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ARTICLES AND TREATISES

SERBIAN MINING IN KOSOVO AND METOHIA DURING THE MIDDLE AGES

DUŠAN MRKOBRAD

SUMMARY: On the economic map of the medieval Serbian state, Kosovo and Metohia was a region of farming settlements and vineyards, surrounded by zones of mining production and metal processing. These settlements had market squares – interconnected by a network of caravan roads – where local traders interacted with entrepreneurs from other regions attracted by the area's growing economy and promise of wealth. Addressing the full scope of the mining industry, from the mining process, smelteries and foundries, to transportation, entrepreneurs, customs, trade and crafts, the medieval mining law of Europe, and Serbia as well, stipulated strictly defined rules which were abided by everyone. Custom duties were an important source of revenue for the Nemanjić state, and, by extension, a measure of the volume of both trade in any given settlement and mining production in the area. Roman Catholic parishes began appearing in Serbian mining regions in the early 14th century, as one of the privileges Serbian rulers had granted the Saxon miners who settled there. If this data is considered from the standpoint of the economy as a whole, it can be said that the territory of Kosovo and Metohia, along with the surrounding areas, constituted an indivisible whole – and the central economic region of the medieval Serbian state.

KEY WORDS: Serbia, Kosovo and Metohia, Middle Ages, mining, technology, transportation

The most important economic branch in Serbian lands prior to the Ottoman invasion was mining, and it is widely accepted that the exploitation of minerals accelerated the development of the medieval Serbian society. The excavation of precious metals is usually linked to the arrival of Saxons in the Nemanjić state. Production grew due to the opening of new mines and reopening of old ones, concurrently transforming many other branches of the economy. This expansion attracted increasing numbers of people skilled in existing trades (smiths, hewers and tanners) as well as new kinds of tradesmen (smelters, coal-makers, ironworkers, cartwrights). A great number of craftsmen were locals and, by the mid-15th century, Serbian miners and smelters were already considered masters of their trade, receiving invitations to work in southern Italy and other countries. The development of crafts and of the trade in metals

and other raw materials stimulated local commerce on the whole, with merchants from the coastal towns such as Kotor, Dubrovnik and Bar, as well as local Serbs, finding increased economic interest in exchanging goods.

Historians and geologists have contributed the most to the study of the medieval mining in Serbian lands.

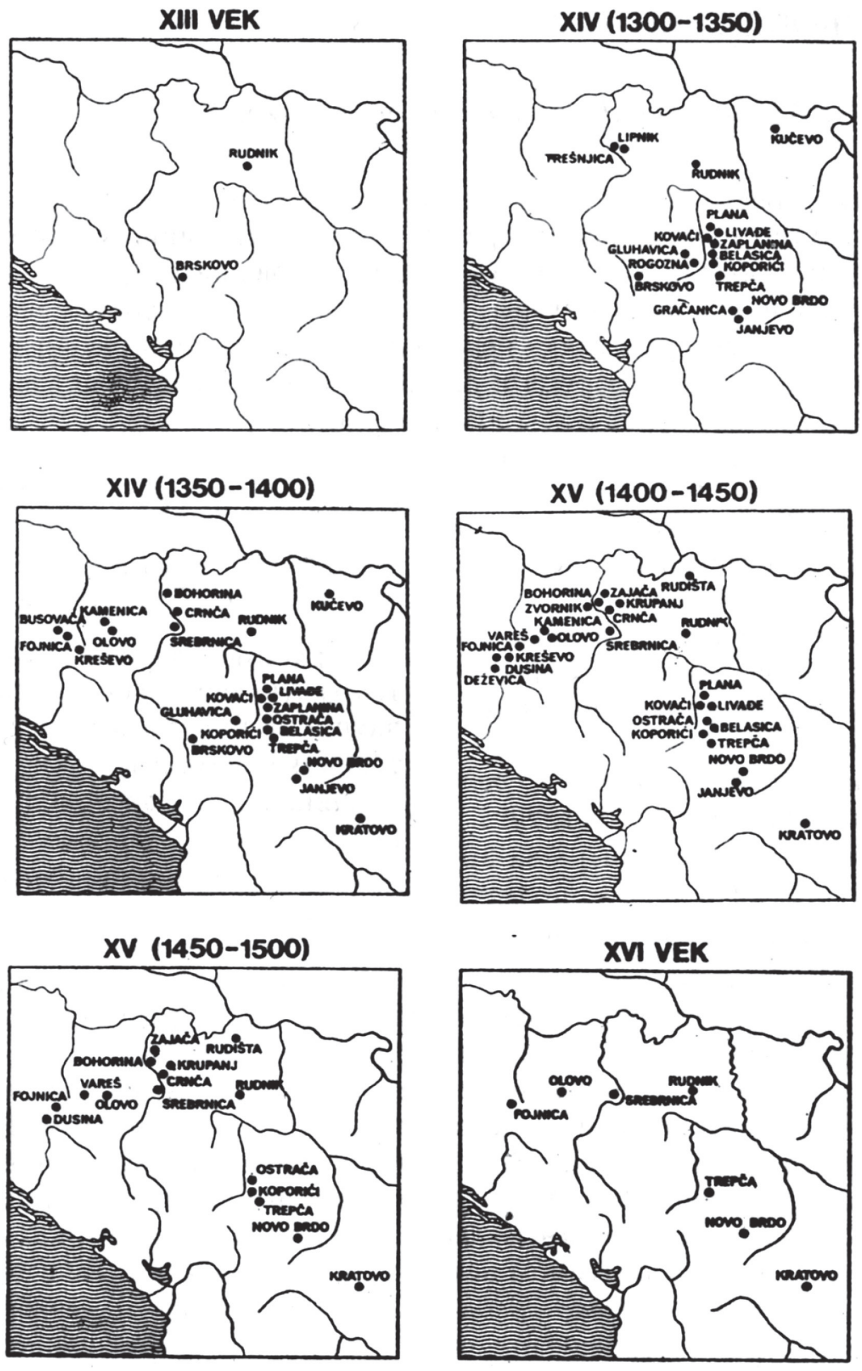
Drawing on historical sources, the first group of scientists (Jovan Rajić [Рајић 1974: 382–383], Čedomilj Mijatović [Мијатовић 1869: 152–219; Мијатовић 1873a: 191–249; Мијатовић 1873b: 79–140], Šime Ljubić [Ljubić 1875: 31], Konstantin Jiriček [Jiriček 1951; Јиричек 1959; Јиричек 1976], Stojan Novaković [Новаковић 1881: 263–355], Mihailo Dinić [Динић 1937: 119–146; Динић 1955: 31–100; Динић 1956: 247–250, Fig. 1–2; Dinić 1956b: 328–329; Динић 1959; Динић 1960: 139–149; Динић 1967a: 3–10], Nikola Radojčić [Радојчић 1959: 248–255; Радојчић 1962], Sima Ćirković [Ћирковић 1976: 91–98; Ćirković 1977: 134–141; Ćirković 1979: 1–20; Ћирковић 1983: 151–156; Ћирковић 1997a; Ћирковић 1997b; Ћирковић (with Ковачевић–Којић and Ћук) 2002], Skender Rizaj [Rizaj 1968; Ризај 1969: 369–372; Rizaj 1983, 135–138], to mention just a few) to provide a basic picture of the medieval Serbian mining and metal processing researched the following:

– Primary source materials regarding the most important mining centers of the time (Brskovo, Rudnik, Novo Brdo, Srebrenica);
– The role of Saxons in the opening and exploitation of mines,
– Metal processing, trade and the export of silver and non-ferrous metals.

The emerging picture formed by their investigations, however, constituted only a portion of what was to be discovered – which is the result of a glaring discrepancy between the data in historical records and the actual situation on the ground (Map 1). Namely, until the mid-15th century only the names of about 50 mines were recorded, while the existing written documents fail to mention the activity of numerous other mines. It is also unclear what the names of certain medieval mines actually referred to: were they, in fact, mining centers (in which case their scope and content remains unknown) or were they merely individual mining sites. As already noted in scientific literature, all the extraction sites of precious and non-ferrous metals from this period have yet to be determined.

What is known is that rich deposits of galena – a silver-containing lead ore – led not only to the formation of settlements but also of market squares, which were the centers of medieval economic life in Kosovo and Metohia. Most smaller settlements were destroyed during the Ottoman invasion, while those that survived languished under the Turkish rule only to eventually fall into oblivion. Any information that can be gleaned about their days of glory comes from written sources, the remains of ancient settlements and the very limited traces of mining works involving ore excavation and processing. The only location in Kosovo and Metohia to have preserved its medieval character until the modern times is Janjevo.

The discovery of medieval mines unmentioned in historical records (Map 1) is largely a result of studies into Serbia's mineral resources conducted by geologists, particularly Vasilije Simić [Simić 1951; Simić 1958: 357–393; Симић 1975: 77–78, fig. 1–4; Симић 1979: 87–96; Симић 1988].



Map 1. A chronological survey of the distribution of medieval mines
(Drawing by G. Tomović)

The study of medieval mining could significantly benefit from archeological, specifically archeo-metallurgical, research. This new methodological approach focused on examining cultural remains can lead to the discovery of not only neglected mining sites but hitherto unknown ones as well. The method has helped uncover traces of excavation (e.g. the remains of various kinds of underground galleries and tunnels, but also of certain surface structures), traces of ore and metal processing (confirmed by the discovered remains of old smelting facilities, foundries and mine tailing and dross disposal sites), as well as the remnants of various mining tools and equipment, objects for everyday use etc. [Мркобрад 1993, 105–107]. These finds are mostly held in private collections across Serbia, and only a portion is displayed in museums. No systematic, long-term multidisciplinary research projects have been carried out in this field, aside from the limited exploration of Mt. Rudnik. Individual investigations aimed at obtaining archeological material on the medieval mining in Serbia would be of benefit to other scientific disciplines as well, yet necessarily require field work. Given that this type of research is relatively new to our country, any significant data should not be expected too soon.

The medieval mining laws of Europe [De Re Metalica 1950], including Serbia, contained clear and well-formulated regulations which everyone abided by, regardless of whether they concerned excavation, smelting and casting, and transportation, or entrepreneurs, customs officers, merchants and craftsmen.

Based on Despot Stefan Lazarević's Mining Law pertaining to Novo Brdo [Радојчић 1962; Марковић 1985: 7–56], which was preserved in a later transcription, it can be assumed that all larger mines in medieval Serbia had similar laws composed in the like manner, with articles regulated the following areas:

- The social and legal position of miners;
- Real legal relations (mining concessions, property rights, inheritance);
- Obligational relationships (lease contracts, sale contracts, gift deeds);
  Legal disputes between miners, types of courts, judges and legal proceedings as per the law on mining (the customs court, the court of voivode or headman, the court proceedings with the presentation of evidence),
- Issues related to governing bodies in Novo Brdo as per the law on mines.

Kosovo and Metohia is a structural basin rimmed by the zones rich in ore deposits. The three such major zones, with numerous smaller ones lying in between, are as follows:

- Novo Brdo with Janjevo, at the eastern edge of the Kosovo basin;
- Trepča with the Kopaonik mines, in the north,
- Rogozna, at the far southwestern edge.

The Novo Brdo mining basin encompassed the Novo Brdo mines and Janjevo, the oldest mine in this zone (Map 1). The arrival of the Roman Catholics and the establishment of their parish there in 1303[1], can only be ascribed to the beginning of mining in the area.

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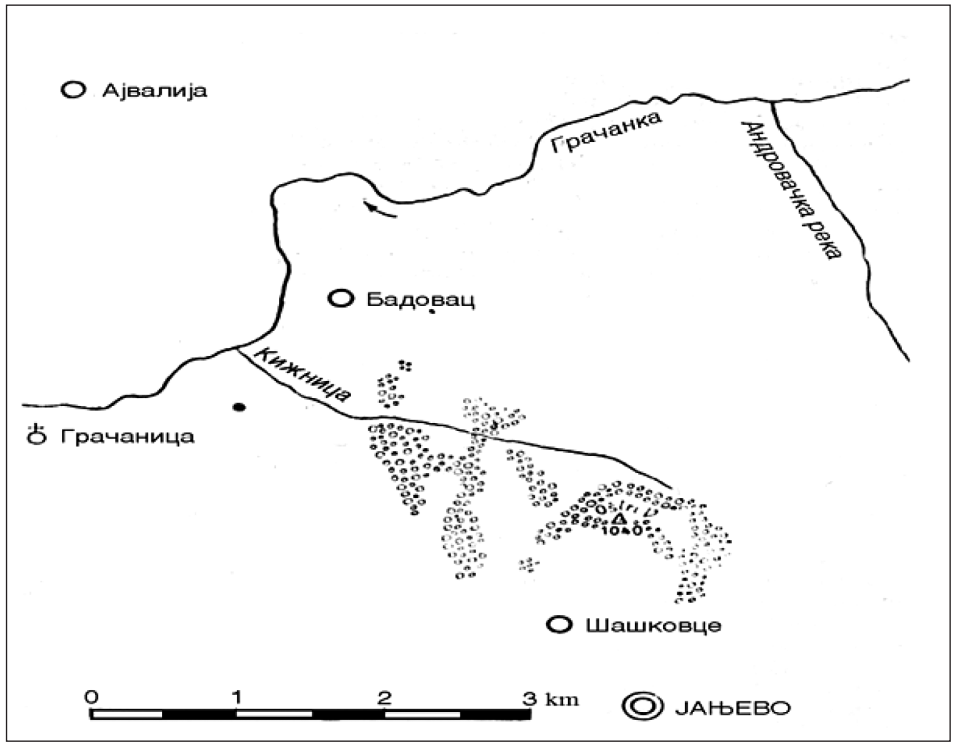
[1] S. Ćirković [Ћирковић 1997a: 247; Ћирковић 2002: 42–43] believes that Gračanica was mentioned instead of Janjevo because initially the settlement and the mining shafts were located at the spot where the Kižnica river empties into the Gračanka, and were moved up the Kižnica

Staro Janjevo, meaning Old Janjevo as the place is still called, was located between the hills of Borelin and Surnjevica (Map 2). Its mines and settlement were defended by the now ruined fort at Veletin hill. Roman coins and traces of excavation on Ceove hill show that this ore mine dates back to Classical Antiquity. There is a glaring discrepancy between the written records on local mining and smelting and the actual situation on the ground. Distributed across an area of 12 km^2 are a dense network of shafts and traces of the ancient mining of silver, *argentum de glama* and lead. In the late 19th century, explorer R. Hofmann [Simić 1951: 230] analyzed local dross and found that, unlike in other sites, it contained no lead or precious metals. According to him, this meant that the dross was smelted twice, which indicates an advanced knowledge of metal processing. British prospectors have mapped some 650 locations which containing remnants of mining shafts or traces of smelting. Today, many toponyms contain indications of medieval mining – among others, the settlements of Glama and Plakanička Mahala, the Kiževica stream, the Ceove hill, and the village of Saškovce.



Map 2. Medieval mining works near Janjevo (Drawing by V. Simić)

later on. The Gračanica parish has a natural continuation in Janjevo, because the latter was registered in 1346 as a settlement with a Roman Catholic parish.

