

RUSSIAN INSTITUTE OF ROMAN LAW IN BERLIN
IN LIGHT OF I. A. POKROVSKIJ'S
SCHOLARLY TRAINING

The practice of training future Russian professors of law at foreign, and particularly German, universities first arose already in the early XIXth century. In September 1829 a group of Russian students went to Berlin to study Roman law under the tutorship of Friedrich von Savigny (one of the founders of the “historical school” of law), an arrangement which was conceived by the prominent Russian statesman M. M. Speranskij.¹ After returning to Russia a few years later and defending their doctoral theses, these twelve students started to work in the Second Section of His Imperial Majesty's Own Chancery, and henceforth formed the foundation of the faculties of law in Russian universities.²

But what was the reason for sending Russian students particularly to Germany to study Roman law? First of all the Russian imperial government had a harshly negative attitude toward the natural law conception, based as it was on Enlightenment ideas. Friedrich Carl von Savigny was one of the first great critics of natural law conception and so he was the logical choice for Russian officials who sought to create a new cadre of loyal professors, well-prepared to teach law after the adoption of the Russian Empire's newly instituted legal code.³

Once again the same idea appeared in the 1880s, after Alexander II's reforms and his subsequent assassination, when the new tsar Alexander III promulgated conservative measures strongly opposed by the Russian intelligentsia and particularly by the liberal-minded professors. The new university statute was supplemented with the circular “On the procedure of keeping graduates in universities and their sending on an assignment abroad for the preparation to the professorial rank” of 21 May 1884, given

¹ See in detail: Avenarius 2005 [М. Авенариус, “Савиньи и его русские ученики. Передача научного юридического знания в первой половине XIX в.”, *Древнее право – Ius Antiquum*], 108–118.

² A. D. Rudokvas 2004 [А. Д. Рудоквас, “И. А. Покровский и его ‘История римского права’”, in: И. А. Покровский, *История римского права*], 10.

³ Avenarius 2005, 111–112.

final decision-making power to the Ministry of National Education with respect to sending students abroad in preparation for professorships.⁴

In 1885 a new training curriculum was approved which heightened the role played by the teaching of Roman law in faculties of law at Russian universities. It soon became evident that there was a lack of highly qualified specialists to teach this discipline at more substantial level. Furthermore, the diffusion of judicial reform in the Russian Empire's western provinces (Poland and the Ostsee governorates) made it necessary preparing judges to deal with local private law regulations largely based on Roman law.⁵ Assigning a group of Russian students to Berlin, as had been done under Nicolas I, was a possible solution to both of these problems.

The leading role among those who devised and promoted the new educational institution played A. I. Georgievskij who was the chairman of Scholarly Committee of the Ministry of National Education. This man was a major figure in reforming secondary education in Russia with the division into *Realschulen* and classical *Gymnasien*. After returning from assignment in Germany in 1871 he published a detailed report in the *Journal of Ministry of National Education*. The article was entitled "On Modern Education in Prussia, Saxony, Austria, Bavaria and Switzerland"; in this paper he came to the conclusion that studying classical subjects should be the basis not only of university humanitarian, but also of technical education.⁶

Georgievskij was also one of the founders of famous Russian Philological Seminary in Leipzig that existed from 1873.⁷ Therefore it's not surprising that Georgievskij's original idea was to create a kind of temporary institute of law for Russian students at Leipzig University, close to the existing philological seminary. The seminary also became the main institutional model for the future Russian Institute of Roman Law in Berlin.

On 19 September 1885 Georgievskij presented to the Minister of National Education I. D. Delyanov his detailed project for the new

⁴ Dmitriev 2012 [А. Н. Дмитриев, "Заграничная подготовка будущих российских профессоров накануне Первой мировой войны", in: *Профессорско-преподавательский корпус российских университетов. 1884–1917 гг.: исследования и документы*], 65–76.

⁵ Karsov 2003 [А. С. Карцов, "Русский институт римского права при Берлинском университете (1887–1896)", *Древнее право – Ius Antiquum*], 120.

⁶ Georgievskij 1871 [А. И. Георгиевский, "О реальном образовании в Пруссии, Саксонии, Австрии, Баварии и Швейцарии", *ЖМНП*], 234–237.

