

# PRAVNI ZAPISI

Časopis Pravnog fakulteta Univerziteta Union u Beogradu

UNION UNIVERSITY LAW SCHOOL REVIEW



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Univerzitet UNION



GODINA XIV • BROJ 2 • Str. 223–517

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UDK 34

BEOGRAD, 2023.

ISSN 2217-2815 (Štampano izd.)  
eISSN 2406-1387 (Online)



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*Long-Awaited New History of Medieval Serbian Law: Srđan Šarkić, A History of Serbian Mediaeval Law, Leiden–Boston, Brill, 2023, 616 pp.*

*Dugoočekivana nova istorija srpskog srednjovekovnog prava: Srđan Šarkić, Istorija srpskog srednjovekovnog prava, Leiden–Boston, Brill, 2023, 616 str. ....* 495

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## LONG-AWAITED NEW HISTORY OF MEDIEVAL SERBIAN LAW

Srđan Šarkić, *A History of Serbian Mediaeval Law*,  
Leiden–Boston, Brill, 2023, 616 pp.

As the 39<sup>th</sup> volume in its series *Medieval Law and Its Practice*, the prestigious publisher Brill published *A History of Serbian Mediaeval Law* (2023) by Srđan Šarkić, a long-time researcher of mediaeval Serbian and Byzantine law and a retired professor of the Faculty of Law of the University of Novi Sad. The monograph has 616 pages, which, in addition to the research part of the text with a critical apparatus, contain a list of the latest editions of sources and the relevant secondary literature, as well as indexes of names, places, and technical terms, all of which makes the book a helpful tool in research projects.

The subject matter of the book is split into six parts. The first looks at the historical background, sources, and the concept of law. It briefly familiarizes the reader with the history of the Serbian state by listing the most important rulers and events, from the first ruling family known to us, the House of Vlastimirović, until the collapse of the Serbian medieval state with the fall of its capital, Smederevo, into Ottoman hands in 1459. The author then explains the legal sources analyzed in the following chapters, systematizing them into pre-12<sup>th</sup> century sources, charters, treaties with Dubrovnik/Ragusa, the Nomocanon of Saint Sava, the Codification of Emperor Dušan (Dušan's Code with the Syntagma and the so-called Code of Justinian), the Mining Law issued by Stefan Lazarević, and the Slavonic manuscript of the Farmer's Law. This is followed by an overview of the relevant literary and epigraphic sources. Before proceeding to expound his subject by legal branch, the author explains the concept of law in the Serbian medieval state, which did not follow the traditions established in the developed Roman law but represented a continuation of the

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Byzantine understanding of law (νόμος) as act passed by the rulers; in other cases, he proposes authentic readings, in which the law is a general rule independent of the ruler's person.

The second part, *The Law of Persons*, traces the different scopes of the rights and duties of specific groups of people in medieval Serbia. Based on examples from the Hilandar and Žiča charters, the author describes several social strata known to have emerged in the earliest period, supplementing this with information from Dušan's Code, which reveals a society stratified into noblemen (*vlastela*), commoners (*sebri*), townsmen (*gradjani*), and foreigners (*stranci*), with each group analyzed in its own chapter. Multiple sources were used for every class or stratum; the rights and duties the law prescribed for them are explained, as is the sub-stratification process, with Byzantine analogies listed.

The third part of Professor Šarkić's *A History of Serbian Mediaeval Law* is entitled *Constitutional Law*. It addresses the complex question of the nature of Dušan's Code as the highest state-legal act by analyzing some of its provisions and revisiting the conclusions of prominent medievalists, including an explanation of the medieval understanding of statehood. The author then outlines the place of the Serbian state in the so-called Byzantine commonwealth and compared to the Byzantine emperor as the figure that headed this hierarchy. Serbian legal documents adopted the Byzantine ruling ideology described in the Macedonian-era collection *Isagoge*, which, among other things, described the roles of the ruler. The well-known relationship of equality and balance between political and ecclesiastical authority, known as the symphony doctrine, was also adopted into the Serbian milieu from the Byzantine tradition, although the Serbian compiler or translator modified it in the process. The Serbian medieval ruler and his titlature, clerks, dignitaries, and state councils are discussed in a chapter that includes a broader historical analysis, from the pre-12<sup>th</sup> century period to the Byzantinization of the Serbian state to the fall of the Despotate. Another chapter is devoted to the Serbian Orthodox Church, organized first as the autocephalous Archbishopric of Žiča and later as the Patriarchate of Peć, including the historical background, delineation of their bishoprics, and listing the relevant legal documents.