Located at an altitude of about 1,100 m, at the summit of Mt. Velika Planina, and dominating the entire area, Novo Brdo lies between the slopes of Mt. Kopaonik and Mt. Skopska Crna Gora, and above the Kriva Reka river, a left tributary of the Binička Morava [*Геоīрафска енциклоīедија* 2004]. Despite its unfavorable position and lack of access to main roads, Novo Brdo grew from a small mining settlement into medieval Serbia's biggest mining and urban center (Map 3), becoming a symbol of the country's wealth and prosperity. Its economic strength allowed Novo Brdo to significantly contribute 15th-century Serbian art and eventually become one of the cultural hubs in this part of Europe. Well-known men of letters who lived and worked in the town included Demetrius Kantakouzenos, Vladislav the Grammarian and Konstantin Mihailović.

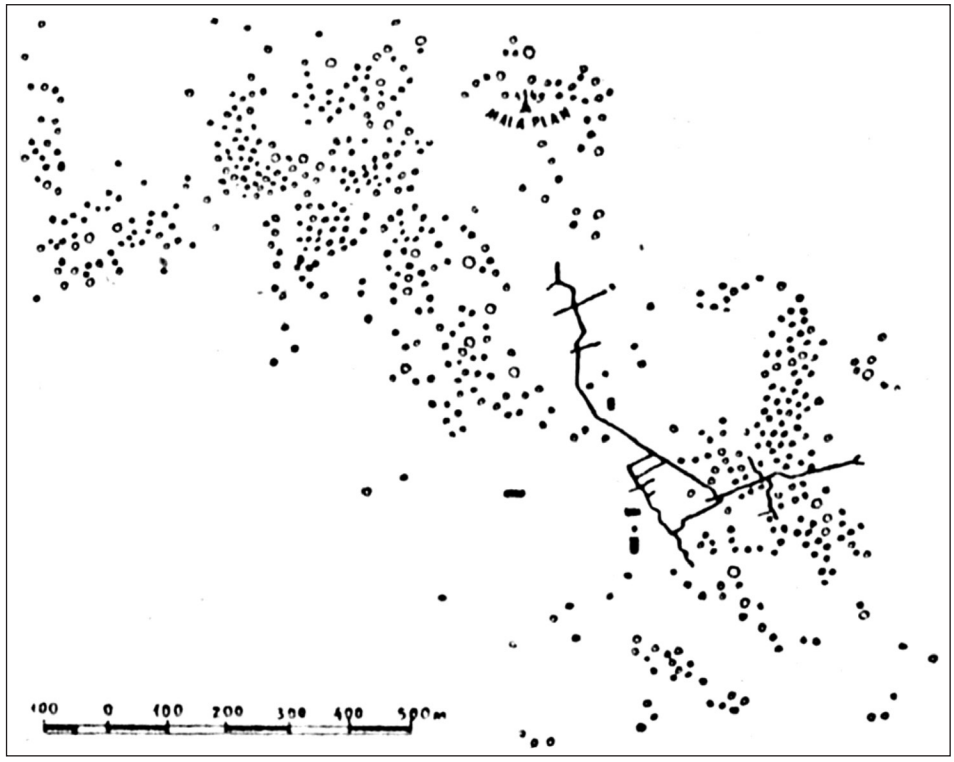
Map 3. A map of the world listing Novo Brdo (Made by Fra Mauro, 1460)

It is believed that the mining works in Novo Brdo commenced in the late 13th century, with records first mentioning the town's already widely known miners' market square in 1325. Much like in other market squares, a large role there was played by Saxon miners [Ћирковић; Ковачевић-Којић, Ћук 2002: 39–42], who were responsible for:

- Launching the mining works,
- Founding the settlement,
- Developing and improving production, and
- Organizing the town after towns in their homeland.

Lead and *argentum de glama* were processed in Novo Brdo, while iron was worked only for local needs. Traders from the Adriatic coast, especially Dubrovnik, contributed much to the town's prosperity – as evidenced by the

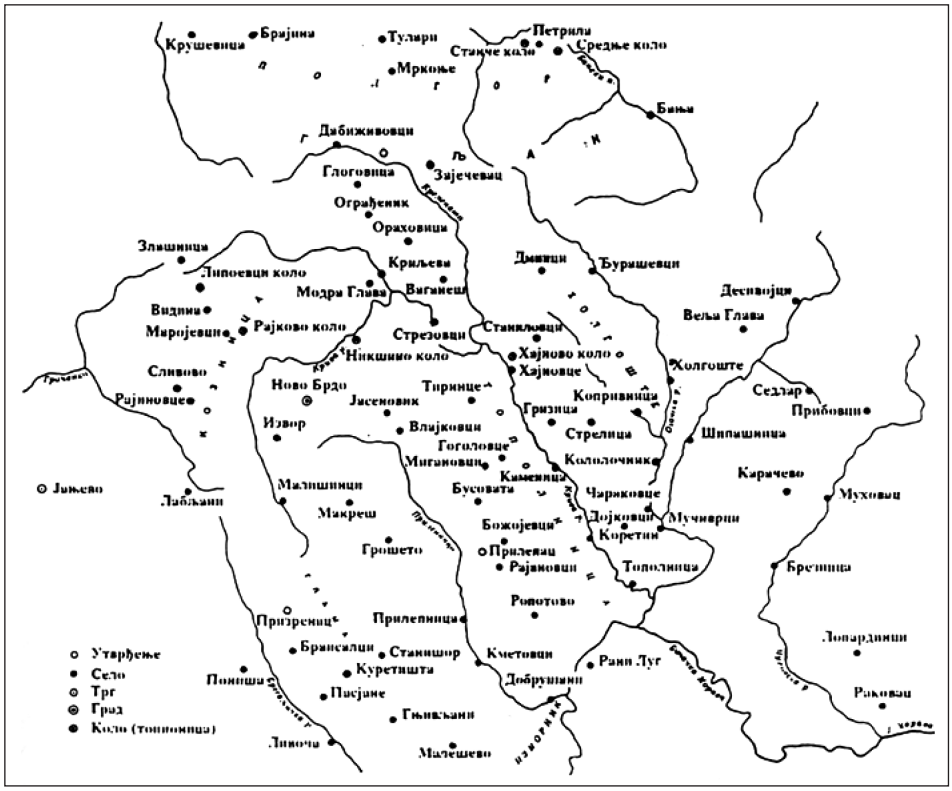
existence of a mint where famous *groši*[2] were coined. Novo Brdo also boasted a fort, whose remains testify to its one-time greatness. Of the four destroyed smaller forts that protected the roads to the mines and the town, medieval documents mentioned only two – Prilepac and Prizrenac.



Map 4. Novo Brdo, old excavation sites (Drawing by V. Simić)

Traces of old mining activity are numerous and can be found over the wider Novo Brdo area (Map 4). On the slopes of Mt. Mala Planina alone, researchers have mapped around 640 locations containing shafts, evidence of digging or traces of structures whose purpose could not be determined. Large surfaces of the area are covered in dross, with the highest concentration found at Trničevac, Krnjevska Reka and Leštar. Again, many local toponyms testify to the area's main economic activity, including Glama by the village of Straža and Glama Mahala in the village of Brasaljce, as well as the village name Gvozdari, the locations Nišino kolo and Rajkovo kolo in the village of Marevce, and the Stara Pudarija shaft among others (Maps 4 and 5).

[2] They were mentioned as "grossi di Novaberda" in 1349, or as "Novomonte moneta argentea conte Lazaro".



Map 5. Settlements, mines and smelting facilities in the vicinity of Novo Brdo

(Source: Ћирковић, Ковачевић-Којић and Ћук 2002: 39)

The area of Trepča along with those Kopanik mines that lay within Kosovo and Metohia (Maps 1 and 6) was another location of major mining activity during the Middle Ages and is the second of the three main mining zones surrounding Kosovo and Metohia, spanning around 1,400 km^2 (Map 1). Data from field explorations of this area was checked against historical records, revealing that, in addition to the large and small[3] deposits that had been mined for centuries, there also existed numerous individual shafts and smelting structures which had operated only for a short time.

Gold-bearing ores were processed on Mt. Kopaonik since time immemorial. Every new stage of mining, regardless of chronology and exact location, began

[3] Badanj-Sastavci, Bajgorska reka, Belasica, Belo Brdo, Bećirovac, Vignjište, Vitušići, Vojetin, Gropovo, Guvništa, Guvniška reka, Zaplanina, Zlatna ravan, Jelakce, Koperić, Kiževina, Kremići, Latinsko Do,Lukovo, Mađere, Mažići, Majdan, Majdanska reka, Meljnica, Ostraće, Olovarnik, Pravac, Predol, Rudare, Rudnica, Rudište, Rudnjak, Rudnjačka reka, Rudnica, Rupnička Reka, Smrekovica, Stari Trg, Srebrnac, Suva Reka, Suva Ruda, Suvo Rudište, Trepča, Trepčanska reka, Trstena, Carina, Ugljari, Šatorica, Šipačina, Šljaknište, Štovna. [Simić 1951: 208–216; Simić 1958: 357–393; Мркобрад 2003: 251–254].

with prospecting for gold in river beds. In Kopaonik's gold ore zones (Map 1), alluvial deposits were panned for gold dust at Plana, Kremićka Reka, Kriva Reka, on the southern slopes of Mt. Goč, but most of all in the Rasina river basin.

In addition to the common iron ores used to make objects for everyday use, a better quality ore – containing varying quantities of nickel, chromium and molybdenum – was excavated at Rudnjak, Suvo Rudište and Suva Reka and used exclusively for making special mining tools: pickaxes, drills, chisels and hammers.

It was similar with silver-bearing lead ore. In addition to the classical lead and zinc deposits at Badanj-Sastavci and Mažići, there were also sites such as Šipačina, Belasica and Belo Brdo, where the ore contained gold as well.

Copper-bearing ores were also mined on Mt. Kopaonik, although to a lesser extent. They existed in pure form, as in Brzeće, were combined with lead and zinc, as in Planina, or were mixed with iron, as was the case in Suvo Rudište, Kremići and Suva Reka. It is believed that these locations were exploited since Classical Antiquity, with mining activity significantly intensifying during the Middle Ages. This opinion is supported by the 1996 archeo-metallurgical investigations at Kremići [Томовић, Богосављевић-Петровић 1996: 107–113].

All lead, zinc, copper, silver and gold mines on Mt. Kopaonik date exclusively from the Middle Ages. Decades-long geological investigations have confirmed the existence of over 15,000 medieval shafts and about 230 smelteries. It is likely that the full extent of medieval mining works in the area will never fully be determined or mapped, which indicates that the metallurgical knowledge of the time is in no way inferior to what is known today.

Kosovo and Metohia's third largest mining zone is located on the Rogozna plateau (Map 7), in the upper course of the Ibar, enclosed by the rivers Ibar and Raška. Both older literature and the on-site investigations have confirmed the existence of medieval mining works [Динић 1967b: 400][4] at Bare, Gluha Vas, Žežnica, Zlatna glava, Zlatare, Zlatni kamen, Kiža, Lipovice, Plakaonice, Rudine, Rupe, Saška reka, Čivutska rupa, Crnac, among others.

The Rogozna and Trepča mines were the initial locations where the Saxon miners began working in Kosovo and Metohia. Various ores were excavated there as early as the late 13th century [Динић 1967: 400; Динић 1955: 1–27; Томовић 1987: 44–45; Simić 1958: 360; Симић 1988: 170–174]. (Rogozna and Trepča had a Roman Catholic parish by 1303, while the Saxons from Trepča were mentioned in *The St. Stephen Chrysobull* issued by King Stefan Uroš II Milutin).

The congregation of the Roman Catholic parish in Rogozna was composed of Saxon miners and traders from Dubrovnik and other towns along the Adriatic coast. Documents from the Dubrovnik Archives from 1348 [Динић 1959: 5; Томовић 1987: 45–46] mention the mining settlement having a headman of German origin who – along with his goldsmith son, mining entrepreneurs Anjo Ivanović, Stjepko and Ilija Trpetić, Pripko Žoranović, and a tanner named Antonije – borrowed money from Dubrovnik resident Bratoje Radmilović.

