

Guest editor's foreword

Gabriele Crespi Reghizzi: a biographical note on his travelling through Russian law

"I cannot forecast to you the action of Russia. It is a riddle wrapped in a mystery inside an enigma".

Churchill's aphorism has come back recently, for well-known reasons. When it was pronounced, on the eve of the Second World War, the term *Sovietology* had already been coined, in the American academic context, with reference to the studies of economics and political science that had as their object the Soviet Union. In the decades that followed, it was destined to considerable success in the Western world, until it came to define a specialized field of political science. In 1976 the French sociologist Raymond Aron published the *Court traité de soviétologie à l'usage des autorités civiles, militaires et religieuses*.

A lively interest in foreign languages, combined with the desire to understand a part of the world still closed, the Soviet Union, led, in the year 1965, Gabriele Crespi Reghizzi, a young twenty-four-year-old, graduated under the supervision of an eminent professor of commercial law in Milan, Mario Rotondi on July 1, 1963, to leave for a study stay in Moscow, at the Lomonosov University for Foreigners. By those time, a year before the fall of Nikita Krushchev, he was a rare European in the company of young roommates from those countries of Africa and Asia who had chosen to follow, more or less faithfully, the Soviet model.

As to Mario Rotondi, precursor, with his "Investigations", of comparative law, Gabriele did not fail to recall several times that it was his third attempt in the search for a thesis supervisor, after two professors had declined his project, asserting that "Soviet law does not exist".

At the time, the affirmation of the superiority and incomparability of Soviet law had made the matter completely exotic, and difficult to observe. Not distracted by a widespread distrust in the Western world towards Soviet law, considered by most a sort of oxymoron, Crespi was able, in the year spent in Moscow, to intensify his knowledge of scholarly texts and jurisprudence, in a sector, that of economic law, which was resurgent in the Soviet Union of the mid 60s.

The material collected allowed him to publish, in 1969, a weighty monograph on the State Enterprise in the USSR, an unmatched example of in-depth analysis of the various and changing legal theories of Soviet civil lawyers around the theme of the autonomy of the enterprise and the property rights on the means of production. With this work, defined by Pierre Lavigne in a review for the *Revue de l'Est* of 1970, as a "recherche fondamentale et jamais tentée par un juriste occidentale", Crespi Reghizzi entered the scene of Italian

and international sovietology as an author not interested at all in a “counter-ideological” observation of the law of socialist countries, rather in the historiographical and terminological aspects, in the casts of cultural and legal patterns, in the complex game of innovative terminologies and classifications within the rigid canons of political orthodoxy, deployed for decades by Soviet jurists who survived Stalin’s purges.

This method, certainly pragmatic, and attentive to the investigation of law as a fact, was then refined thanks to a further year of study, spent at Harvard Law School. From Moscow to Cambridge, Mass.: returning to Milan with a precious and rare baggage for a jurist of the mid-60s, Crespi Reghizzi could have chosen — has he later said — amid various professions: diplomacy, espionage, journalism. It was Professor Rodolfo Sacco, whom he met in Pavia in 1967, founder of the Italian school of comparative law, and editor of a pioneering translation into Italian of Venediktov’s major work on Soviet State Property (1953), who led him to a different and preferable choice: a university career.

The chronological datum here is important: it indicates that Crespi Reghizzi arrives at the meeting with Sacco having already refined a method, destined to converge in a decidedly singular way, if we think of the paths and methods of legal research practiced in that season.

It is a method that does not exclude the presence of law in the most diverse human societies, which insists on the minute search for sources, at every level, and hidden in every stratification. From the encounter between Sacco and Crespi Reghizzi, had to arise, within a few years, a set of publications that exalted this method. I am thinking of the *Survey of the sources of civil law of in socialist countries*, the result of their wandering by car in Eastern Europe, defined by Crespi as “exciting”, and published in the *Annuario di diritto comparato* in the year 1967. Or the essay on *Abuse of right in Yugoslavia* (1977) which, moving from a theme dear to Gabriele’s mentor, prof. Mario Rotondi, brought to the best degree of complementarity the sense of Sacco and Crespi for comparing hidden rules and declamatory formulas in a land of great interest for comparativists, fertilized over a century by Austrian-imperial, German, French and Soviet legal models.