⁷ See in detail: Kaiser 1984, 69–115; Schröder 2013, 91–146.

educational center. The plan was to have courses at Leipzig University with a handful of students numbering not more than twelve. Candidates would graduate in classical philology and be teachers at Gymnasien or pro-Gymnasien; they were supposed to have a good knowledge of Russian, German and Latin, to study Roman history and institutions, to have written or published works on Roman law (or be able to answer three questions pertaining to Roman history and institutions in written form in Russian, German and Latin). The decision to admit a candidate to the program had to be made by the minister himself. During two years abroad the students would mainly study Roman law but also German civil law as well as Russian law and its judicial system and legal procedure. Each of the participants of this program would monthly receive certain scholarship from public funds, while at the end of their studies abroad they were supposed to present a detailed report and to pass certain exam proving their readiness for teaching Roman law in Russian universities.⁸

After approving this project, Minister Delyanov presented his report to the emperor himself, who officially approved the program in his decree of 15 November 1886. Three famous German scholars agreed to participate in the project. We should first of all mention Lothar Anton Alfred Pernice, who was one of the great Pandektists of the time and author of the monumental work *Marcus Antistius Labeo: Das Römische Privatrecht*, which traced the genesis of Roman law on the basis of the *Corpus Iuris Civilis*. Russian scholars who attended Pernice's lectures noted his kindness and readiness to share his knowledge. Professor Ernst Eck was the director of the Russian Institute in Berlin and was considered one of the best lecturers on civil law in Germany at that time. Russian students were flattered by the fact that he not only respected their opinions but took their own scholarly research seriously while offering perspicacious critiques of their work to help improve it. Probably the greatest figure among the lecturers of the new Institute was Professor Heinrich Dernburg, who was the head of the Department of Civil Law at the University of Berlin and proclaimed in his course on Pandect Law that it shouldn't be just "dull dogmatics" but the exciting prospect of two-thousand years of history in applying this law in Europe.⁹

⁸ Russian State Historical Archive, f. 733, inv. 149, n. 917, 1–6: "The project of the statute for the preparation of Roman law professors of Russian universities, the note of his Excellency A. I. Georgievskij" [РГИА, ф. 733, оп. 149, ед. хр. 917, л. 1–6: "Проект положения для приготовления преподавателей римского права для Императорских Российских университетов, записка его превосходительства А. И. Георгиевского"].

⁹ Karcov 2003, 135–137.

However, the creation of the Russian Institute of Roman Law in Berlin was not warmly welcomed by faculties of law at some of Russia's most important universities. The main opposition was from Moscow University, whose rector N. P. Bogolepov (future Minister of national education) tried to sabotage the decree by recommending candidates who were not his own students and who didn't even study Roman law. However, the Institute continued to function and the Ministry required more and more candidates for it, so Bogolepov had to send some of his students abroad.

In 1890 Bogolepov wrote a letter to the Minister, in which he attempted to demonstrate that he had created his own system of training lecturers in Roman law and expressed uncertainty as to whether a 2-year period of study in Berlin would be better for his students than a five or six-year preparation that would culminate in defense of a thesis at Moscow University.¹⁰ The problem was also that, according to the decree, graduates of the Institute were given preferential treatment when it came to the appointment to posts for extraordinary professors of Roman law at Russian Universities. Graduates of Moscow University who would have spent far more time in preparing for the same position were granted no such privileged status.

However, at the same time Bogolepov's protest did not fit well with his own academic career because like many of his colleagues he had a two-year internship program in Europe before professorship and spent most of this time in Germany as the student of O. Karlowa, K. Fischer and P. von Iering.

One of those who studied at the Russian Institute of Roman law in Berlin was Iosif Alekseevich Porkovskij, future professor at St Petersburg University, dean of its faculty of law and author of a superb manual in Russian on the history of Roman law. He owed his assignment to a very thorough work on hiring contracts in Roman law and received a gold medal for it. He spent two and a half years in Berlin (from January 1892 to May 1894) and it was during this period that he prepared his study on the difference between two sorts of judicial actions in Roman law: *actiones in ius* and *actiones in factum conceptae*. This work was first published in one of the main law studies German periodicals at the time, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*,¹¹ and

¹⁰ Russian State Historical Archive, f. 733, inv. 149, n. 918, 194–197: “The letter of prof. N. P. Bogolepov to the Minister of national education I. D. Delyanov” [РГИА, ф. 733, оп. 149, ед. хр. 918, л. 194–197: “Письмо проф. Н. П. Боголепова Министру народного просвещения И. Д. Делянову (21 ноября 1890 г.)”].