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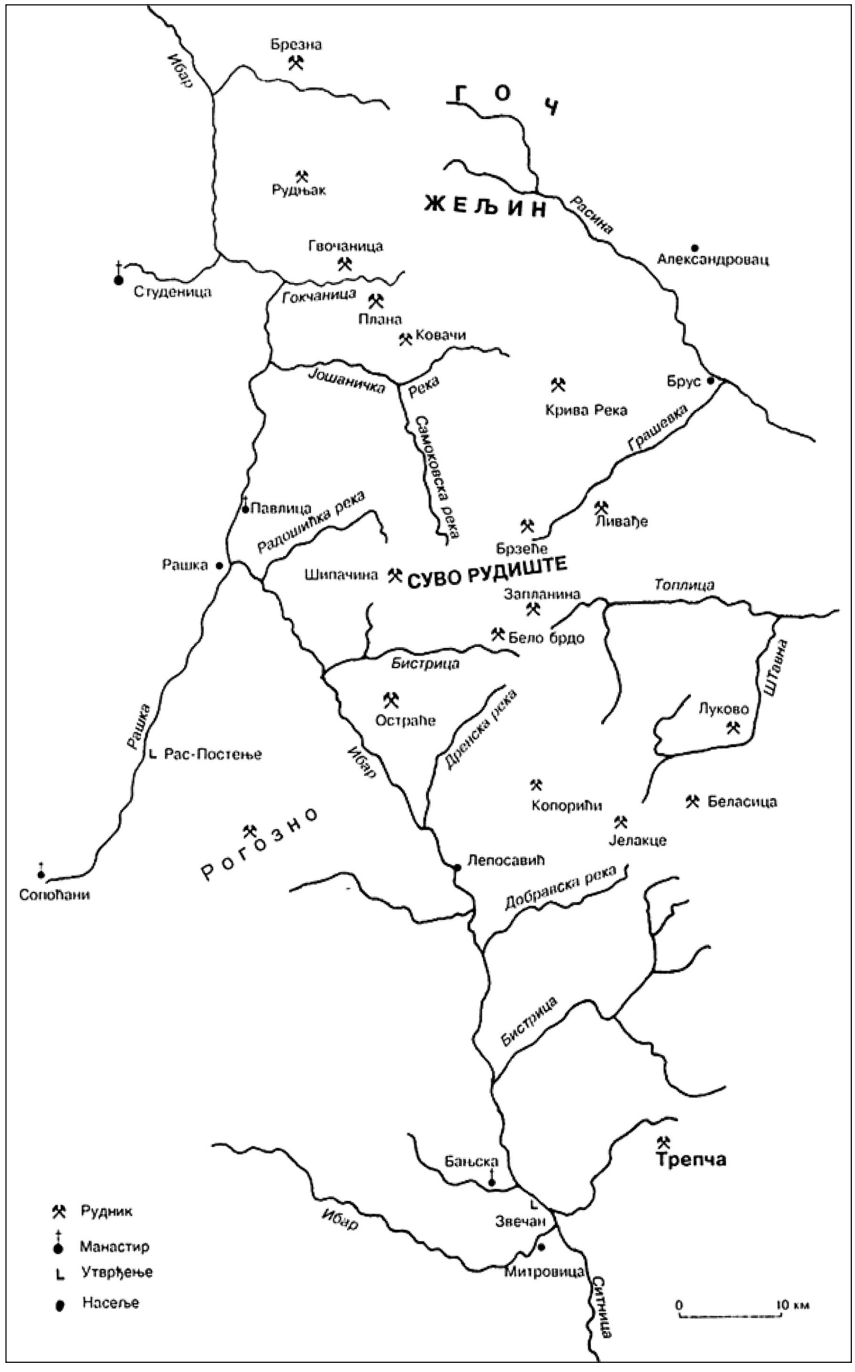
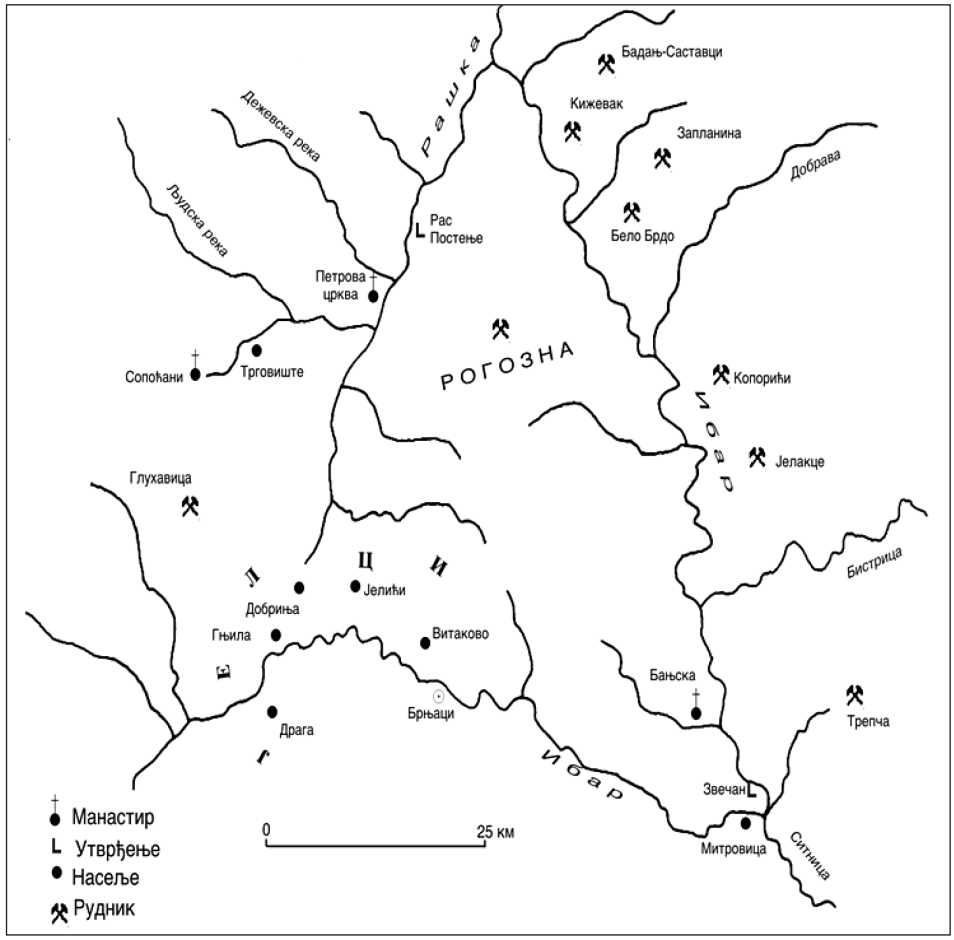
[4] [Documentation of the Ras Project in the Archeological Collection of the School of Philosophy in Belgrade], [Мркобрад 2006, 128–129].



Map 6. The Kopaonik mining area
(Drawing by D. Mrkobrad. Computer rendering by N. Mrđić)



Map 7. The Rogozna ore-deposit zone
(Drawing by D. Mrkobrad. Computer rendering by N. Mrđić)

- Monastery
- Fortification
- Settlement
- Mine

This data indirectly confirms that:

– Rogozna had a mining settlement with an organized administration, led by a headman;
– Its local masters developed a highly advanced technique in working silver; and
– The inhabitants had active business and financial ties with Dubrovnik [Томовић 1987: 45–46; Rizaj 1968: 169–180].

Mining settlements were formed by or in the vicinity of ore accumulations, gradually gaining importance as the rich deposits began attracting entrepreneurs from Dubrovnik and elsewhere.

As a result, miners' market squares became leading economic centers and hubs of crafts and trade (Maps 1 and 8). Novo Brdo was at the forefront of such settlements in Kosovo and Metohia, followed by St. Dimitrije at Zvečan, Trepča, Priština, Janjevo, Vučitrn, along with Plana, Livađe and Koporići on Mt. Kopaonik. These market squares were connected by an entire network of caravan roads (Map 8) which followed routes that had existed since antiquity. Many important medieval Serbian trade roads crisscrossed Kosovo and Metohia [Јиричек 1976: 334: Урошевић 1935, 67–68; Урошевић 1950, 32; Шкриванић 1974: 103–109; Шкриванић 1955: 389, fig. 2; Ћирковић 1997: 91]. Among them, the most important routes were:

- Niš – Prokuplje – Kuršumlija – the Banjska and Lab river valleys – Priština – Lipljan
- Niš – the Toplica river valley – Ostraće – the Ibar river valley
- Vranje – Prilepnic – Gnjilane – Novo Brdo – Janjevo – Priština
- The Saxon road through the Binička Morava river valley that connected with the Vranje road
- Gračanica – Novo Brdo – Vranje
- Zvečan – Trepča – the Lab river valley
- Prizren – Kruša – Hoča – Golubovac – Trepča
- Dečani – Istok – Peć – Trepča
- Rudnik – Borač – Čestin – Žiča – Brvenik – Zvečan
- Studenica – Brvenik – Ras – Gluhavica – Dubrovnik
- The road from the Lim river valley via Sjenica to Ras, which continued on through Rogozna, to Banjska and Zvečan.

In addition to these highways, however, medieval mining and economic centers were also linked by a host of local roads. While the settlements have long been gone without a trace, these roads now *leading nowhere* throughout Kosovo and Metohia remain a significant Serbian research topic.

Certain stretches of these nameless roads passing through Rogozna [Мрковбрад 2006:130] and the Kosovo section of Mt. Kopaonik have been investigated. Since the task was only partially completed, the findings will be reported separately. Part of this research project explored the relationship between the road, the mine, the village and the city.

Custom duties were an important source of revenue for the Nemanjić state. Checkpoints were located at all major market squares and charged a fee equaling a percentage of the value of the goods offered for sale. Serbian rulers usually leased such checkpoints to traders for a limited period, farming out customs tax collection. Customs officers were frequently people from Kotor or Dubrovnik (Luka Lukarević, Paskoje Gučetić, Novak Makedol), who were familiar with local economic circumstances. Once a lease expired, the officer was issued a written document confirming that all his financial obligations to the treasury were fulfilled. Customs checkpoints, therefore, provided quite accurate data

on the volume of trade in any particular settlement, but also on the overall mining production in that area.

The first Roman Catholic parishes in Serbian mining areas were formed in the early 14th century[5], as one of the privileges Serbian rulers had granted the Saxon miners at the time of their settlement. The full privileges included:

– The right to freely prospect and mine ore;
– Autonomy for mining municipalities;
– An autonomous judiciary,
– Religious freedom which implied the right to build churches.

A letter by Pope Benedict IX from 1303 mentions four other mining parishes in Serbia in addition to Brskovo: Rudnik, Rogozna, Trepča and Gračanica [Ћирковић 1997a: 244–247]. All the mentioned churches were dedicated to St. Mary, except for the one in Rogozna, whose dedication is not known. It is interesting that other mining areas also had churches dedicated to the Mother of God, such as Novo Brdo, the vicinity of Priština, and Crnča [Спремић 1994: 140–141]. This topic itself warrants separate research.

Reminders of the German origin of the Balkan Saxons can still be found in Serbian mining terminology [Родић1964: 137–146]. Among the dozens of examples, we will mention here only those beginning with the last letter of the Serbian alphabet – *š*:

– *šajbna* – vertical opening
– *šafar* – smelter
– *šipka* – iron bar
– *šihta* – a six-hour work shift
– *škripa* – the heavy iron socket a hammer handle was wedged into
– *šlag* – a horizontal tunnel
– *šnort* – the front part of a shaft
– *šoštrub* – a mill race i.e. sluice directing water to a water wheel
– *špat* – powder coal for smelting
– *štolna* – a horizontal tunnel, a ditch draining water from a tunnel
– *šurf* – a probing trench
– *šćur* – powder coal for smelting.

The Saxons' longstanding presence in these parts, as well as their gradual assimilation into the Serbian culture, is further evidenced by Serbian proper nouns of Germanic origin, frequently encountered written in both Serbian and German. These include toponyms (e.g. Sase, Saš, Saška, Sasina, Sasovac, Sašinovac, Saška reka etc.), names (Sasin) and surnames (Hanzović, of brothers Pavle and Martin [Јовановић 2004: 30] and Sasinović, of brothers Petar, Toloje, Andra and Radivoje) [Павловић 1960: 103–105]. Other contemporary Serbian surnames which testify to the country's mining roots are of non-Germanic origin, e.g. Vignjević, Vidnjević, Demirović, Zlatarević, Klinčarski, Kovačević, Kovačić, Kujundžić, Kuzmički, Majdanić, Mijač, Plavaš, Rudarević, Samokovlija, Ugljarević, among others.

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[5] These parishes disappeared following the destruction brought by the great Turkish War or the War of the Holy League (1688–1690).

In conclusion: On the economic map of the medieval Serbian state, Kosovo and Metohia was a region of farming settlements and vineyards, surrounded by zones of mining production and metal processing. The latter areas had settlements with trade-based economies and market squares that served as gathering places foremost for local Serb merchants, but also for traders from cities along the Adriatic coast. If this data is considered from the standpoint of the economy as a whole, it can be said that the territory of Kosovo and Metohia, along with the surrounding areas, constituted an economically indivisible whole – and the central economic region of the medieval Serbian state.

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THE INSTITUTION OF APPEAL IN THE LEGAL SYSTEM OF THE OTTOMAN EMPIRE DURING THE TRANSITIONAL PERIOD[1]

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SUMMARY: The institution of appeal was one of the fundamental organizational principles of the Ottoman Empire – and of the core institutions of the Islamic legal system – and was based on the concept of just rule, namely of legal security and universal access to justice for all subjects of the state. The decentralization of the Ottoman Empire during the transitional period (17th to 18th century) caused a change in the relations between the center and the periphery, where the institute of appeal through grievance administration underwent an abrupt expansion, especially after 1742. This paper is, on the one hand, an attempt to analyze the expansion process of the institution of appeal along with this institution's actual role within the Ottoman legal system; on the other, the paper strives to determine the part appeals played in local proto-political struggles.

KEY WORDS: Ottoman Empire, transitional period, institution of appeal, *ahkâm* administration, political initiatives

All aspects of how the Ottoman Empire functioned were deeply shaped by its vast and diverse territory and the variety of cultures and traditions which inhabited it. From the organization of central power to provincial administrations, from its tax system to its military, adapting to ever-changing circumstances was one of the constant governing principles of the Ottoman state. The

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Empire's legal system was a result of these attempts to lay the foundations for successfully ruling a heterogeneous country. The basis of this legal system was Islamic religious law – Sharia law – which certainly enjoyed unquestionable prestige within the ideology of the state. In theory, the state authorities were entitled to only implement and preserve, not change or amend, this legal corpus – whose sources were Islam's Holy Book, the *Quran*, and the *Sunnah* or tradition of the prophet Muhammad's practices and sayings. In addition, the Ottomans also accepted legal analogies and unanimous conclusions by legal experts among the fundamentals of their religious law. Therefore, only individuals with a theological-legal education – the *ulama*[2] – were authorized to interpret Sharia law. Islamic law recognizes four traditional schools of interpreting Sharia law, all of which were mutually equal: Hanafi, Maliki, Shafi'i and Hanbali, named after the distinguished legal experts who founded them. Muslims in the Empire were free to choose legal counsel from any of these four schools. The Hanafi school, however, was officially recognized by the state and its legal interpretations were applied in *kadi* courts. This was because Hanafi legal experts were somewhat more flexible in interpreting certain legal provisions, such as the status of non-Muslims.

According to the view on law espoused during the time when Sharia provisions were being formulated, the first question to be asked was always whether or not an action or relation was contrary to the religious or moral code. If there was no such conflict, then legal technicalities were of little importance to the faithful. From the very beginning, this allowed the possibility of adopting, and later adapting, legal provisions and administrative institutions from areas which gradually succumbed to Muslim rule, while also enabling teh creation of new legal solutions through consensus [Schacht 1982: 19–20, 65–71; Imber 2002: 216–225]. Islamic legal experts invested enormous efforts in interpreting different legal provisions, frequently debating fictitious cases which were unlikely to ever happen. This made it possible to find ways for certain practices, which could be deemed contrary to Sharia law, to be wrapped in an acceptable legal framework. Examples of this are interest collection and the particularly important question of evidence in criminal proceedings [Gerber 1994: 15–16]. The latter namely pertained to formalizing the use of written documents as evidence, given that Sharia law gave absolute advantage to oral testimony. Because of this, participants in lawsuits aimed to secure witnesses who would confirm the veracity of the information written in documents [Gerber 1994: 37–38, 47–48; Ergene 2004: 473–474]. Another important kind of witness – unique to the Muslim courtroom – were witnesses of the judiciary act itself (*şuhud ul-hal).* The şuhud ul-hal were not present to offer a testimony regarding the case before the kadi, but instead to ensure that the legal proceedings were properly conducted and to vouch for this by having their names recorded following the judicial ruling. Moreover, since kadis were officials appointed

[2] The ulama (sing. alim) is the collective term for individuals educated in Islamic theology, and who were entitled to work as teachers, kadis (magistrates), legal experts and religious dignitaries. Given that they were paid for their services by the state, they were exempt from taxes i.e. belonged the class of asker. [Ágoston 2009: 577–578]

by the central authorities for a specific period, they had limited knowledge of local circumstances; thus, the presence of both local dignitaries and people knowledgeable about the case being presented, aided the operation of the courts. Non-Muslims were also allowed to serve as *şuhud ul-hal* in instances when the *kadi* deemed it necessary [Jennings 1978a: 143–145; Jennings 1979: 162; Ergene 2003: 25–30; Крешић 2014: 28–33].

As previously emphasized, the legal system of Islamic states did not exclusively consist of Sharia law, but rather allowed secular law to evolve parallel to religious law, with the latter providing the overarching legal framework. This secular law – or *kanun* – developed in combination with traditional legal provisions from the pre-Islamic period. Continuing the practice of previous Islamic states, the Ottomans only furthered this system. The ruler created new laws which did not replace but merely supplemented Sharia law. The adoption of various legal and judicial traditions from the peoples they conquered gradually increased the complexity of the Ottomans' legal system. This constant adaptation of the judiciary enabled more efficient rule, and enhanced adaptability to the diverse circumstances throughout the state. It should be noted that certain legal provisions from conquered states found their way into the Ottoman legal system, and that the Ottoman authorities allowed a judicial autonomy of sorts for its non-Muslim subjects.