Only the necessarily short space of this intervention does not allow me to continue in a review that includes contributions signed by Crespi Reghizzi and Sacco, as the seminal *Invalidity of legal transactions in Soviet law*, 1979, or the *Introduction* (with Giorgio De Nova) to the translation of the Civil Code of the GDR.

The method deployed in those works also shows a further element of originality: the constant appraisal with scholars from the East, a relationship as direct and personal as possible. This approach was important in terms of collecting sources, if we consider that, until the mid-80s, the Iron Curtain integrated a physical border to the ideological separation that required the jurists of the area to respect some inescapable ideological principles.

That method required a search for direct interactions, based on trust. The networks of scholarly relationships sewed by Rodolfo Sacco at the Faculté Internationale in Strasbourg and by Crespi Reghizzi in Moscow and Leningrad were thus destined to intersect over the years. Every opportunity was useful to get closer, and this explains his participation to international conferences on the most disparate topics related to Soviet Russia, or the recourse to a sector of law of particular interest, in the 80s, for a group of Soviet scholars, that of agrarian law, a rare opportunity for meeting, that often exceeded the themes of discussion declared by the program.

I would now like to return to the scholarly work of Gabriele Crespi Reghizzi, published with a single signature, remaining within the borders of Sovietology and the Law.

The small circle of full-time Sovietologists, no more than fifty scholars, mostly Americans, but also Germans, French, was also composed of some jurists who emigrated or fled in a more or less incredible way from Soviet Russia or Eastern European countries in the 50s.

Within that group, the figures of two US scholars, John Hazard and Harold Berman, emerged: both closely connected to Crespi Reghizzi for more than two decades. John Hazard had spent a year in Moscow in 1937, during the harsh Stalinist regime, as a foreign student at the Institute for the State and Law of the Academy of Sciences, while Harold Berman completed a sabbatical year in Moscow in 1961, a prelude to the publication of a pioneering monograph in 1963: *Justice in the USSR*.

Most of the members of that community had found in Sovietology a field of studying and teaching, sometimes because of a dramatic life as exiled, sometimes in relation to the need to understand the enemy, which had characterized Soviet studies in the United States, and partly also in West Germany and UK.

In Italy, since the 60s, we find a different situation: under the aegis of *Editori Riuniti*, a publishing house linked to the Italian Communist Party, important essays by Umberto Cerroni, Riccardo Guastini and others, on Soviet legal theories, as well as translations of prominent Soviet legal scholars were published. In these cases, the desire to deepen the understanding of Soviet legal theories was accompanied by an aspiration to knowledge that sympathized, certainly not with Stalinism (even if Vyšinskij was largely translated and published in that same period), but with those branches, let us say, pre-Stalinist “revolutionary legal thought”, destined to succumb tragically together with its authors. This explains the particular success of Stučka and Pašukanis in the Italian philosophical-legal literature of the 60s and 70s.

On the other hand, Crespi’s continuous work on the *reality* of Soviet law was inspired not by that ideological hostility typical of a certain approach held by émigré jurists, much less by the search for “noble moments” of Russian-Soviet law (such as, precisely, the pre-Stalinist legal theories illustrated by Umberto Cerroni and Riccardo Guastini). Rather, from the search for accuracy in the terminological comparison between Russian and Italian legal language (hence the terminological work on *The Soviet Constitution of 1977*, published in 1979) and the most recent works on Russian commercial and business law.

Crespi always kept in mind, while choosing his research themes, that the real law is the “living law”. Emblematic in this sense is the publication of a successful booklet: *Il Cittadino Kirill Krapivin e la legge*, Giuffrè, Milano (*Citizen Kirill Krapivin and the Law*) (1983), an edited translation of 44 short tales, published on the popular Soviet periodical (*Čelovek i Zakon*); those stories represent an average citizen facing the immanent, and bureaucratic, presence of Soviet laws and regulations: in the trade unions collective, in the family, in the neighborhood. A text that, while portraying ironically the paternalistic aspects of a totalitarian system, was offered as a textbook to the students attending his course on Soviet Law at the University of Pavia.

This is another aspect of the reluctance of Gabriele to join dominant modes and approaches to Soviet Law and more generally to the teaching of comparative law. An attitude that those who knew him personally, also find very well outlined in a brief self-portrait, published within his Introduction to the new edition of the *Annuario di diritto comparato*:

“A person generally considered unpredictable, a bit isolated and difficult to trace back to any organized center of academic power”.

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