

DUŠAN'S CODE - THE ACT CONSTITUTIONAL NATURE AND FOUNDATION OF THE SERBIAN STATE

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Summary: *The Emperor 'is a large Serbian legal and cultural monument and a state of the art European level. It originated in the era of the rise of Serbian medieval feudal state. Great empire emerged as the major administrative and legislative duties to the great state of organized and equalize. Dušan's Code is an act of constitutional nature of content and value, what would it be and accept it. Serbia thanks to Code a legal state (absolute estate monarchy).*

Keywords: *Dušan's Code, state constitution, an empire.*

1. INTRODUCTION

Emperor Dusan's conquests went in 1330 with the desire to recover the lost campaigns and to preserve the existing territory from the invasion of the Hungarians and Turks. With Dusan's old Serbian state reached the peak of its power, has become an empire, the strongest force in the southeast of Europe, almost the master of the Eastern Roman Empire. With empire rose and the Patriarchate. The state was large and bright, but with no lasting quality, as done could not resist, because I had spent force in the conquered territories far beyond the reach of Serbian culture, race and political interests. Benefit from the southern Serbian territory could have. Emperor Dusan worked as it was then understanding the environment, bringing the Serbian nobles to responsible positions in the conquered areas. How many emperor Dušan tried to everything he has contributed to a greater Serbia and strengthen the country put on a solid foundation says the most valuable cultural monument of medieval Serbia his Code.[1] Dušan's Code, the predecessor of the Serbian translation of the best collections so. Phrases, jermonaha Matthew Blastaros made in Thessaloniki in 1335.

2. THE EMERGENCE OF DUŠAN'S CODE

Dušan's Code, legislative activity of the first Serbian emperor. The first codification of Dušan's Code adopted at the state parliament in Skopje in 1349 and the second in Seru 1354. Dušan's Code is a work of legislators who knew the common law, the local feudal law, Byzantine law, treaties, statutes, and other maritime towns.

Dusan's Code is made up of diverse and disparate laws then Serbia. In drafting the Code should be taken to reconcile the discrepancy between the provisions of the domestic and foreign law. It was necessary to harmonize the principles of the common law to the norms of society. The law was prepared by educated people from the court of Emperor Dusan. The best scholar of law was Logothete - the head office of the ruler. Logothete otherwise public legal documents drafted ruler, the ruler of diplomatic letters (documents containing provisions with the force of law). Logothete had great confidence in the court of Stefan Dusan because they were educated, and they had a sense of diplomacy, so they confided to a narrow circle selected.

During the first and second codification of Dušan's Code service Logothete to Dušan court has held Đurađ and encouraged from a wealthy family Povic which had friendly relations with Dubrovnik[2]. Logothete Đurađ is a participant in the National Parliament, where, on 21 May 1349 adopted the first codification of the Code. On the same day he composed and grants for church Anagnosti Dragoja. The Fair was attended by Emperor Stefan Dušan Patriarch Joanikije. Logothete Đurađ accompanied the Emperor Dušan until his death, and with the Emperor was in 1354 and the Seru when he accepted another codification of the Code.

Dušan's Code of prior legal Prizren or Svetostefanska the charter, made around 1348. Prizren hrisovulja contains 56 of the Law of Serbs, five provisions of Blaise, this is the number of members of more than one-quarter of Dušan's Law. The provisions of the charter of Prizren were used as substrates Code. In the preparation of certain provisions of the Code involved are educated and business people from coastal towns and normal and Dubrovnik. They also pointed out the existing provisions on the freedom of business, trade benefits and legal status of traders. Provisions from time Nemanjića have found places in the Code because they fit the Serbian ruler and foreign traders. There are many participants (Logothete, protovestiar and prelates) but no individualized authors.

The first major part of the 135 members, well-arranged contains provisions of state and administrative law, while others are part of the provision due to the immediate needs. In Dušan's Code'll find elements of the Byzantine and Roman law, and then our habits, as well as loans from the other side.

visible from the Code that Serbia during Dušan was caste. The nobility and clergy had a privileged position, they were both Serbian Parliament of the country, others were simple sebri. The largest part of the commoner were free farmers and tenants (Merops). The second class was made up of citizens and artisans (mostly miners).

3. CODE AS THE BASIS OF SERBIAN STATE AUTHORITIES AND THE RULE OF LAW

The Code was prepared for fifteen years to the Emperor Dušan on May 21, 1349 declared the words: I, emperor, the Code are giving up their rights, and I, Emperor of autocratic subjected himself, the empress, the young king, my judgment the judge, and arranged so that no judge does not fit, no matter how we ruled.

Emperor Dušan had a sincere intention to bring the kingdom of legal order and to comply with legal requirements and to Serbia to a row of modern European states. Code is guaranteed and strengthen the emperor's power, because the country has lived dozens of other nations, and was supposed to strengthen the state's reputation in the region. The resistance

of the nobility were inevitable because they limit the power in the areas where they lived. According to the Code of very positive attitude expressed high spiritual representatives. Before the adoption of the Code in the legal life of the Serbs, there are certain unwritten rules that regulate specific issues (especially in the reign of Stefan the First-Crowned King Milutin and others). Emperor Dušan said that the Code was due to disagreement of previous law with the modern way of life and it's all supposed to align. The positive side of the Code is that it brought together the spiritual and the civil courts. Spiritual courts were based on Nomocanon Saint Sava (judged as dignitaries and officials of the Serbian Church).

Significantly, it also introduces that depending on the type of dispute are selected and the jury, and that is the most beneficial to jurors are from the ranks or classes it belongs to the accused, as it would protect the right of the lower classes against the will of the aristocracy, and thus to exclude the arbitrariness Court. The Code introduces three types of juries:

- Special jury for offenses related to disputes about land, robbery, theft, murder.
- Disagreements about boundaries and boundary properties.