Zimmis[3] were allowed to resolve disputes either by reaching an agreement or by taking their case to a church court or a rabinnical court. Of course, this was on condition that no Muslim was involved in the dispute; otherwise, the case had to be brought before a *kadi*. It is important to stress that within the Islamic legal framework the state automatically launched court proceedings only for so-called crimes against God (*hudud*). Mostly, these involved religious violations and pertained to zimmis mainly in cases of theft or armed robbery. All other infractions were seen as private disputes between two sides, hence settling a dispute through agreement was quite widespread. Even so, Zimmis did not always use the privilege of settling disputes on their own, appealing to kadis even when it was not required – a practice that can been explained in several ways. Firstly, as a state institution the kadi court could, at least in theory, guarantee that its decisions – unlike an agreement reached within a community – would be implemented by the central authorities. Also, the practice of recording and issuing written confirmation of a kadi rulings facilitated the process of providing evidence should another dispute arise over the same issue. In addition, Zimmis would occasionally conclude that applying Sharia law would ensure a more favorable outcome for their case. [Jennings 1978a: 250–255; Gradeva 1997: 40–41, 57–62; Al-Qattan 1999: 432–436; Kermeli 2012: 347–351] Karen Barkey, however, notes that "the image of multiple autonomous court systems is inaccurate because the policy of legal pluralism was organized

[3] The term *zimmis* (or *dhimmis*) refered to members of monotheistic religions who recognized the authority of Muslim rulers and payed a special tax (the *jizya* tax). In return, the state protected them, their property and their personal and religious freedom. However, by imposing numerous restrictions, rules of conduct and dress codes, the state made it apparent that *zimmis* were not equal to other Muslim subjects [Фотић 2005: 27–71].

and controlled by the center, with the goal of presenting diverse options while protecting the kadi court's topmost position." This ensured the autonomy of different communities and also allowed the firmly set interreligious barriers to be crossed when needed [Barkey 2013: 84, 93–94].

The kadi court was the most important institution for implementing legal provisions. With their education in theology and law and authority granted by the state, kadis were entitled to provide rulings based on both religious and secular law. Although abuses were possible, kadis were, in theory, guaranteed full autonomy from the provincial – and central – authorities; orders from Istanbul could only mandate a retrial or transfer of a case to a different kadi – not dictate how a kadi should rule. [Heyd 1967: 10–11; Jennings 1978b: 138–142; Ginio 1998: 191–200; Imber 2002: 216–225] Kadis were tasked with more than presiding over legal proceedings. Each order sent to the province had to be entered into the *sicil* – a special kind of registry kept by the local kadi. As mentioned above, the kadi also recorded all his rulings in the sicil, as well as every contract concluded in court. Kadis had ties to the provincial administration and its officials, especially with regards to keeping local order, supplying the army, maintaining roads and fortifications and collecting taxes [Gradeva 1999: 179–187].

Such diverse and broad authority lent the kadi court a special position among state institutions and made it a kind of symbol of state authority among the sultan's subjects. By merging state, legal and religious authority, kadis became the key intermediaries between the central authorities and the provincial population. Given that the concept of justness was critical to a ruler's legitimacy in the Ottoman Empire, it is apparent that kadis both symbolically and practically enabled the ruler's authority to be implemented in the provinces. Islamic philosophical theory specifically highlighted the importance of each person and social group (the army, ulema, re'aya[4]) having a clearly defined place within the state, the ruler's responsibility being to ensure their safety and wellbeing through just rule. The ruler could not rule without the army's might, while the army, in turn, could not exist without wealth; this wealth was produced by the reaya, thanks to just rule; the rule of justice was impossible without harmony – predicated on the rule of religious law, which, in turn, was fundamentally based on the sultan's rule. This interrelationship constituted to so-called *circle of justice*, one of the basic tenets of Islamic political ideology. Legitimizing the sultan's rule in this way was particularly important in the Ottoman Empire because the House of Osman – despite various attempts to fabricate heritage – did not boast any ties to previous Islamic ruling families or the prophet Muhammed. Hence the need to underscore the efficiency and strength of the sultan's rule as the basis for his authority [Aksan 1993: 53–55; Gerber 1994: 63–64; Karateke 2005: 18–23; Hagen 2005: 65–66; Barkey 2013: 90–91].

In a system where the ruler was the main protector and enforcer of justice, the institution of appeal had a naturally significant role. Drawing from Islamic tradition, but tribal heritage as well, every subject, regardless of their religion, social group or location within the Empire, was guaranteed the right

[4] In the Ottoman Empire, the term *re'aya* was used to denote all imperial subjects who paid taxes and were not part of state institutions. [Faroqhi 1995: 403–406]

to bring a request or plea before the sultan himself [Karateke 2005: 38–39]. This could be done in person, by traveling to Istanbul, or by a written petition called *arz-ı hal*. Each petition passed through a bureaucratic appartus which checked its information against documents available in the central archives and then forward it usually to the Imperial Divan[5] or, in exceptional occasions, to the sultan himself. An order was issued based on all the collected data and sent most commonly to the kadi in whose jurisdiction the petitioner lived.

During the late transitional period (the mid-18th century), the appellate system swiftly expanded to such proportions that it is often considered not an institute of appeals in the classic sense but rather a completely new institution – the ahkâm administration. The question is whether this occurred due to increased local pressure or because the central authorities introduced the new system as a fresh means of legitimizing themselves in the eyes of their subjects during a time of decentralization. Since imperial visibility needed to be ensured in any way possible, the enhanced appellate system could be seen as yet another invention of the central government. On the other hand, appeals were increasingly used to provide legitimacy for those defeated in battling the ruling regime locally. The appeals process in the Ottoman Empire has yet to be thoroughly and systematically studied. During the late 1980s and early 1990s, leading 20th-century scholars in Ottoman studies Halil İnalcık and Suraiya Faroqhi insisted that such research would be of global value, yet their opinion met little interest until the early 21st century. Initially, it was believed that the expansion of the ahkâm administration was caused by patrimonialism or, as defined by Fatma and Ramazan Acun, an extreme form of patrimonialism called sultanism. Over time, theories proposing a centralized bureaucracy that strived to develop methods for controlling the Empire's territory were gradually abandoned. In their stead arose notions that Ottoman appellate policies where shaped by judiciousness or were even an expression of pragmatic rule. There were several diplomatic forms of şikâyet registers, including ahkâm registers[6]. First, as İnalcık points out, there were arz-ı hal or original appeals, which were mostly submitted to a kadi, or one was at least so supposed. Early ahkâm registers, dating from the 16th century, significantly differ from later ones (post-1742) in both diplomatic and paleographical traits. [Acun 2007: 125–131; İnalcık 1988: 33–54] In addition, the purpose of the later registers had also somewhat changed. While the underlying goal of asserting the legitimacy of the authorities remained, two new elements arose: the need to control provincial factions and the increased importance of bureacracy. The latter is a well-known issue in Ottoman studies, but the ahkâm administration's expansion was never linked to the strenghtening of the position of the reis ül-küttâb[7],

[5] The Imperial Divan was the highest governing body of the Ottoman Empire. Sources also mention the synonyms Sublime Porte or Imperial Council. As of the late 18th century, the term Sublime Porte referred to the office of the grand vizier, while Imperial Council was used for other institutions of state government which had their own *divan*, such as the *beylerbey*, *sancakbeyi*, and the *ağa* of the Janissaries.

[6] Registers of the Ottoman grievance administration.

[7] Literally 'chief of scribes' or 'head clerk'. (Translator's note)

who was directly charged with controlling these affairs. During the second half of the 18th century, the institution of reis became a recruiting station for the highest positions in the Ottoman government and was virtually a mandatory stepping-stone for any future vizier. Political struggles surrounding this key position intensified over time, while the offices within the Porte began increasing the complexity of their protocols and, more importantly, began bureaucratic expansion[8]. The principle of justness served as an excellent mechanism for highlighting the importance of a bureaucratic process which began inventing tradition. In the early 16th century there was hardly a single grievance filed in the Sancak of Semendire, while an average of one – four at most – arrived annually from the sancaks of Rumeli. [Acun 2007: 135–136] By the mid-18th century, however, the number of appeals from Semendire was no less than twenty a year – reaching as many as fifty – while there were over one thousand appeals from the Rumeli region annually. So far, historiography has not yet examined the causal relationship between the expansion of the appellate system and the bureaucratization of the Ottoman government. Although archival materials are an often unrelieable ally and are frighteningly unforthcoming when it matters most, one gains the impression that despite all the prerogatives of apsolute power in a sancak granted to a vizier, the central authorities nevertheless managed to develop mechanisms of indirect control. As Nora Lafi concludes, the ahkâm administration enabled direct contact between the urban elite and central administration. [Lafi 2011: 73-82]. What demands further examination is whether there existed direct contact between the local bureaucracies and central apparatus where part of the local administration directly or indirectly served the interests of the central authorities.

The upsurge in appeals coincides with the most pronounced degree of decentralization on the periphery of the Ottoman Empire, especially in Rumelia. These turbulent times – marked by riots, the overthrows of local governments and political clashes between various groups over the positions of vizier and vali[9] – demonstrate that launching the complex process of appeal could not be a personal, independent initiative, because every complaint meant challenging the authorities, the vizier and, even more dangerously, their representatives in the local community, where human life held less value and was easily lost before an appeal even left the province. The system obviously ensured safety for itself. This reflects a certain complexity of both local relations and relations between the center and periphery. In a system where local authorities had absolute local power, it would seem impossible for any complaint to be lodged without some kind of patronage – because any complaint was necessarily against the executives of local government, who increasingly controlled the kadi i.e. the only person who could, according to the Ottoman understanding of

[8] The entire grievance administration, as well as registers of the imperial orders (mühimme) were under the purview of the Beylikçi office (officially known as the Divan-ı Hümayun Kalemi) [Ahıshalı 2001].

[9] During this period sancakbeyis were called viziers and beylerbeys were called valis. The term pasha is frequently found in colloquial use for both of these Ottoman provincial leadership positions. A pashalik was the jurisdiction of a pasha.

Islamic law, overturn a court ruling. Individual appeals frequently masked the interests of a more powerful patron, whose interests were somehow threatened and who pressured the bureaucratic process by having his sattelites file numerous individual complaints. In most cases, an individual was protected in challenging a segment of the government merely by belonging to a group (*sipahi*, Janissaries, *yerli*[10], etc.). Every such public action represented an invocation of the principle of group visibility, a form of political representation for the group where the actual outcome of the appeal was frequently of little importance to those who lodged it. At the same time, it should be noted that it was just as common for the interests of individuals to be served under the protection of a group. The numerous appeals filed by sipahi (and even zaims) demanding new estates due to the depopulation of their previous ones cannot be viewed as an initiative of individuals independent of politics. Namely, because this practice became widespread and evolved into a bureaucratic mechanism of influence. Although it may so seem from individual documents, the sipahis' petitions did not constitute independent cases but were rather part of a mechanism which guaranteed them certain rights tied to their status. The policy of the central government, which sought to create a system that would guarantee that timar dues be paid, was a central issue between the center and periphery. Tax registers shows that it was impossible to meet projected farming outputs, but the ahkâm registers indicates the existence of an entire land administration and a complicate bureaucratic mechanism formed to strengthen the sipahi locally. [TKGM. TADB. TTD. No. 17; No. 18]. Given that the sipahi were a realiable opposition to local power structures, it is likely that the central authorities supported the group whereby they directly meddled in the periphery's proto-political conflicts. By weakening the legitimate ruling strucutres in provinces, the central powers curtailed the periphery's independence while at once casting themselves in the role of necessary supreme arbiter.

Recently, the overt state-centered perspective in Ottoman studies has been criticised, in light of which the appeals system must also be considered in terms of the provinces' attempts to act independently of the central authorities. By recognizing the autonomy of these actions, even as mere initiatives sent to the central government, one raises the issue of the proto-civil society as defined by Antonis Anastasopoulos. Acknowledging the sociological aspect of this term, historians have adopted Jürgen Kocka's definition, whereby civil society represents a particular kind of social action. [Kocka 2004: 68–69] From this perspective, the Ottoman Empire's subjects are viewed through the prism of their actions – which are considered authonomous. Firstly, this undermines the paradigm in which the centre is omnipotent and controls the provinces' every

[10] Sipahi were soldiers, predominantly cavalry, who received the right to collect income from an estate called a timar in exchange for military service. Janissaries were members of the standing army, trained by the state and deployed as needed across imperial provinces. By the 18th century, sipahi nearly lost any military significance, while, thanks to their constant increase in number, Janissaries ceased being elite troops recruited through the devşirme and became an important political factor. On the other hand, yerli were units comprised of provincial populace drafted by the provincial authorities. [Imber 2002: 252–286]

action, and everything the periphery does is reduced to an elicited reaction. It becomes no longer possible to see the Ottoman bureaucratical appartus as a long arm of the government or supreme arbiter. The socio-political changes precipitated by the decentralization process in turn led to the emergence of para-governmental structures, whereby the balance of power was constantly prone to shifts. Certain groups frequently masked their actions under the seeming legitimacy of the old system, whose place they assumed sometimes legally, sometimes less so. What is clear is that these groups had far more autonomy than was believed before. The members of the administrative system employed the existing institutional framework merely to cloak their own political agendas. The more a power structure – no matter how marginally local – constituted a true simulacrum, the more important it became to assert its legitimacy. It is no coincidence that political activity is so closely tied to the concept of legitimacy, as Suraiya Faroqhi suggests. Therefore, the very manner in which appeals were launched and led indicates the social significance of this institution. It is highly unlikely that those submitting petitions to the sultan believed that justice would be served. Anyone acquainted with the Ottoman legal system knows that a court of higher instance could not change a ruling but merely suggest it be reconsidered. This leads one to conclude that appeals were merely a form of political demonstration, aimed at ensuring additional legitimacy during court proceedings – and pressuring the local kadi and all stakeholders into action. The way in which the appeals system was somewhat institutionalized shows that the process of political activity in pre-political societies was dependent not only on local conflicts but also on the autonomous actions of social formations that could change their social status and political role. The circumstances in which these processes originated are called the proto-civil society, and its formations are in keeping with Kocka's definition based on the principle of self-organization [Faroqhi 1992: 1–39; Anastasopoulos 2012: 440–450].

In the context of analyzing social formations, it is important to consider Michael Mann's thesis according to which society constitutes "multiple overlapping and intersecting socio-spatial networks of power." While it is emphasized that society should be analyzed as an autonomous formation, it is also necessary to avoid a unitarian approach since society is neither a system nor a totality. One should cease to view local communities as a monolith reacting to stimuli from the central government, and instead see them as social actors which not only act autonomously but initiate historical processes. [Mann 1986: 1–2] As Boğaç Ergene underlines, individuals join various networks of power, which provide a social matrix of interests and alliances based upon them. Ergene points out it is impossible for administrative formations to exist outside of a certain social consensus. More importantly, Ergene maintains that the legitimacy of the kadis had to be based on communal approval of their actions – just as prominent locals could not remain beyond the structures of the authorities. Similar interpretations open the possibility of approaching the appeals system as a specificity indicator for social conflicts caused by the political battles of various power networks. As Eleni Gara notes, by 1770 the system of political representation by ayan or kocabaşıs reached such a level that it was necessary

to invent tradition. The strengthening of political elites caused conflicts to escalate so much that it is usually impossible to discern where political protests stopped and where fractionalism began [Ergene 2012: 391–394; Gara: 412, 416–417].