¹¹ Pokrovskij 1895, 7–104.

provoked vigorous polemics among European scholars. Heinrich Ermann, who was professor at the universities in Losanna and Geneva called the Pokrovskij's theory "revolutionary" – but in a bad sense, since he dedicated several works to disproving it. By contrast the German Romanist Hugo Krüger, in his review of Ermann's book *Servus vicarius* championed the Russian scholar's point of view, while Pokrovskij himself answered his opponent in an article which brought forward more evidence in favor of his theory.¹²

When Pokrovskij returned to the University of Dorpat (modern Tartu) as a professor, in his first work published in Russian he wrote of Roman law as forming the fundament for the theory of civil law. Like other "Berlinians" he opted for the importance and benefits of teaching Roman law and objected to its treatment as "dead law", that was useless as an object of study.¹³ Two years later when he started to teach at the University of Kiev he promoted the same idea in his inaugural lecture. He called Roman law a "mysterious ghost" which had conquered European minds from the moment that the University of Bologna was founded.¹⁴

But like some other graduates of the institute, when he returned to Russia, Pokrovskij was compelled to defend himself against the unjust attacks of those who opposed to foreign training of Russian professors. One of his colleagues in St Petersburg, B. V. Nikolskij, undertook a full frontal attack against Pokrovskij in the *Journal of Ministry of National Education*, but the same Nikolskij also confided to his diary that his opponent's research was of great depth and the work of importance as a whole.¹⁵

The Russian Institute of Roman law at the University of Berlin existed from 1887 to 1896. During that time seventeen young Russian scholars graduated from it, fifteen of them becoming Privatdozenten and professors at Russian universities.¹⁶ Among them were three famous professors at St Petersburg University: Leon Petrazycki, David Grimm

¹² Pokrovskij 1899, 99–126.

¹³ Pokrovskij 1894 [И. А. Покровский, "Роль римского права в правовой истории человечества и в современной юриспруденции", *Ученые записки Юрьевского университета*], 1–30.

¹⁴ Pokrovskij 1896 [И. А. Покровский, *Желательная постановка гражданского права в изучении и преподавании. Вступительная лекция*], 12–13.

¹⁵ Russian State Historical Archive, f. 1006, inv. 1, n. 1, 201: "The diary of prof. B. V. Nikolskij" [РГИА, ф. 1006, оп. 1, д. 1, л. 201: "Дневник Б. В. Никольского"].

¹⁶ Russian State Historical Archive, f. 733, inv. 149, n. 922 [РГИА, ф. 733, оп. 149, ед. хр. 922].

and Iosif Pokrovskij. Also related to the Russian Institute of Roman Law in Berlin was the addition of two academic degrees (both a Master's and doctorate in Roman law) in 1891 to those already existing in Russia.

Among the main reasons of the final giving this experiment up there was lack of funding and the undesired results of studying in the Institute: those scholars who returned from Germany turned out not to be loyal to the government as it was planned but on the contrary quite often went in opposition to the regime. Death of Alexander III in 1894, growing liberal mood of Russian intelligentsia who (strange as it may seem) considered the establishment of the Institute of Roman law a reactionary project together with the wish of the minister Delyanov to satisfy new emperor's aspiration for popularity – all this made closing of the Institute a matter of time. Only due to the efforts of its inspirer A. I. Georgievskij the Institute existed two more years and was finally closed in 1896, while its library was transferred to the faculty of law of the Kazan university, the easternmost in Russia at that time.¹⁷

As it was noted by F. Kolbinger who called his book about the Russian Institute of Roman Law in Berlin “Im Schleppseil Europas?” the works of Petrazycki and Pokrovskij demonstrate that the students of this Institute were able not only to apprehend the achievements of western classical scholarship, but also to produce high-ranked original scholarly work of their own. He concludes that Russian classical scholarship needed a “tow” not more than western.¹⁸

The idea of reestablishing the Institute resurrected several times before the outbreak of the First World War. An enthusiastic supporter of foreign training for Russian lecturers was L. A. Kasso (Minister of education in 1910–1914) who himself had studied law at Heidelberg University. However, strong opposition on the part of both liberal and conservative forces in the Duma interfered with his plans.¹⁹ The First World War and the Russian Revolution of 1917 cut off finally the possibility to revive the Russian Institute of Roman law.

The Russian Institute of Roman Law in Berlin played an important role in the reinforcement of scholarly links between Russia and Germany in the late 19th century and also helped to create the Russian school of Roman law. But the Russian professorial corporation didn't entirely accept this institution because it was considered a conservative measure – and it was the main reason for its final abandonment. However, the

¹⁷ Karcov 2003, 134–135.

¹⁸ Kolbinger 2004, 257

¹⁹ Karcov 2003, 142–143.

existence of such institution helped to integrate the Roman law studies in Russia into the European environment and only the First World War together with Revolution of 1917 finally put an end to this process.