Each of the warring parties chose the same number of jurors. Disputes in which they appeared foreigners are dealt with all the precautions, and the jurors are required subjects and foreigners.[3]

Farsightedness and ability Emperor Dušan the current and for the study of the present day. Dušan's Code was a set of determinate legal rules of conduct and sanctions in the form of a time most rigorous state and political community of the Middle Ages. Nevertheless, although not eradicated anomalies, nor prevent the tendency of the unlawful conduct of ordinary merops, commoner or nobleman, laid the foundations of the rule of law so as to comply with all existing laws and act according to its rules. Nicknamed "Mighty" is not acquired only by wars and conquests, but also continuing efforts to introduce a legal row in a Greater Serbia, and even using all available means.

Today, and even then there is a current issue of corruption, bribery, a violation of the law by judges and the like. Emperor Dušan not punish those who give bribes and those who received a bribe to get him back and lay all the blame. The Code appears some sort of social justice and the beginnings of humanization rights and monasteries tasked to implement policies ensuring minimal constitution of the physical survival of each individual within the limits of the empire.

Officials of churches and monasteries were forbidden to have a material property values, homes, land, etc.. outside the property of the monastery. As the foundations of the state rested on orthodoxy, the emperor gave a lot of support temples and monasteries. Introduced a soup kitchen to feed the poor, beggars, invalids and others.

The Code was introduced and free judicial legal assistance for those who are unable to pay the court costs.

For the avoidance of participation in the cost of child support required by fines and prison sentences, but the inertia of justice and anarchy often difficult to have justice apprehending irresponsible parents.

The offenses should be emphasized and offenses against life and body of women, where the rigors of punishing cutting off both arms and commit nose bullies, if noblewoman raped by an ordinary commoner was punished by hanging. From this we can see that the members of different classes differently punished (nobility, clergy, and sebrī to merops and the slaves).

On the territory of the empire lived Vlachs and Albanians. They were very backward, cruel, were engaged in animal husbandry, and they made frequent clashes with the rest of the population. The Code forbade the common inns and resting the other pastors where they were Vlachs and Albanians.

Many regulations in the field of trade and security traders, especially Dubrovnik, Emperor Dusan legalized, ie. legally established (Damage dealers to guarantee the village, and even the king himself). The Code also regulated the issues of immigration and seasonal employment. Religious buildings were separate emperors attention. The church has had many benefits and assistance. Code prescribed obligations to each house for two days a week for the monastery.

4. CODE OF EMPEROR DUŠAN THE MIGHTY WAS THE BEGINNING OF THE CONSTITUTIONALITY OF THE LEGAL ORDER IN SERBIA

Original text of Dušan's Code is not saved, and the rest is about twenty transcripts (Struga, Prizren, hodoški, Hilandar, Šišatovačka, Bistrica, Baranja, Atoski, Studenica, Rakovički, Ravanica, Grbaljsko, Zagreb, Sofia, Tekelijina, Belgrade, Karlovac, Stratimirovićev, bardoški and Koviljski).

Theorists and researchers say that the Code act superior general legal order, a phrase Justinian law supplemental or supporting documents. Justinian law agrarian law, and that the Serbian agricultural country, it is necessary that the law is applied, a phrase is mostly up issues of the church. Some scholars believe that the phrase Justinian Code and the introduction or the first part of Dušan's Code, and some believe that the Code of the higher order of the phrases and Justinian Law Code as an autonomous and sovereign act and there is no higher act of empire. The Emperor 'was in force throughout the territory and attempt to regulate all social relationships, and is the most important monument of the medieval law, and some call it the constitution of the medieval Serbian state.[4] Yet the Code at the top of the pyramid of medieval legal documents. Because the established legal order, a state law has significance for the whole empire, many call it the imperial constitutional act. At that time there was no legal nomotechnics, and there was no term constitution. The Dušan's Code, there are elements that still characterize contemporary constitutions and separated them from the rest of the law:

1. The Code is issued by the State Parliament on 21 May 1349 in Skopje, which in this case is the legislative body. The Fair was attended by the Patriarch, bishops, abbots, monks, the king and queen and all the nobles. Code as a kind of constitutional act was passed compromise Emperor and Parliament. Similar acts of pre or constitutional character of that time did not have the consent of the emperor or king. Emperor Dušan has limited their rights because the Code says that the judges judge according to the law, which means that the law operates *erga omnes*, the emperor accepted rule that the ruler is bound by the law.
2. Courts are autonomous independent bodies under this Code, and he pays them 40 members. At the apex court is a civil court, and the king appoints all judges. The courts in the empire are patrimonial, ecclesiastical, feudal and royal court.
3. Under the Code in the hierarchy of all the other provisions of the Code and the accompanying regulations.

4. Of the Code has two parts, the text and legislative. First, as to regular constitution - contemporary short. Normative part of a 201 member, and regulate issues of governmental structure, the judiciary, civil - estate and property rights, and family, criminal and ecclesiastical law, which makes the Code of the constitutional act.[5]

5. CONCLUSION

With Dusan's Code of Serbia became a legal monarchy. Emperor Dušan did not want to strengthen the power of his will, but in the prime of his greatest successes published the Code, which is subjected to the imperial authorities all along. Time in which he made the Code gave him the bad form, but this does not diminish the value of the highest law of a powerful state. Was adopted in the "dead" after the legal time of the Great Charter of Freedoms nothing happens. Sam-making process, content, position in legislation and action by everyone, and to give him a ruler in the Serbian and world constitutionality and thus give Serbia an important place in the world and classify the constitutionality of the oldest legal state with the rule of law and constitutionality.

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