Filing an appeal began with hiring an educated person to first compose the appeal. While it was necessary to pay for this service, it was not difficult to find legal experts given that petitions were filed by the denizens of cities and towns. Educated experts roamed the provinces in search of work due to a shortage of postitions within the administration. Appeals were also frequently composed by mollas, given that they were esteemed legal scholars. The appeal itself could be presented to the Imperial Divan in person or it could be sent as a letter/appeal (mektup/arzuhal) with the proper escort, which certainly made the entire process more expensive. The form of delivery was noted in the ahkâm registers themselves, with either *sent* (mektub gönderüb/ arzuhal edüb) or *received* (gelüb). The original documents were archived in special şikâyet archives, while response outlines were entered into ahkâm registers, which were kept after 1742, according to a province, i.e. eyalet, of provenance. There is significant difference between the terms letter and arzuhal. The former was composed by a learned expert outside of the legal system, while the latter was issued by a kadi. Securing a kadi's agreement to enter a complaint into a sicil – judicial protocol – was certainly more difficult but also important in terms of legitimacy and political rivalry. Examples of this are not rare. As Demetrios Papastamatiou suggests, the local kadi need not have necessarily been the one to issue an arzuhal: instead, stakeholders could approach a neighboring kaza, thus fanning local rivalries. Narrative sources claim that control of kadi's office was absolute – which itself should be accepted with reservations – yet those same narrative sources claim that the position of kadi was practically auctioned off to the highest bidder for a given time period. The fact that the office of kadi was rented out allowed kadis more maneuvering space, since they could disregard the power of the vizier and focus on local circumstances instead. Clearly, viziers controlled the provinces via müsellim and subaşı[11], but a kadi could lend legitimacy to complaints and the appeals process itself [Papastamatiou 2012: 172].

The appeals lodged with the Imperial Divan all followed a similar legal and bureaucratic format, highlighting injustice and oppression (zülm) as the reasons for addressing the state's highest legal institution. In fact, each complaint is merely a reiteration of certain frequently used phrases requesting intervention, which cannot be interpreted beyond the context of bureaucratic practice, formalized address and citing an official, legal cause further elaborated in the body of the letter. Any petition to the Imperial Divan was predicated on an assumed injustice, for which legal sanctions were requested. Unlike older documents – which put emphasis on one of two very different terms, Sharia law and the kanun – appeals from the transitional period referred equally to both religious and secular law, using them in conjunction to denote a unified

[11] A müsellim was a local administrative official subordinate to the vizier; a subaşı was an administrative-police officer in smaller settlements appointed by the vizier.

legal system. Particularly interesting are the Divan's responses to the complaints. Open interference in provincial issues was rare. Instead, orders were issued using the formulation *to prevent and prohibit interference /in said issue/ it is honorably ordered that* (müdahale ettirilüb men' ü def'[12] olunmak babında emr-i şerifi) or, similarly, *to prevent and prohibit upsetting* (ta'addileri men' ü def' olunmak babında hükm-i hümayunum)*, outside interference, tyranny and injustice are prohibited* (ahardan dahl olunmak icab etmez, zülm ü ta'addi). The Divan declaratively prohibited infractions against the legal system but generally did not interfere in individual cases, assigning the task instead to the local kadi: */let that/ which is unlawful be considered in keeping with Sharia law and /let/ the law be maintained* (mahallinde şer'ile görilüb ihkak-ı hak olduğu). The independence of the kadi's office could easily have been an excuse for the higher authorities to do nothing. During earlier periods in Ottoman legal history, it was much more frequent for the Divan to interfere significantly in local affairs and to annul a kadi's ruling. A particularly sensitive subgroup of appeals referred to the oppression of someone in power or instance of abuse of institutional power. These actually were extreme cases of injustice, especially if the complaint was lodged by local commoners – the re'aya. While the documents most frequently employ the formulations *zülm and injustice*[13], *injustice and injury* (ta'addi ve rencide), complaints against power abuse also used the quite strong term *legal repression* (hak-ı müzalem). It seems that the central government lacked an efficient mechanism for controlling the entire appeals process and that, as a result, any attempt it made to offer support was reduced to mere declarations. An order sent to the province, however, could strongly contribute to an appeal's legitimacy in the eyes of the local administration and in further administrative proceedings [Павловић 2017: 328; BOA. A. DVNS. AHKR. d. 3/820]. Rarely, a mübaşir was appointed – a representative of the state tasked with further investigating the case. Cases which drew special attention from both the state and local authorities were problems regarding timar estates. At least one-third of all complaints lodged [during the transitional period] referred to the issue of so-called small timars (erbab-ı timar), where an intervention by the authorities was a given. This was expected, on the one hand, because the issue was within the purview of the central administration – which assigned timars. If a sipahi-timariot could not achieve the projected returns from his timar, which was determined from the tax registers – the ahkâm administration exchanged timars. It is unknown how efficient this approach was, especially considering that the sipahi were no longer considered formal members of the military, but rather a social group rewarded with a very low rent for their timars – which was frequently difficult to collect in full. Particularly sensitive were cases of usurpation, where a sipahi complained that his rights, granted by a certain document, were usurped. Aside from the issue of timars, such appeals – filed by beratlı or persons owning documents confirming their status or rights which were violated (regardless of the kind of

[12] Frequently accompanied by another synonym: ta'arrüz.
[13] Frequently accompanied by the synonym gadr (injustice, tyranny).

document and rights it granted) – were met with positive responses that were conveyed to the local administration in the same manner as all others. In other words, the Divan would determine that the rights cited were indeed violated and then order the local government to take action in accordance with the law, whatever that may be. Two interesting paradoxes bear mentioning: affirmative responses and the simplicity of bureauractic langauge [BOA. A. DVNS. AHKR. d. 6/922, 6/456. 6/145, 6/148].

Generally speaking, political initiatives of the time could be categorized into those made by members of the ruling group (askeri) and those by the local populace (re'aya). The former comprise two basic types: a member of the ruling class, usually a member of the military, lodges an appeal either because he cannot fully realize his right to a certain privilege (income from a timar, tax farms) or because his rights have been completely usurped (timar seizures, financial fraud, inheritance issues etc.). These two types of cases seemingly have no correlation and should be analyzed separately. The many possible issues with inheritance actually bear no direct link to a person's proprietary-legal status. The relatives of a deceased person who invested in business in the province would request a return of assets neglecting the fact that the deceased was a member of the Janissaries and that, therefore, his life and property belonged to the state. The problem was the status of Janissary, which numerous merchants and entrepreneurs held nominally for the sake of social privilege and tax exemption. The heirs of such individuals did not expect the state administration to strictly abide by the kanun in these cases. The inability to fully collect money – be it income from a timar or tax farming – mostly led to individual cases and private lawsuits. The complete usurpation of these rights, however, was possible only with the permission of local authorties. The fundamental battleground, thus, became the timar, but also taxes farmed through the iltizām system[14]. Given that the taxation system operated by farming taxtion rights via auction, cash flows originated when farming rights were bought or when loans for tax farms were issued. The group of privileged power holders accused in appeals of abuse of power, zülm and tyranny grew increasingly noticeable, acting brazenly even in the presence of local kadis. This group acted on orders (*buyuruldu*) of the local government, the vizier and the Belgrade Divan. In the Ottoman legal system, documents issued by the central authorities in theory held precedence over those issued by the local administration, but provincial appeals were the result of this rule being neglected. In the provinces, buyuruldu were accepted as absolutes, which led to legal chaos and increased legal uncertainty. The lodging of these appeals testifies to direct opposition against the regime for the purpose of seizing power in a regime change. The defeated, therefore, aimed their political activity toward securing a position in some future government. [BOA. A. DVNS. AHKR. d. 11/560].

In addition to initiatives launched by the ruling class, it is also important to consider the intiatives of the local populace. As in the case of the former,

[14] The Ottoman taxation system during the transitional period was based on the farming of public revenue, the rights to which were auctioned to the highest bidder either temporarily (mukata'a) or for life (malikâne).

individual initiatives were the result of support from a more powerful group or institution. Namely, in such cases a headman (*knez*) – an elder tasked with collecting tax money and submitting it to tax farmers – was behind the petitioner. Any abuse of the iltizām system directly cost the headmen, which is why they had established communication channels with the central government via the institution of appeals. Most likely, this was the job of a professional group of representatives who took appeals before the Imperial Divan once they received the proper signal from the field i.e. the headmen. Although the documents themselves bear the names of the peasants damaged, the cases were actually handled by "semi-professional representatives". The most common problem cited by the representatives of the local populace was debt, or specifically the system of collective waranty and taxation abuse, namely overtaxation. The appearance of the re'aya and its representatives in the ahkâm administration demonstrates that this social class recognized the significance of this administrative mechanism and used it to fight for its own visibility. [BOA. A. DVNS. AHKR. d. 22/536; 22/552; 22/618].

The appeals system of the Ottoman Empire represents an institution of Islamic law in the context of system where justness was the ruler's fundamental duty. This institution, however, underwent expansion during the late transitional period, when the process of decentralization led to new forms of communication between the center and periphery. According to the theory of empires, it can be concluded that negotiations of a sort yielded an innovative mechanism for the center's control over the periphery, be it only in asserting the legitimacy of the authorities and legality of institutions and informal groupings. For local petitioners, appeals served as a channel for achieving representation of their own identities in the fight to join the ranks of the ruling class. The interference of the central authorities in these processes served to maintain the illusion of imperial control and imperial presence in the periphery, which the center could no longer effectively control. By determining common interests, the subjects of the Ottoman Empire shaped a mechanism of communication which enabled them to achieve their own goals and interests via a new form of negotiation with the center of the Empire.

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THE HUNGARIANS IN THE EYES OF THE SERBS DURING THE INTERWAR PERIOD

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SUMMARY: Serbs and Hungarians have been neighboring nations for more than a millennium*. Over the course of last few centuries, historical circumstances have caused a substantial part of the Serbian population to intermix with Hungarians – and have yielded a significant number of historically memorable events.

World War I ended with the Serbs as victors and the Hungarians among the defeated. This armed conflict between the two nations left deep consequences on their mutual relationship. The devastation which Hungarians wreaked upon Serbs during the war compounded the moderate distrust that Serbs had felt towards Hungarians during the interwar period.

This distrust largely influenced the mutual sentiments of both peoples. Between the two World Wars, Serbs developed certain new views of Hungarians, but even more so strengthened the ones they held previously. Serbs of the time realized that Hungarians retained their national pride even between the two wars, yet that the Hungarian attitude towards Serbs had undergone certain change. The territorial dispute between Hungary as the national state of Hungarians, and Yugoslavia as a country predominantly populated by Serbs, constitued a major source of contention and misunderstanding between the two nations.

The attitudes of the wider Serbian population towards Hungarians between the two wars are harder to determine because hardly any research of this period has been undertaken. What is available, however, are various personal i.e. subjective opinions recorded by diverse Serbian intellectuals of the time. The information these authors relied on stemmed from their contact with and studies of both Hungarians who lived in Hungary and the Yugoslav Hungarian minority, which mainly resided in the multinational region of Vojvodina.

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Between the two World Wars, Serbs held Hungarians in high esteem, considering them serious people who, aside from some warlike and crude traits, possessed good work habits, sensibility and integrity. This is evident in the fact that Serbs of the period created not a single pejorative or insulting song, witticism or aphorism in regards to Hungarians.

To enable a better understanding and perhaps even closen ties between the two nations in the future, it would be beneficial to carry out more extensive research into the mutual relationship of Serbs and Hungarians, as well as of their respective cultural accomplishments – not only during the interwar period, but during other periods as well.

KEY WORDS: Serbs, Yugoslavia, Vojvodina, Hungarians, Hungary, stereotypes, prejudices, survey

Never did the one neighbor understand the other:
ever was his soul amazed
at his neighbor's delusions and wickedness.
Friedrich Nietzsche, *Thus Spoke Zarathustra*

THE DEVELOPMENTAL HISTORY OF THE SERBS' VIEW ON HUNGARIANS

The Serbs and Hungarians are two neighboring peoples with longstanding tradition and culture; over many of their centuries in a shared space, they have intermixed. Both peoples have a highly developed awareness of their own history and statehood. As Popović [Popović 1925: 40] put it: "It bears emphasis that both the Serbs and the Hungarians have a very strong political, historical and warrior tradition."

Following the loss of their medieval states in the late 15th century, i.e. during the centuries without national state of their own, the Serbs took pride in the history of free Serbian national states[1]. Over several recent centuries – up until the mid-19th century – Serbs were under the political dominion of two powerful neighbors: the Ottoman Empire and the Austrian, later Austro-Hungarian, empire and kingdom. Yet Serbs never stopped striving for the renewal of their national state. „The idea of independence was never fully extinguished among the Serbs", wrote Popović [Popović 1925: 16][2]. Not unlike the Hungarians, „the Serbs consistently treat themselves as a people", Popović explained [Popović 1925: 19] – specifically as a free[3] people willing, as Hunfalvy-Sch-

[1] Aware for centuries of their bleak reality – lacking the freedom of having their own national state – the Serbs idealized the history of Medieval Serbian states (Serbia, Bosnia and Herzegovina, and Zeta) and never ceased expecting their renewal. The period spent without a soverign national state was considered by Serbs unhistorical and unworthy of rememberance. The Serbs of the time formed the belief that without a state they were mere slaves (in Serbian lands occupied by the Ottomans) or servants (under Austrian and Austro-Hungarian rule) – and that slaves and servants could not have a history!

[2] If possible, a people should live in their own national state, for, as Russian Kniaz Repin stated, „[t]o live in your own country is logical, however that life may be. To live in the country of another is not".

[3] A similar view was expressed by Serbian emigrant and politician Slobodan Drašković: „You can plow, sow and reap, give birth and die and be merry both in your own country and in another's. But you can only be free in your own."

wicker stated [Hunfalvy-Schwicker 1877: 328), „to go to great sacrifice for their national idea". The Serbs wanted to liberate their national lands from Turkish occupation and create a national state of their own. In addition, the Serbs were aware of their military and other contributions to the defense of the Austria and Austria-Hungary, and believed themselves entitled to gaining an autonomous Serbian political territory in the territory of historical Hungary. At the time, significantly larger minorities in Hungary – Slovaks, Romanians and Germans – made no such demands. Given that Hungarian leaders had no intention of allowing Serbs to obtain its autonomous territory within their state, hatred and conflicts between the two peoples were inevitable. The Serbs' and Hungarians' similar aspirations and ideals – namely having a sovereign national state on partially overlapping territory – led to mutual animosity, particularly during the 19th century. Even Hungarian Germans took note of this, as is evident from one German song:

Magyaren und Razen	[Hungarian and Serb
Hunde unad Katzen	dog and cat
Rácz und Magyar	Serb and Hungarian
Zank das ganze Jahr.[4]	quarrel all year long.]