The last three parts are more narrowly focused on jurisprudence. The part *Civil Law* explores the understanding of natural and legal persons; property is discussed at length in a separate chapter, tracing the Roman notion of *res* in Serbian medieval law, property rights through the double-pronged concepts of *baština* and *pronoia*, focusing on how they were acquired, limited rights of ownership – easements, liens, and long-term land leases, understood in Serbian medieval sources in Roman terms, with



smaller or larger departures; the law of obligations, with numerous charters examined and some conclusions drawn from the sources in regards to contracts (sale and purchase agreements, barter, gift, depositum, lease, loan, commodate/loan for use, and *societas*/partnership). The chapter on The Law of Wills and Succession traces two types of grounds for claiming inheritance that made their way from the Roman tradition via Byzantine law to Serbian legislation: the law and wills, as well as the legal institute of *mortis causa* – donation in the prospect of death or deathbed gifts. The following chapter, Family Law, explores the concepts of marriage, matrimonial impediments, marital property, divorce, and the family cooperative as a distinctive feature of Serbian society up to the 13<sup>th</sup> century.

Part 5, Criminal Law, delves into the concept of culpability and its source and the elements that constitute a criminal offense. It lists the punishments mentioned in the sources, with the author examining their authenticity while also discussing spiritual sanctions. He includes a detailed classification of criminal offenses and their analysis (crimes against the state and sovereign, against the judicial system, against public peace and order, against the church and religion, against the person, against morality, and against property). The final part, Court System and Trial Procedure, looks at the peculiarities of the medieval practice, exploring the powers of noblemen's courts, the court of good men, church courts, town courts, foreigner courts, and so-called *stanak*. The ruler's judicial prerogative (*vladarev rezervat*) is assessed from several angles based on charters from various periods. The trial procedure, its course and its participants, with all the peculiarities of Serbian medieval law, are illustrated using examples from Dušan's Code and offer grounds for an analysis in the last chapter.

The appearance of an English-language history of Serbian medieval law is a pioneering effort that will make it much easier for scholars of medieval law who are not native speakers of Serbian to explore this judicial system. In addition, this voluminous and comprehensive work, which includes an analysis of legal monuments in Serbian-Slavonic and Greek, another language that Serbian medieval rulers used in their charters, covers the entire corpus of private and public law. It is the first monograph of its kind since the interwar period, when Professor Teodor Taranovski published his seminal work. All of the above, with a modern critical apparatus, helpful appendices, and accurate and deft use of English legal terminology, makes this book a much needed and welcome addition to the literature available to active and future scholars.

Received: 3 November 2023

Accepted: 20 November 2023

CIP – Каталогизacija y publikaciji  
Народна библиотека Србије, Београд

34

**PRAVNI zapisi** : časopis Pravnog fakulteta  
Univerziteta Union u Beogradu = Union University Law  
School Review / glavna i odgovorna urednica Violeta  
Beširević. – [Štampano izd.]. – God. 1, br. 1 (2010)–  
– Beograd : Pravni fakultet Univerziteta Union, 2010–  
(Beograd : Dosije studio). – 23 cm

Polugodišnje. – Drugo izdanje na drugom medijumu:  
Pravni zapisi (Online) = ISSN 2406-1387

ISSN 2217-2815 = Pravni zapisi

COBISS.SR-ID 176292108

***Lektura i korektura / Language Proofreading***

Svetlana Stojković (srpski i engleski jezik)

Vuk Tošić (engleski jezik)

***Tehnička urednica / Layout Editor***

Irena Đaković

***Štampa / Print***

Dosije studio, Beograd

Tiraž: 30 / Circulation: 30 copies

Časopis izlazi šestomesečno / The journal is published twice a year

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*Hronika PFUUB (2022/2023)*, priredila Jovana Popović

ISSN 2217-2815

