

Call for Papers
Social History of Civil Justice, 19-21st Centuries

7-8 March 2024

International Workshop in the framework of the FWF Project "[Uses of civil justice and social policy in the Habsburg Monarchy, 1873 - 1914](#)"

University of Vienna

Organizers:

Walter Fuchs (Berlin School of Economy and Law), Mátyás Erdélyi (University of Vienna),
Borbala Zsuzsanna Török (University of Vienna)

The Austrian jurist Eugen Ehrlich (1862-1922), became famous for “discovering” customary rules shaping private legal matters in daily social life in his home province Bukovina. This “living law”, as he called it, did not only vary between the numerous ethnic groups in this predominantly rural crownland of the Habsburg Monarchy, but sometimes also contradicted the Austrian Civil Code. Against this background, one would expect little demand for civil procedural remedies before state courts in Bukovina. Yet the province witnessed a staggering litigation rate during the monarchy’s last decades, possibly fueled by the then new "social" civil procedural law, which had facilitated access to the courts. Irrespective of 'living' legal traditions, plaintiffs in this crownland actually must have used the new opportunities for the enforcement of legal claims (Fuchs 2020). Taking the case of Habsburg Bukovina as a starting point, the workshop asks how citizens in various parts of the world have engaged with the instruments provided by civil procedural law since the institutionalization of modern civil litigation. How did the demand for modern civil justice develop in different social, geographic and historical contexts? Did it replace or complete uses of customary and informal legal remedies outside the courts?

The workshop draws on two major research fields. On the one hand, sociological research on uses of justice has analyzed how economic and social transformation in industrial and post-industrial societies has affected civil litigation. In these studies, which mostly focus on the Global North, the state figures as a powerful legal and economic factor that shapes the legal behavior of civilians profoundly. On the other hand, Ehrlich’s theory has inspired conceptualizations of legal pluralism worldwide, whether in traditional contexts before the onset of global capitalism (Vermeesch et al. 2019), in the trans-national urban sphere of global trade (Teubner 1996) or in the rural communities of the Global South (Zenker and Hoehne 2018). These studies have cast their focus on legal practices aside the state.

We invite contributions that analyze uses of justice in a historical or a sociological perspective since the late nineteenth century. We are interested both in qualitative micro-studies and

quantitative approaches on a wide geographic scale that address the topic in their social, legal and economic contexts. The themes of the contributions may involve but do not exhaust:

- regional and social disparities in the uses of justice and their causes;
- litigation behavior and its social, economic, political background (eg. industrialization, economic growth, technological change, demographic shifts);
- parties (plaintiffs, defendants), other actors (judges, experts, court clerks) and topics of litigation;
- uses of civil litigation: was it an instrument of law enforcement or a means for citizen self-empowerment vis-à-vis the state?
- Choice of dispute settlement outside the courts as alternative or complementary means to civil litigation;
- the agency of the state in shaping legal behavior directly (e.g. by promulgating procedural codes) and indirectly (e.g. by prosecuting criminality);
- the role of various stakeholders (lawyers, notaries, judges, parties, trade unions, professional chambers, international organizations) in shaping the legal and political framework of litigation;

Please send your one-page abstract (500 words) and a short biographical note to Mátyás Erdélyi matyas.erdelyi@univie.ac.at until 31 October 2023. The workshop will take place at the University of Vienna. The workshop-related costs for participants from Europe can be covered by the organizers and we aim to partially fund overseas participation. Please contact the organizers for more detail: Borbala Zsuzsanna Török (borbala.zsuzsanna.toeroek@univie.ac.at) and Mátyás Erdélyi (matyas.erdelyi@univie.ac.at).

Walter Fuchs, "Litigious Bukovina: Eugen Ehrlich's 'Living Law' and the Use of Civil Justice in the Late Habsburg Monarchy." *Administrative History – Journal for the History of Public Administration* (2020): 235-248.

Gunther Teubner, 'Globale Bukowina. Zur Emergenz eines transnationalen Rechtspluralismus.' *Rechtshistorisches Journal*, 15 (1996): 255–90.

Griet Vermeesch, Manon van der Heijden and Jaco Zuijderduijn eds., *The Uses of Justice in Global Perspective, 1600-1900*. London: Routledge, 2019.

Olaf Zenker, and Markus Virgil Hoehne, eds. *The State and the Paradox of Customary Law in Africa*. New York: Routledge, 2018.