During the Middle Ages, most Serbian people had no particular opinion of Hungarians – other than those resulting from mutual armed conflicts. In Modern history, however, a significant number of Serbs were forced by circumstance into living near or even alongside Hungarians. These Serbs living on Hungarian territory under Austrian and Austro-Hungarian rule, developed certain opinions, stereotypes and prejudices regarding Hungarians, disseminating their views to the greater Serbian population in the Central Balkans.

The longstanding national motto of fighting for „the honorable cross and golden freedom" was used by the Serbs to communicate their desire for a sovereign state as well as their commitment to Orthodox Christianity. Whenever settling somewhere new, Serbs strived to first erect a church, considering this a prerequisite to founding a settlement or truly putting down roots. Certain Hungarians, especially those living alongside or near Serbs, even had a saying: „There's no soup without a carrot or Serb without a church."

During the time of Austria-Hungary (1867–1918), Serbs in Hungary felt acute danger to their aspirations, as both achieving national freedom and preserving their Orthodox faith were imperiled by the widespread Magyarization of all minorities. Serbs remembered how Hungarians treated minorities in Hungary with disdain during the time of Austria-Hungary: Germans were called stupid – „buta Német"; Romains foolish – „ostoba Oláh"; Slovaks inhuman or half-human – 'ném ember vagy fél ember"; Serbs savages – „vad Rác"; while Catholic Serbs (Bunjevci and Šokci) were considered filthy – „büdös Bunyo és büdös Sokác"[5]. All these negative traits which Hungarians ascribed to minorities in Hungary miraculously disappeared upon Magyarization. Roman Catholic

[4] As per Popović [1925: 41]. This German rhyme was also mentioned by Serbian writer Aleksandar Ilić who wrote under the pseudonym Danubiensis [Danubiensis 1931: 8].

[5] „Much that was good to one people was scorn and infamy to another" – Friedrich Nietzsche, *Thus Spoke Zarathurstra*.

and evangelical minorities – Slovaks, Germans, Croats and Catholic Serbs (Bunjevci and Šokci) – shared their religion with Hungarians. This led to frequent intermarriages as well as common religious holidays, celebrations etc., all of which aided the gradual Magyarization of these minorities. Converting Orthodox Serbs was significantly more difficult, with their devotion to Orthodox Christianity – and to Serbian religious and national celebrations in particular – as well as their love for the Serbian language[6]. At the time, Catholic Hungarians in Hungary „viewed Orthodox Serbs as backward Easterners and Balkan Russophiles" [Popović 1925: 46], while „Serbs saw Hungarians as arrogant bullies lacking political scruples" [Pejin 2007: 44][7]. Some Serbs living in the Kingdom of Serbia took note of how poorly Hungarians in Hungary treated minorities and contrasted this with the much kinder behavior of the neighboring German Austrians. „As much as Hungarians as a country and a people demonstrate a certain overbearing aggression, [in Austria[8]] the exact opposite can be seen[9]" [Stanišić 1925: 11]. Surprisingly, despite their displeasure at the repression of all minorities in Hungary and the efforts to Magyarize them, Serbs in Austria-Hungary did not create derogatory sayings about Hungarians.

THE REPERCUSSIONS OF WORLD WAR I ON THE SERBS' VIEW OF HUNGARIANS

Serbs were convinced that the Hungarians had lost touch with political reality and political options, especially during World War I, and that this cost them dearly, leaving them struggling to get their bearings. In particular, Serbs believed that the Hungarians – having taken their surroundings into account[10] – had a political choice until the second half of the 19th century: on the one hand stood Ference Deák, who advocated a Hungary ruled solely by Hungarians, alignment with Austro-German political interests and ignoring the need for an accord between Hungarians and the minorities in Hungary; on the other stood Hungarian political emigrant Lajos Kossuth, who, in his so-called 'Cassandra Letter' from 1867, called for a treaty between the Hungarians and the sub-Danubian/Balkan nations, the creation of a Danubian confederation of states and the rejection of Austria's proposal to form Austria-Hungary. Kossuth warned Deák not to lead Hungarians onto a "sinking ship"[11]. In achieving their

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[6] The Serbs felt that the Serbian language was for them much as Franz Kafka put it: „Language is the homeland a man hears."

[7] As Arthur Schopenhauer enlighteningly put it: „Every nation ridicules other nations, and all are right."

[8] I.e. in between the Hungarian border and Vienna

[9] Staniša Stanišić, a Serb from the Kingdom of Serbia, traveled Central Europe – including Hungary – in 1907, but only published his book on the subject in 1925.

[10] As Napoleon Bonaparte stated: „If you know a country's geography, you can understand and predict its foreign policy".

[11] Tibor Pal [Pal 2006: 259], a Hungarian historian from Novi Sad, writes the following about these choices for Hungarian foreign policy: „Time has shown that Ferenc Deák was right to accept the Austro-Hungarian Compromise given the reality of the time, while Lajos Kossuth was correct from a historical perspective, in terms of the shared interests of South-Eastern Europe's small nations and the necessity for those nations to collaborate."

ideal – an ethnically pure state – the Hungarians acted with haste and thereby caused injustice to numerous peoples and minorities in Hungary[12]. The merciless Hungarian pressure during Austria-Hungary for Serbs to convert to Catholicism and become Hungarian left Serbs bitter. The mysterious 1913 death of Lukijan Bogdanović, the last Serbian Orthodox Patriarch of the Serbian Orthodox Archbishopric in Sremski Karlovci, along with the subsequent order against calling a church assembly to elect a new Serbian Patriarch were particularly considered preparations for the conversion of Orthodox Serbs to Catholicism.

SERBIAN OPINIONS ON HUNGARY'S INTENT TO REVISE ITS BORDERS

„It's no concern of ours that Hungary has a navy but no sea!"[13] was a widespread comment among Serbs regarding the reduction of the Hungarian state after the end of World War I. Alluding to Miklós Horthy, the admiral without a fleet and regent of Hungary, the Serbian saying held overtones of both mockery and righteousness, viewing the Treaty of Trianon as justice for Hungary's megalomaniacal attempt to create a state spanning between the Carpathian Mountains and Adriatic Sea.

According to *La minorité hongroise en Yougoslavie* [1937], the Hungarians were loath to accept the loss of a significant portion of lands that composed Hungary until 1918. Serbs, especially those in Vojvodina, believed that most Hungarians – regardless of whether they lived in Hungary, Czechoslovakia, Romania or Yugoslavia – were committed to the restoration of prior Hungarian borders and that nothing engaged Hungarians more than talk of contesting 'Diminished Hungary's' borders. The actions of British news magnate and adventurist Lord Harold Rothermere, in particular, drew the attention of many Serbs. As Nikić [1928: 434–444] describes, „[a]ccording to those in the know, Lord Rothermere's tireless campaign for the revision of the Treaty of Trianon is motivated predominantly by a fear of Bolshevism and by economic and financial interests; his goal being to transform Hungary, led by its aristocracy and gentry, into a strong Central European barrier against the intrusion of Bolshevism into Central Europe – as well as a means for securing the expansion of English capital into Central Europe and the Balkans."

Serbian intellectual and politician Daka Popović also commented on Hungarian revisionist tendencies, claiming that „it is the Serbs and Hungarians who constantly argue over the political rights to [Banat, Bačka and Baranya] [Popović 1935: 7]" further stating that „the revisionist politics led by Budapest continuously feeds the hope of Hungarian minorities that Hungary will soon be restored to its pre-war borders. This message has been preventing our Hungarian minorities from defining their own minority politics for the past fifteen years – a fact due to which they suffer the most" [Popović 1935: 10].

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[12] „The greater the disparity between his ideals and abilities, the worse the colors a man shows", said Olga (Ninčić) Humo. And just as a man can show unappealing colors, so can a nation, a government, a party or a state!

[13] Frequently accompanied by the adage: „Reach for more, lose what you have."

An even harsher stance toward Hungarian revisionism was expressed by Toša Iskruljev [Iskruljev 1936: 219–221]: „Following the end of the war, the Hungarians quickly realized where their bloated self-importance and arrogant bragging had led them; thus, to preserve their state, the millennial integrity of their Hungary, they launched into disgraceful wailing, shameless sniveling and Gypsy-like moaning and yammering. They cry, and yell, and scream, and wail, so loud the heavens can hear. ...And overnight, the Hungarians converted into meek sheep to save the borders of their country. Their spirit transformed and they became quite forthcoming and extremely polite. ...The miserable Hungarian peasants are not suffering because in the difficult and bloody worldwide battle light conquered darkness, justice [conquered] injustice, the idea of freedom [conquered] violence; they are suffering because Hungarian slaves have been saddled by several families of the aristocracy and gentry who keep a stronghold on all land and exploit the sweat of their own enslaved people, funneling the large profits solely into their own pockets and heartlessly spending only on themselves, leaving their poor to continue toiling in the dark, while the peasants senselessly say nothing and approve of their masters' every action."

Not even during the seeming bonding between Serbs and Hungarians between 1939 and 1940 did Serbs cease accusing Hungarians of megalomania [Nikolić 1941: 165], the „uncontrollable hatred" Hungarians felt for Serbs in the years leading to the outbreak of World War I [Pekić 1939: 54]. The Hungarians remained proud of Hungary's famous thousand-year history and refused to adapt to the political reality of their state during the interwar period. Due to this – [*La minorité hongroise en Yougoslavie* 1937] – certain Serbian intellectuals doubted that the Hungarian minority in Yugoslavia was truly loyal to the Yugoslav state. The Hungarian minorities in nearly all countries neighboring Hungary, including Yugoslavia, received instructions on how to behave from the Hungarian central i.e. Budapest; while formally aligned with the states they resided in, Hungarians hinged their survival upon upholding their culture, educating themselves and enhancing their finances, *La minorité* claims.

THE SERBS' GENERAL OPINIONS OF HUNGARIANS

Following World War I, Serbs living in Austria-Hungary and in the temporarily (1915–1918) occupied Serbia and Montenegro – as well as numerous Serbian soldiers in the Austro-Hungarian Army who were exposed to the harsh treatment Hungarian officers and soldiers reserved for Serbs – became even more convinced in the previously widely held Serbian opinion that „Hungarians are good servants but bad masters".

To most Serbs, a person's or population's ethnicity and lineage hold little importance. What is relevant is a person's or people's spiritual horizon, which was frequently identified with religion[14]. The occasional opinion – expressed

[14] Although Lazar Stipić [Stipić 1929: 47] claimed that true Hungarians (i.e. according to lineage or ethnic origin) do not exist and that „what is today called a Hungarian is in fact a Slav, or German, or Romanian", most Serbs did not care for and rarely underscored heritage. Serbs were not interested in how someone acquired their religion or nationality, only what a person's spiritual horizon is.

by a small number of Serbian intellectuals – that the majority of Yugoslavia's Hungarian minority was ethnically non-Hungarian and should be „restored" to its ethnic roots, Serbian included, garnered no attention or support among Serbs [Stipić 1929: 38].

Serbs frequently made use of Hungarian cultural achievements, especially literary works translated from Hungarian into Serbian. They also wrote about Hungarians, mostly to condemn the anti-Serb actions of Hungarian state officials. Unlike Hungarians, Serbs did not use or write any derogatory or mocking songs or sayings in between the two World Wars, which proves the Serbs viewed Hungarians as a serious nation[15].

Most Serbs believe that they should strive to be Christianly righteous and courteous in their life, guided by the moral principle expressed in the Serbian folk song: „Life is too short to live it in shame". Serbs also believe that Hungarians are not fully „prepared to sacrifice their humanity for patriotism – for the love of their country" i.e. that they are unprepared to destroy everyone who presents a threat to the attainment and preservation of „Undiminished Hungary". Instead, Hungarians are seen as capable of hearing and noticing the spiritual worth of their minorities and of other peoples. Proof of this are Hungarian-language books about the spiritual achievements of minorities in Hungary and of other nations, which are believed to spiritually enrich Hungarians as well[16]. A enlightening example of the Hungarian paradigm toward the cultural values of ethnic minorities in Hungary is Hungarian musical genius Béla Bartók, who explored and built on the musical and lyrical heritage of multiple minorities in Hungary, thus permanently incorporating these traditions into the cultural heritage of the Hungarian people[17]. Serbs believed that Hungarians were courteous toward their ethnic minorities out of a sense of shame and politeness. This was noted by Nikola Pašić during the 1890s, when the Serbian statesman pointed out that Hungarians treated Serbs better than the Croats did: „Croat patriotic zealots, blind to where they were headed, outdid the Hungarians in persecuting and exiling the Serbian people and Serbian name, so that Serbs fared better under direct Hungarian rule than they did under their brothers and kin the Croats." [Pašić 1995: 75].

It can be said – mostly regarding their political thinkers and leaders, while less so for the Hungarian people – that Hungarians epitomize the proverb „Swollen in head, weak in legs"; that is, that they have big ideas yet lack the means to achieve them[18].

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[15] Even Olivera Milosavljević – who compiled all „negative and malicious" opinions Serbian intellectuals expressed during the 20th century primarily about neighboring nations or minorities living alongside Serbs – found not a single negative Serbian statement about Hungarians from the first half of the 20th century: all the ones she cites are from the 19th century [Milosavljević 2002: 295–296].

[16] It appears as if this openness Hungarians displayed toward the cultural values of other peoples was advocated to all peoples by Indian poet, writer and Humanist Rabindranath Tagore: „The only way to make a nation or a culture less 'wrong' is for them to expand their boundaries by listening to other nations and cultures, and by learning from them."

[17] Russian author Vladimir Solovyev said: „If a people close themselves off from outside influences and communicate only with themselves, they will inevitably lose their creativity."

[18] To this one should add, that often „large ideas in small heads are the most dangerous", as Serbian intellectual and politician Milan Grol put it.

Serbs, however, did recognized that Hungarians had their virtues, such as diligence, perseverance, patriotic discipline and responsibility, and viewed Hungarians as an unusually hardworking nation. Pekić [Pekić 1939][19] states that Serbs had the chance to witness this diligence firsthand, as it was mostly Hungarian peasants who drained the many swamps in the Pannonian Basin and built the waterways, roads and railways that contributed to Hungary's – and Vojvodina's – speedy development during Austria-Hungary. To Serbs, ditch-diggers (*kubikaši*) were exclusively Hungarians, as neither Serbs nor members of other ethnicities in Hungary performed this kind of labor. This remarkable diligence among Hungarians was lauded by some Serbian intellectuals during the interwar period, such as Radivoj Simonović [Simonović 1924: 25].

Hungarians liked to stand out and flaunt their fancy clothes and ornate uniforms, lending themselves an air of importance and esteem reserved for state officials and attempting to leave an impression with their appearance, loudness and exaggerated gesticulations: „Hungarians are lean, talkative and wear ornate boots" wrote Stanišić [Stanišić 1925: 5]. Serbs associated so closely these traits with Hungarians that they used the expression „to go Hungarian" (*razmađariti se*) to denote a very loud and angry outburst.

Between the two World Wars, the Serbian ideal life was closely reflected by Hungarian nobility, using the expression „He lives like a [Hungarian] count" to describe anyone who lived a good, rich, care-free and undemanding life.