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Bibliography

- M. Avenarius, "Savigny i ego russkie ucheniki. Peredacha nauchnogo-juridicheskogo znanija v pervoj polovine XIX v." ["Savigny and his Russian students. Transmission of scientific juridical knowledge in the first half of the XIX cent."], *Drevnee pravo – Ius Antiquum* 15 (2005) 108–118.
- A. N. Dmitriev, "Zagranichnaia podgotovka budushchih rossijskikh professorov nakanune Pervoi mirovoj vojny" ["Foreign scholarly training of future Russian professors in the eve of the First World War"], in: *Professorskoprepodavatel'skij korpus rossijskikh universitetov. 1884–1917 gg.: issledovania i dokumenty* (Tomsk 2012) 65–76.
- A. I. Georgievskij, "O real'nom obrazovanii v Prussii, Saksonii, Avstrii, Bavarii i Shveicarii" ["About the real education in Prussia, Saxony, Austria, Bavaria and Switzerland"], *Zhurnal ministerstva narodnogo prosveshchenia* 158 otd. 3 (1871) 97–237.
- F. B. Kaiser, "Altphilologen für Russland: Das Lehrerinstitut für slawische Stipendiaten in Petersburg, das Russische Philologische Seminar (Institut) in Leipzig und das Russische Seminar für romisches Recht in Berlin", in: F. B. Kaiser, B. Stasiewski (eds.), *Deutscher Einfluss auf Bildung und Wissenschaft im ostlichen Europa* (Koln – Wien 1984) 69–115.
- A. S. Karcov, "Russkij Institut rimskogo prava pri Berlinskom universitete (1887–1896)" ["Russian Institute of Roman law at the University of Berlin (1887–1896)"], *Drevnee pravo – Ius Antiquum* 12 (2003) 108–118.
- F. Kolbinger, *Im Schleppseil Europas? Das russische Seminar für römisches Recht bei der juristischen Fakultät der Universität Berlin in den Jahren 1887–1896* (Frankfurt a. M. 2004).
- I. A. Pokrovskij, "Rol' rimskogo prava v pravovoi istorii chelovechestva i v sovremennoi jurisprudencii" ["The role of Roman law in the law history of the humanity and modern jurisprudence"], *Uchenye zapiski Iurievskogo universiteta* 3 (1894) 1–30.
- I. A. Pokrovskij, "Die Actiones in factum des classischen Rechts", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abtheilung* 16 (1895) 7–104.

- I. A. Pokrovskij, *Zhelatel'naia postanovka grazhdanskogo prava v izuchenii i prepodavanii. Vstupitelnaia lekcia* [The desirable position of the civil law in its studying and teaching. Inaugural lecture] (Kiev 1896).
- I. A. Pokrovskij, "Zur Lehre von den actiones in jus und in factum", *Zeitschrift der Savigny Stiftung für Rechtsgeschichte, Romanistische Abtheilung* 20 (1899) 99–126.
- A. D. Rudokvas, "I. A. Pokrovskij i ego 'Istoria rimskogo prava'" ["I. A. Pokrovskij and his 'The history of Roman law'"], in: *I. A. Pokrovskij, Istoria rimskogo prava* (Moscow 2004) 7–54.
- W. A. Schröder, "Das russische philologische Seminar in Leipzig: das Seminar unter Ritschl und Lipsius (1873–1890) und der Versuch der Wiederbe-gründung", *Hyperboreus* 19 (2013) 91–146.

The paper surveys a history of the Russian Institute of Roman Law in Berlin and of its influence on I. A. Pokrovskij, who were trained there and afterwards became one of the most famous Roman law scholars in Russia. The origins of this educational institution are traced and the opposition to it of Russian professorial body (N. P. Bogolepov, B. V. Nikolskij) examined. The author comes to the conclusion that the Institute advanced the scholarly contacts between Russia and Germany but was doomed to be short-lived, because it failed to meet the government political expectation.

Статья представляет собой обзор истории Русского Института римского права при Берлинском университете; в ней, в частности, обсуждается роль института в формировании И. А. Покровского, который проходил в нем стажировку и впоследствии стал одним из наиболее известных исследователей римского права в России. В статье прослеживаются истоки этого образовательного учреждения и рассматривается оппозиция ему, существовавшая среди российских профессоров (Н. П. Боголепов, Б. В. Никольский). Автор приходит к выводу, что Институт способствовал укреплению научных контактов между Россией и Германией, но был обречен на недолгое существование, т. к. не оправдал политических ожиданий, возлагавшихся на него правительством.

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