to show that the society did not diversify its people other than the general division of the classes, that of the lords (*gospoda*) and the *populus*.¹⁸ The only statute of these three, that mentions the *populus* in great length, is the one from Kastav (KS Margetić, 2006b, art. 37, 38, 47, 63, 64, 68; see also in Mandić, 1963, 173–175; Munić, 1997, 142). In it the meaning of the term greatly differs from the one present in the other two statutes. Here the term *populus* was used to define those who are eligible to run for any municipal office (the statute of Kastav does not specify that a *kmet* can become a candidate for an office as does for instance the statute of Veprinac) which defines this category of the so called commoners as

16 MS Margetić, 2006a, 11v/pas.1 mentions all three communes and the expected tolls. (Margetić, 1997, 17; Munić, 1997, 116).

17 MS Margetić, 2006a, 1v/pas.2; see more in Mandić, 1963, 185; Margetić, 2006b, 38. About the exemption of the rectors' payment of tithe see MS Margetić, 2006a, 1v/pas.2.

18 The statute of Mošćenice states for example that one of the purposes of the code was to regulate the relations and obligations between the noblemen and the *kmeti* of the commune: "... to je dohodki gospode i gospoda kmeton ..." and "I zato za mirneje živet kmeti z gospodum i gospoda z kmeti vaveki ..." ("And so they could live peacefully *kmeti* with the noblemen and noblemen with the *kmeti* always ...") (MS Margetić, 2006a, 1r/pas. 2, 3; see more in Mandić, 1963, 178).

the ones who enjoyed both economic and legal freedom from the authorities of the commune, as well as a personal one. Their obligation however was solely towards the seignior as they were a part of his land (Munić, 1997, 142). It is most likely that the term *populus* was also used to describe the people who resided in the borough of the *castrum* which makes them different then the general population that inhabited the settlements within the commune, known as *kontrade* (Mandić, 1963, 192).

CRIME AND PUNISHMENT ACCORDING TO THE STATUTES

As the majority of the articles from all three statutes deal with criminal law, the final remarks of this paper will address this issue. The statute of Kastav, in his articles (*kapituli*) specified five types of penalties. First, the death penalty administered in cases of public property damage or theft, sometimes in alternation with monetary compensation (Milović, 2005, 211–250). Interestingly, the statute does not provide any form of punishment for committing murder which can be explained by stating that the customary law was so well embedded in the minds of the subjects of the commune that there was no need to put it in a written form, everybody knew what the punishment for this crime entitled. Alternatively, it can be argued that the statute did not have jurisdiction over this matter (Milović, 1965, 61–103). Secondly, there was corporal punishment, administered in the form of amputation of a limb (in this case of a hand) for larceny and in the form of three lashes with a rope for disregarding labour obligations, disturbing public peace, contravening authorities, etc. These punishments were always accompanied by monetary penalties. Thirdly there were monetary penalties, administered either as sole punishment, alternative punishment or cumulative punishment for various types of crimes in different amounts. Fourthly, imprisonment, administered when one was unable to settle the monetary penalty, in the cases of verbal delicts or for refusing to perform labour obligations. The punishment lasted from eight to maximum thirty days. Lastly, there was banishment, administered again when the monetary penalty has not been paid or when a serf repeatedly refused to perform his labour obligations (i. e. guarding). The punishment was administered from up to one year to indefinitely (Milović, 1983, 55–58).

The statute of Veprinac, despite the short amount of articles in it (only forty six on a three pages long statute), mostly deals with criminal law regulations (Milović, 1983, 58–61; Milović, 1997). Due to this restriction the statute only offers two types of penalties, and that is the death and the monetary penalty. The death penalty was administered in the case of murder, however the statute does not specify how the punishment should be carried out (VS Margetić, 2006b, art. 11; see also in Milović, 1983, 60). As for the monetary penalty it was prescribed for twenty four delicts, either as sole punishment or by accompanying another, the proclamation of which was left to the discretion of the court. The statute also prescribes different amounts of money to be paid for crimes performed during the day and for those done during the night (VS Margetić, 2006b, art. 14; see also in Milović, 1983, 60–61).