OPINIONS AND STEREOTYPES REGARDING HUNGARIANS EXPRESSED BY CERTAIN SERBS

Many Serbs native to Vojvodina knew the Hungarian language, having learned it under Austria-Hungary. This enabled them to easily inform themselves about attitudes toward Serbs, which Hungarians expressed in conversation, the press, on the radio, and in public places and meetings: taverns, marketplaces, streets, parades, celebrations etc. Following World War I, Serbs had the opportunity to hear and understand angry Hungarian outbursts over Hungary's political position („No! No! Never!") and the desire to reclaim lost territories („Diminished Hungary is not a state. Undiminished Hungary is paradise!"), along with hostility and insults directed at Serbs („Oh, Serbia, you dog, just you wait...").

In their respective circles, both Serbs and Hungarians held a number of stereotypical beliefs, especially prejudices, yet, surprisingly, this has never before been studied. Even after the end of World War I, when the majority of Serbs from Hungary found themselves living in Yugoslavia and felt liberated, few Serbs wrote about Hungarians or Yugoslavia's Hungarian minority[20]. The

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[19] Petar Pekić claimed that the colonized Hungarians contributed to the economic development of Vojvodina during Austria-Hungary, but also reduced the local population of Orthodox Serbs, so that Hungary's 1910 census showed only a 2.5% population of Serbs in Vojvodina [Pekić 1939: 29].

[20] Serbian opinions of Hungarians, which had to have abounded in public discourse, are difficult to prove without written records, for the large majority of Serbs neither created nor left behind any written statements. (*Verba volant, scripta manent*: this Ancient Roman adage may be interpreted as claiming that unwritten thoughts expire, while only those recorded remain.) Instead of the Serbian majority, and often 'in their name', records were made by Serbian intellectuals, mostly

reason for this has been speculated on by some Serbian historians. According to Zoran Janjetović, „Despite living alongside Hungarians for a long time, [Hungarians] have been an infrequent subject among Serbian authors. This is because writers within Serbia found [Hungarians] less than interesting due to the overall political situation, while authors within Hungary dared not write anything negative about [Hungarians]. Serbian authors only expressed their rancor after World War I, with Vojvodina Serbs at the forefront" [Janjetović 2007: 121]. While Janjetović seems to have a point, especially regarding the bitterness Serbs felt toward Hungarians, he uses few written records to support his stance[21]. Some Serbian authors complained during the interwar period that little was being written in Yugoslavia about ethnic minorities and the Hungarian minority in particular [22], although the first Serbian publications about Hungarians appeared immediately after the conclusion of World War I[23].

There is no point in condemning the attempts of Hungary's ruling aristocracy during Austria-Hungary to make Hungary, and Budapest in particular, one of Europe's cultural centers. Angry at the Hungarian government over the overwhelming lack of Serbian presence in successful circles between 1867 and 1918, Serbian intellectuals from Vojvodina were, perhaps, overly harsh in blaming the Hungarian authorities for all the difficulties Serbs faced after World War I. Following the war, Serbs – especially those from Vojvodina – were vocal about the need to stop viewing Budapest as the heart of European culture, which had been the dominant paradigm among Serbs since the beginning of the 20th century; instead, it was time to re-orient toward other developed cultural centers in Central and Western Europe. Addressing the matter specifically was a series of eight articles by Jovan Savković entitled „Young People's Vojvodina and Today's Vojvodina" published between June 28 and July 7, 1921 in *Zastava*, the Novi Sad Radical Party's daily newspaper: „To us in former Hungary, Budapest has of late increasingly become the hub of all cultural innovation; and anyone yearning to experience a mere moment in the center of a superior culture goes no farther than Budapest – unaware that this sentiment was caused by the Hungarians' persistent megalomaniacal tirades about their own cultural greatness, which

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those involved with social sciences. While Pablo Neruda claimed and warned that politicians should speak „for those who have no voice", intellectuals wrote – and should write – in the name of those who have left no record. Only how successful are they?

[21] The first Serbian publication after World War I to deal with Hungarians was *La Question du Banat, de la Batchka et la Baranya*, written by Jovan Cvijić, Jovan Radonić, Stanoje Stanojević and Ilarion Zeremski and published in Paris in 1919 for the purposes of the Versailles Peace Conference. In addition to this, only a handful of other Serbs wrote anything pertaining to Hungarians during the interwar period: Lazar Stipić [Stipić 1929], Fedor Nikić [Nikić 1929] and Petar Pekić [Pekić 1939]. Significantly more was written on the topic in Serbian following World War II, e.g. Laslo Katuš [Katus1998: 7–14], Zoran Janjetović [Janjetović 1999: 115–132] and Olivera Milosavljević [Milosavljević 2002: 295–296].

[22] Daka Popović complained: „Very little is being written in our country about life in these parts [i.e. Banat, Bačka and Baranya], especially about the life and work of our minorities" [Popović 1935: 3].

[23] The title of the article you are reading is reminiscent of the bilingual title of István Nyomárkay's „Perception of Hungarians among the Serbs" („Magyarság-kép a szerbek körében") from *From the History of Serbo-Hungarian Cultural Ties* (*A szerb-magyar kulturális kapcsolatok történetéből*, Novi Sad – Budapest / Újvidék – Budapest: 2003, pp. 177–187).

no one with a lick of sense believed save for them and a part of our own intelligentsia" (Part 7, issued July 6, 1921). Due to this, Savković insists that „[t]here is no doubt that all our people in Vojvodina have the duty to once and for all cease this tradition and redirect our social and spiritual development. Today's generations have been unusually blessed to see demolished the hills which had trapped them in a Hungarian valley, cutting them off from the broad cultural world of Europe and America. Today, communication with this world is possible via Serbia, which forged ties – including cultural ones – in the early years of the previous century by sending its youth to the large cultural centers of Western Europe, thereby creating, at its best, a European intelligentsia" (Part 8, issued July 7, 1921). This stance implicitly communicates that many Serbs silently envied the Hungarians their developed educational and cultural institutions, and especially the wealth of art in their museums, galleries, libraries, churches, monuments, palaces and other edifices which Serbs considered not so much the product of the Hungarian national genius, or the hard work of the Hungarian people, but mostly a result of Hungary's educated nobility (which the Serbs of the time lacked) traveling Europe and the world and bringing back to Hungary a mass of artwork (paintings, sculptures and others), which became the Hungarian people's cultural legacy and elevated Budapest to one of the centers of the European art world.

In a series of articles entitled „In Horthy's Hungary", Serbian writer Miloš Crnjanski – who fluently spoke Hungarian with a Timişoara accent – personally commented on the state of Hungary and its Hungarian population during the first years after World War I. This compelling and in many ways ethnographic Serbian opinion on Hungarians[24] includes several incisive observations. Crnjanski highlighted that Hungarians displayed a strong thirst for retribution over the alleged injustice of the Treaty of Trianon, commenting that „[e]veryone is loudly pitying Hungary". Crnjanski also believed that centuries of oppression conditioned Hungarian peasants to believe it their duty to yield to the rule of their nobility. „Over the course of a millennium, only once did [Hungarian peasants] raise a bloody revolt[25] and even that was five hundred years ago. ... This peasant curse has been passed on from father to son molding, over the centuries, fatally faithful servants". Crnjanski noted, however, that the Hungarian peasants did feel a desire for vengeance against Serbs, which meant that „[no Serb] should expect anything [good] from [the Hungarian peasant] masses". In addition, Crnjanski maintained that Serbs did not truly know Hungarians because they viewed them through the lense of Budapest, the most common destination for visiting Serbs. „Budapest is not Hungary"[26], Crnjanski sadly

[24] Miloš Crnjanski wrote „In Horthy's Hungary (From our special reporter)" as a travel writer. The series was originally published in nine parts in the Belgrade daily *Politika* between January 23 and February 1, 1923, then re-published in 1995 in the book *Travel Logs: Book Two* (Crnjanski, M. (1995), *Putopisi II.* Novi Sad), while excerpts from the series were also included in Nyomárkay (2003).

[25] I.e. the Dózsa Rebellion (1514), led by György Dózsa (translator's note)

[26] Some Serbs, such as Stanišić, echoed this view of Budapest as „not Hungarian", citing German claims that ¾ of the city's property was in the hands of Jews, prompting Germans to often refer to it as „Judapest" [Stanišić 1925: 7].

emphasized adding that "[Serbs] have not the luck to have deeply strong and compassionate neighbors, but rather two fool[ish peoples], bloody and overwrought by passions". The writer expressed his belief that Hungarians in general, and their political leaders in particular, wanted to supplant Hungary's bleak reality with rosy, idealized self-delusions: „I doubt that anyone in Europe is so thoroughly misinformed about what is transpiring around them and in their midst, as [are the people of] Budapest... so little does one country know of another, one capital of another, one life of another. And even more frightening is the realization one reaches after a few days: that it would be pointless for them to be informed. ... How pointless are their fine, fictitious speeches. How pointless their fictitious articles, [and] studies about [other] countries. Only plain and harsh, simple and common words reach far and have an impact". Crnjanski also underscored the Hungarian peasant's fighting spirit: „The Hungarian is a good, obedient, fighter. A cheap fighter", but in senses and traits „still an Asian horseman, part of a horde". For Hungary and its political leaders „cannot give up the old borders, which no one in Hungary denounces, not even those who had denounced them in hopes of a plebiscite... Cries and sighs, whispers and quarrels, politeness and filthy curses, they all coalesce into a repetitive: borders, borders, please, borders of the world, most holy, millennial Hungarian borders". According to Crnjanski, „Hungary does not want war. It wants worse: war in peace. And we should wage it without mercy... For only our mercy is to blame – this I grew convinced of in Budapest – for Budapest's refusal to let others life in peace, and for our own inability to make ourselves heard." Crnjanski's conclusion about Hungarians is particularly interesting: „The Hungarian people are deeply nationalistic, they say. True, but in what way? They cannot be anything but Hungarian. They are constrained by their crowns, jaws, bowed legs. By a language unintelligible to all of Europe. By what they love, yet others fail to admire: boots, yelling, brawling. The Hungarian people are far beneath us in political maturity. Aside from their counts-officials and priests, thousands, millions [of them] do not even think about any such thing. Those in Hungary who through cross-breeding became capable of quiet, of work, of so-called culture – are themselves deeply unhappy because of it. The Hungarian people are not deeply nationalistic. They are deeply lonely in the midst of Europe"[27].

A perspective on the health and physical and other attributes of Hungarians was provided by Dr Radivoj Simonović in 1924. The respected Vojvodina Serb physician was clear and appreciative: „Hungarians are slightly shorter than Serbs, but their chest size to height ratio is more favorable, leaving them less prone to tuberculosis. They are mostly brown-haired and fair-skinned, but there are blonds and dark-haired [individuals among them] too. Males show little to no difference in type from Serbs, while females have a somewhat rounder face. In terms of physical and psychological characteristics, they are a very good race: healthy, robust and natural. They are very diligent and do not shy away from the most difficult of work. In times of trouble, they are

[27] Another interesting contribution to understanding the Serbs' perception of Hungarians is by Ištvan Lekeš [Lekeš 2003: 113–127], a bilingual review of Miloš Crnjanski's and Veljko Petrović's impressions of Hungarians.

patient and forbearing. They value honesty highly, are proud [and] quite patriotic, and have always been known as heroes. Their temperament is open and merry, [they are] dancers and singers. The melancholic solos in their love songs are similar to our *sevdalinka*. They gladly drink and revel, grow merry and sing along to the sound of music, [yet] cannot be considered drunks. They can be true friends and show respect for the feelings and customs of others. Their agriculture is advanced" [Simonović 1924: 25][28].

Using the pseudonym Danubiensis, Serbian author Aleksandar Ilić expressed multiple opinions on Hungarians[29]: „At their core, Hungarians are, if not born, then raised to dominate, rule, demolish. Hence their love for control, for issuing orders. Hence their flair for too much administration. Administrations and state offices [in Hungary] are only respected if they are managed by a count. An official without a title is underestimated and neglected. Such a bureaucratic mindset has, over the decades, yielded the famous Hungarian arrogance... And that bureaucracy is the foundation of today's regime as well. The entire country is a bureaucracy: a brutal, police- and military-led bureaucracy. ... It is the foundation of the Hungarian regime and ideals, which boil down to imperialism. *Magyar Imperium*, emulating the Germans, had the 'holy goal' of dominating, oppressing and Magyarizing all the peoples of the Danube Basin. ... The logic of *Magyar Imperium*, the logic of Tokay wine[30], remained fully undiluted by the Great War: the number of books and [other] publications in Hungary and abroad rises each day as they are ruthlessly consumed by Budapest at the expense of this country's future. And just as the Germans employed legions of journalists and professors in response to the War Guilt Clause, so is Hungary attempting to create a new future for Hungary based on the past. Words flow ceaselessly, words painting Hungary as a political, civilizational, culture-bearing race of warriors and leaders. Throughout hungry Hungarian villages these same words, words, words ... of propaganda are handed out ... instead of bread ... The Serbs and Hungarians have been at odds for centuries. This is a conflict not only of two nations but of two principles: Hungarians believed they were an aristocratic nation by birth, while Serbs believed that nobility was a reflection of value." Ilić also held that the Hungarians and Yugoslavs may psychologically be close, but are politically far apart [Danubiensis 1931: 11]. In the same article, Ilić cites a study about the "unknown Hungary" written by Dr Milotay, the editor-in-chief of the Budapest paper *Magyarság* [Danubiensis 1931: 19–20]: „The unknown Hungary is in the heart of Hungary: it is the old Alfeld[31]. That is the epitome of all that is Hungarian. The heart of Hungary's tradition. The source of its strength. Look at the Alfeld and you will get an image of Hungary as a whole". That image of the Hungarian life, which Ilić elaborates on further, paints a horrific picture of the squalor Hungarian peasants' daily lives.

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[28] Popović also cites this opinion, coupling it with the (Serbian?) saying: "Hungarians revel while crying" [Popović 1990: 175].

[29] In his book written under the pseudonym Danubiensis [Danubiensis 1931: 6–8]

[30] A famous Hungarian wine (translator's note)

[31] I.e. the Great Hungarian Plain (translator's note)

In a diplomatic report written in 1932, Serbian author and Yugoslav envoy to Budapest Jovan Dučić [Dučić 1991: 127] claims that „Hungarians view Yugoslavia differently than they do Yugoslavs – whom they consider a strong and rational people. They even believe that Yugoslavia was formed solely by Hungary's enemies, and because of Hungary... Hungarians are Levantines[32] and hold the Asian belief in miracles, in magic even, and, especially, words." Of Hungarians, Dučić also said: „Hungary itself represents neither a definitive race nor a precise class. Racially, it is so intermixed with Germans, Romanians, Jews and all the Slavic tribes, that they lack, according to their own admission, any traits of the primitive Hungarian people. In terms of class, they are an aristocracy and bourgeoisie. Yet among their aristocracy there are those who are of the old nobility of Hungarian kings, and others who are of the Habsburg nobility. The former were always nationalistic and opposed to Austria, while the latter were and remain tied solely to the Habsburg tradition. The same goes for the bourgeoisie: [there is] the rich bourgeoisie comprising mostly converted Jews, and the poor Hungarian bourgeoisie which holds no sway" [Dučić 1991: 127]. Reflecting on the Hungarians' pride over their 'millennial culture', Dučić said: "In those thousand years, Hungary contributed not one idea – not religious, not political, not social – of those which today rule the world; nor, is to seems, did it contribute a single cultural name relevant on a European level[33]" [Dučić 1991: 132].