The punishments regulated by the statute of Mošćenice are diverse. Even though this statute, as the Kastav one, does not clearly provide penalties, in any of his fifty four ar-

ticles, for the crime of murder,¹⁹ it does interestingly prescribe the death penalty for the crime of adultery committed with another one's wife (MS Margetić, 2006a, 11r/pas. 12; see also in Milović, 1983, 63; Karbić, 2003, 331–340; Grozdanić, 2008, 175). Alternatively, this crime could be also punished by forfeiture of all properties. The statute also features a few corporal penalties which were administered for theft (three lashes with rope), disregarding the payment of the tithe or for not honouring a religious festivity (known as the “Okovi sv. Petra” or the stocks of St. Peter, in the local dialect named *va klade*) (MS Margetić, 2006a, 4v/pas. 2; see also in Milović, 1983, 63–64). Again the monetary penalties were prescribed in the largest number of delicts (fifty five of them) and they are administered either as sole punishment or as cumulative and accompanying punishments (Milović, 1983, 64–66). As an alternative to the monetary penalty the statute prescribed the punishment of forfeiture of goods. The statute also prescribed the punishment of requisition of all profits when one fails to pay regularly the tributes to the commune or when withholding the information on the amount of one's profits. This punishment was accompanied with the placement in stocks (MS Margetić, 2006a, 3v/pas. 7. and 4r/pas. 1; see also in Milović, 1983, 67). Imprisonment is also administered by this statute in the cases of verbal delicts such as swearing or for intoxication. The incarceration for these trespasses spanned from one day to maximum eight days. Alternatively a monetary fine could be paid as a way to avoid prison (MS Margetić, 2006a, 10v/pas. 5; see also in Milović, 1983, 67). Lastly, the statute prescribes the punishment of exclusion from the council if one was to divulge the secrets of the council or should one slander a fellow council member (MS Margetić, 2006a, 3v/pas. 5 and 2v/pas. 3; see also in Milović, 1983, 67).

The rest of the articles from these statutes try to regulate everyday occurrences, such as, for example, the division of the communal land designated for pasture, land designated for tree cutting, or establishing time and place for selling meat, fish or vine and sale of the cattle, as well as other daily situations.

CONCLUSION

It can be stated that even with the lack of any general sources that can be used as comparison, as well as private legal documents, such as testaments for example, or court proceedings from the period, the presented statutes somewhat manage to portray the picture of how everyday life was organized in the communes of Kastav, Veprinac and Mošćenice. Subsequently, it is also difficult to establish how much of these law proscriptions were really implemented during the everyday life of the inhabitants of these communes, again, the lack of private legal documents makes answering this question impossible. However,

¹⁹ MS Margetić, 2006a, mentions in 10v/pas.7 the following regulation “Kade su velike i smertne rani, da ima se kaštigat duplo (50 libars), ale još već, kako pravda obnajde” (“When the wounds are big and fatal, it should be penalized double (50 libars), or more, as justice demands”) meaning that the code provides a monetary penalty, but only in case of wounding with an fatal outcome, not deliberate murder. (Milović, 1965, 85). Most probably the reasoning was the same as for the case of the statute of Kastav. More on the criminal law of this statute see (Milović, 1995, 147–197).

as their brief and on point articles mostly deal with the organization and function of communal government, as well as the regulation of the criminal law, it is easy to recreate from them this aspect of the everyday life, giving us insight into a part of the day to day activities in the communes.

ŽIVETI IN UMRETI V KVARNERSKIH KOMUNIH: PRIMERJAVA SREDNJEVEŠKIH STATUTOV KASTAVA, VEPRINACA IN MOŠĆENIC

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POVZETEK

Članek predstavlja pregled kvarnerskih komunskih statutow krajev Kastav, Veprinac in Mošćemoce, njegov glavni namen pa je nuditi vpogled v vsakdanje aktivnosti prebivalcev teh krajev. Ker so se kodeksi ukvarjali v glavnem z organizacijo oblasti je osrednji namen prispevka pokazati, kako so predpisi statutow vplivali na vsakdanjo organizacijo komuna. Ravno nasprotno pa je namen prispevka tudi ugotoviti, kako lahko uporabimo statute pri razumevanju vsakdanjega življenja prebivalcev teh srednjeveških komunov. Da bi olajšali raziskavo so vsi trije statuti primerjalno analizirani, z namenom ugotoviti podobnosti in razlike njihovih členov ter njihovo implementacijo v komunih. Poleg skupne značilnosti, da so vsi napisani v enakem narečju, so si kodeksi Kastava, Veprinaca in Mošćenice podobni zaradi namena njihovega nastanka, kar je tudi njihova glavna funkcija, to je regulacija komunskega življenja. Preko različnih primerov prispevek prikazuje, kako členi statutow posnemajo drug drugega, predvsem kstavski statut, ki predstavlja vzorčni primer, ne samo zato, ker je najstarejši od treh, temveč tudi, ker regulira celotno kapitanijo. To je razvidno iz členov, ki so v skladu z oblastnim in pravosodnim sistemom treh komunov. Kljub temu – najverjetneje iz želje, da bi se razlikovali od Kastava – ostala dva vsebujeta tudi člene, ki izkazujejo njihovo neodvisnost, kot npr. regulacija komunalnih sodišč, ki so bila organizirana ločeno od kastavskih.

Ključne besede: Kastav, Veprinac, Mošćenice, srednjeveški komuni, statuti, vsakdanje življenje

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