Dušan J. Popović discusses the uninterrupted continuity of the Hungarian state and the Hungarian's dedication to their sovereignty, stating: „the Hungarians have always been unusually state-oriented. Unlike other peoples which founded states in the highlands and, from there, rule the lowlands, Hungarians founded their state in the lowlands and, from there, ruled the surrounding mountains[34]" [Popović 1990: 45]. Popović continues by claiming that „the [Hungarian] state was largest under Lajos the Great[35], but never completely lost its sovereignty" [Popović 1990: 45]. Contemporary Serbian historian Radovan Samardžić, however, holds a different opinion regarding the continuity of the Hungarian state. He states: „In the north, the Hungarians lost their kingdom in the Battle of Mohács in 1526. But, unlike the Serbs, they never accepted [this defeat] and stubbornly continued passing on the crown of Saint Stephen from one head to another" [Samardžić 1989: 124].

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[32] In Serbian, this term not only denotes inhabitants of the Levant, but holds additional connotations of cunning and duplicity (translator's note)

[33] Here, Dučić is too harsh in judging Hungarian cultural figures of European import, such as Sándor Petőfi, Mór Jókai, János Arany, Endre Ady, Attila József, Béla Bartók, Zoltán Kodály and Lajos Zilahy among many others – who were all particularly admired by Serbian writer and translator Sava Babić, in both his own books and his Hungarian-to-Serbian translations: *Hungarian Civlization*, Belgrade: 1996. and *Love the Hungarian Way: An Anthology of Hungarian Short Stories from the XX Century I*, Belgrade: 1998. In fact, French poet Charles Baudleaire claimed that „Nations, like families, have great men only in spite of themselves", only that once men become great they also become famous, as is reflected in the Serbian adage: „There isn't a tribe without a famous name" (*Nema plemena bez slavna imena*).

[34] A large majority of Serbs are unaware of this fact and continue to believe in the unfounded bias that they (being mostly highlanders and, therefore, allegedly predetermined to more easily endure physical and other hardships) would in an armed conflict, and war in particular, easily subdue the flatland Hungarians.

[35] More commonly known as Louis I of Hungary (translator's note)

Surprisingly, during the interwar period Serbs rarely wrote about Hungary – which would have allowed the wider Serbian public to better acquaint themselves with the traits and lives of their Hungarian neighbors – except in the case of inter-country incidents. Thus, Serbs voiced their opinions on multiple occasions regarding Hungarian domestic policies aimed at Serbs. Examples include the exile of Serbian optants[36] in early November 1930[37], Hungarian attempts to Magyarize Serbian names in Hungary[38], the attempt at founding a Hungarian Orthodox Church and the hindering of the operation of the Budim Orthodox Christian Eparchy in Hungary during the 1930s[39], among others. Even following the assassination of Yugoslav King Aleksandar Karađorđević in Marseille on October 9, 1934 – which Hungary was accused of orchestrating – the Serbian public expressed no hatred toward Hungarians because the majority was aware that the crime was engineered not by Hungarians but by Serbophobic, separatist Croat Ustaša terrorists, harbored by fascist Italy.

ATTEMPTS AT BRINGING HUNGARIANS AND SERBS CLOSER TOGETHER

As of the mid-1930s, there was a noticeable improvement in the political, economic, cultural and other relations between Hungary and Yugoslavia. Some Serbian intellectuals hoped that the question of Hungarian borders was finally resolved, such as Popović [Popović 1935: 12), who wrote: „Following the Medieval migrations, religious and armed conflicts, Banat, Bačka and Baranya have finally remained the border of the Balkan peoples' northward flow, and of the southward flow of Nordic and Central European peoples." In between the two World Wars, Serbs referred to Serbian Vojvodina as 'the Northern Territories', while Hungarians – both those in Hungary and the Hungarian minority in Serbian Vojvodina – called the same area Délvidék[40].

From 1938 onward, as the war loomed, both Hungarians and Serbs tried to repair mutual relations and close cultural and economic ties, hoping for collaboration and bonding between the two nations. Serbian authors stressed the cultural influence each neighbor had on the other. Among them was Žarko Plamenac, who wrote an article entitled „The influence of Hungarian literature

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[36] Hungarian Serbs who – following the Treaty of Trianon, which gave all minorities in Hungary the choice of staying in Hungary and retaining Hungarian citizenship or renouncing Hungarian citizenship and returning to their country of origin – opted to leave and assume citizenship of what was then the Kingdom of Serbs, Croats and Slovenes.

[37] This subject received particular coverage during November 1930 in the Belgrade dailies *Politika*, *Pravda* and *Vreme*, as well as in Subotica's *Jugoslovenski Dnevnik*.

[38] Examples of this are articles such as „The Remnants of Our People in Hungary" (*Ostaci našeg naroda u Mađarskoj*) in the July 3, 1933 edition of the Novi Sad paper *Pokret* as well as the article „Name Magyarization – How Hungarians Plan to Hide the Fact that Today's Hungary Still Has a Largely Non-Hungarian Population" (*Mađarizacija imena – kako Mađari misle da prikriju da je i u današnjoj Mađarskoj veliki deo stanovništva nemađarskog porekla*) printed in the September 13, 1933 issue of the Subotica paper *Jugoslovenski Dnevnik*.

[39] On August 27, 1933, the Ćuprija paper *Moravski Glasnik* published an article entitled „Attempts to Destroy the Orthodox Church in Hungary" (*У Мађарској хоће да униште̄ православну цркву*).

[40] Hungarian for 'southern land' or 'southern territories' (translator's note)

on our own"[41]. This trend led to the 1939 launch of the Hungarian-Yugoslav Review[42], a bilingual quarterly prepared in Pécs, Hungary, and published in Budapest and Belgrade. The magazine saw five editions, during 1940 and in early 1941. Most articles were written by Hungarian contributors, while a smaller number was penned by Serbs. The content was focused on examples of Serbo-Hungarian collaboration and underscored the importance of the two peoples forging close ties in every sense. On December 12, 1940, the governments of Hungary and Yugoslavia signed a Treaty of Friendship in Belgrade, anticipated to herald a future of „everlasting friendship"[43].

A few months later, when Yugoslavia – specifically, the Serbs – faced Hitler's threats of war in late March and early April 1941, Hungary remarkably quickly reverted to the 'call of history' (for history is the constant repetition and continuation of one and the same). Vocal groups of warmongers and revenge--seekers suddenly appeared among Hungarians in Vojvodina and Hungary, claiming to be „soldiers of Miklós Horthy" and threatening Serbs to „go back to where they came from." Likely irritated by Hungary's declaration of war against Yugoslavia in April 1941, Serbian writer Miloš Crnjanski wrote „The Political Stance of the Hungarian Emigration on October 1, 1941"[44], in which he stated: "Our people have been a neighbor to Hungarians for centuries and after so many previous examples, events have yet again shown this to be a great misfortune for us, not the Hungarians" [Crnjanski 1983: 392]. Apparently, in their attack on Yugoslavia i.e. the Serbs in World War II, the Hungarians sought to confirm their own history; for, „History repeats itself as long as its subjects are the same!" [Vidović 1997: 203].

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[41] Uticaj mađarske književnosti na našu, *Vojvođanski Zbornik*, 1938, pp. 69–77

[42] *Magyar-Délszláv szemle* / *Југословенско-Мађарска ревија*

[43] „Treaties are like roses and young girls. They last while they last," as French statesman Charles de Gaulle once put it.

[44] „Политички иступ мађарске емиграције, од 1. октобра 1941".

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MODELS FOR THE LEGAL PROTECTION OF THE SERBIAN ORTHODOX CHURCH'S DIOCESE OF RAŠKA AND PRIZREN IN KOSOVO AND METOHIA

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SUMMARY: The Diocese of Raška and Prizren of the Serbian Orthodox Church is the inheritor of a thousand-year-long canonical jurisdiction in the entire territory of Kosovo and Metohia. Since 1999, its position has been unlike any other recorded in its millennial history. Over the past years the matter, formulated as the need for the legal protection of cultural heritage, i.e. "the monasteries and churches" in Kosovo and Metohia, has been raised during negotiations between representatives of the Republic of Serbia and the Temporary Institutions of Self-Government in Priština held in Brussels and mediated by the European Union. This paper analyzes the hitherto applied legal protection models, known as the Jerusalem, Constantinople, Mount Athos and Vatican models, as well as the so-called extraterritorial model.

KEY WORDS: Serbian Orthodox Church, Diocese of Raška and Prizren, Republic of Serbia, Albanians, International Community, negotiations, models of legal protection

The question of legally regulating the status of the Serbian Orthodox Church's "property" or "facilities," or "cultural heritage in Kosovo and Metohia," has been publicly mentioned numerous times by relevant domestic[1] and inter-

[1] The president of the Republic of Serbia, Aleksandar Vučić, said at a press conference on August 7, 2018: "We will ask that the issues of the Serbs' private property, the property of the Serbian Orthodox Church, the property of the business entities registered in central Serbia outside Kosovo and the state- and social-owned property of Serbia in Kosovo be resolved [*Politika*, online edition, August 7, 2018 http://www.politika.rs/sr/clanak/408759/Vucic-Nema-lakog-ni-bezbolnog-resenja-za-Kosovo-i-Metohiju, 10. maj 2019].

At the Fourth Congress of Leaders of World and Traditional Religions on October 10, 2018 in Astana, President Vučić "called on religious leaders to protect the monasteries and churches of the Serbian Orthodox Church in Kosovo and Metohia which are under the constant threat of those who do not believe in civilization and cultural heritage," the RTV Vojvodina portal, October 10, 2018. (http://www.rtv.rs/sr_ci/politika/vucic-pozvao-verske-lidere-na-zastitu-manastira-i-crkava-spc-na-kosovu-i-metohiji_956906.html, 10. maj 2019.

national factors[2] since the signing of the Brussels Agreement on April 19, 2013. The issue was defined in an almost identical manner in the drafts of various negotiation documents and, particularly, in the statements of participants in the negotiating process[3].

No due attention, however, has been paid so far to the question of the legal protection of the Diocese of Raška and Prizren in Kosovo and Metohia although it is a matter of utmost importance for the Serbian people and the Republic of Serbia. What is also quite conspicuous is the absence of a precise definition of the subject of this protection as well as of the state and legal framework within which the "facilities of the Serbian Orthodox Church" or "cultural heritage" in Kosovo and Metohia should be protected. Is the protection of spiritual and cultural heritage from those who, as the President of the Republic of Serbia, Aleksandar Vučić, put it in Astana on October 19, 2018, "do not believe in civilization and cultural heritage"[4] possible at all?

It is necessary to point out that not only several "Serbian Orthodox Church's facilities of great cultural importance" such as the Patriarchate of Peć, the High

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[2] The same topic was directly addressed by Matthew Palmer, the deputy assistant of the U.S. secretary of state. On October 20, 2018 he said for the RTS public service: "Every agreement should by its very nature be multidimensional. It should have a security aspect, and the political and economic component, and [should contain] something about the property of the Serbian Orthodox Church in Kosovo, as well as about [Lake] Gazivode and Trepča [mine] [The RTS portal, October 2, 2018 http://www.rts.rs/page/stories/ci/story/1/politika/3295300/palmer-za-rts-sto-pre-do-dogovora-beograda-i-pristine-nema-crvenih-linija.html, May 10, 2019].

[3] On August 9, 2018, *Večernje Novosti* published an article titled "We are asking for an unlimited protection of monasteries." According to information not denied by the Republic of Serbia's state organs, the daily also said that during the dialogue with Priština on a comprehensive solution Belgrade will insist on a special position of the Serbian Orthodox Church in the province through a recognized status in Kosovo and Metohia, as well as that "the legal regime of protection of 44 facilities representing the special zones of Serbian cultural and religious heritage be maintained for an unlimited period." [http://www.novosti.rs/vesti/naslovna/politika/aktuelno.289.html:742893-Trazimo-neogranicenu-zastitu-za-manastire, May 10, 2019].

Marko Đurić, the now director of the Serbian Government's Office for Kosovo and Metohia, posted on Twitter that "not only has our delegation in Brussels raised the issue of the protection of Serbian cultural and spiritual heritage in Kosovo and Metohia, but President Vučić has presented the EU representatives with a very concrete plan that guarantees our Church absolute protection." Đurić's words were quoted in an article titled "Belgrade raises the issue of protection of Serbian monasteries in Kosovo: Brussels presented with a concrete plan," [*Telegraf*, online edition, September 29, 2018]. https://www.telegraf.rs/vesti/politika/2995225-beograd-pokrenuo-pitanje-zastite-srpskih-manastira-na-kosovu-briselu-predstavljen-konkretan-plan-foto, May 10, 2019].

Večernje Novosti published an article titled "Protection for 44 holy sites and monuments" noting that this involves Belgrade's plan which seeks protection for 44 facilities that represent the special zones of Serbian cultural and religious heritage as well as the recognition of the Serbian Orthodox Church's position in Kosovo and Metohia [*Večernje Novosti*, online edition, October 10, 2018 http://www.novosti.rs/vesti/naslovna/politika/aktuelno.289.html:754038-NOVOSTI, May 10, 2019].

The last in a series is the alleged Draft Agreement between Belgrade and Priština mentioned in an article titled "Document giving details about the conditions for and the manner of Serbia's recognition of Kosovo leaked," [Espreso, online edition, February 1, 2019 https://www.espreso.rs/vesti/politika/345195/srbija-daje-presevo-i-medvedju-ali-dobija-sever-procureo-dokument-u-kome-je-detaljno-podeljeno-kosovo, 4. мај 2019].

[4] "Vučić calls on religious leaders to protect the monasteries and churches of the Serbian Orthodox Church in Kosovo and Metohia [The RTV Vojvodina portal, October 10, 2019 http://www.rtv.rs/sr_ci/politika/vucic-pozvao-verske-lidere-na-zastitu-manastira-i-crkava-spc-na-kosovu-i-metohiji_956906.html, May 10, 2019].

Dečani, Gračanica, the Our Lady of Ljeviš, and similar should be listed as the subjects of legal protection. The Serbian Orthodox Church in Kosovo and Metohia is personified in the Diocese of Raška and Prizren which consists not only of several facilities, but also includes the bishop, the clergy, the monks, the nuns, the faithful, church institutions, deaneries, church congregations, parishes and, of course, "facilities" – i.e. over 1,600 churches and monasteries and church and monastery sites, cemeteries and old burial grounds, as well as all movable and immovable church property in Kosovo and Metohia[5].

What can be considered "cultural heritage" in Kosovo and Metohia is the entire material (movable and immovable) and non-material cultural heritage not only connected to the Serbian Orthodox Church's Diocese of Raška and Prizren but to the Republic of Serbia, too, as well as to other legal and physical entities who are owners or holders of cultural goods in Kosovo and Metohia.

Several legal models to protect certain holy sites or regulate the legal position of the Church or other religious communities have been developed so far. These include the Jerusalem, Constantinople, Mount Athos and Vatican models. A so-called extraterritorial model is also increasingly being mentioned. Is any one of these acceptable to the Republic of Serbia or the Serbian Orthodox Church?

THE JERUSALEM MODEL

In its contemporary form the Jerusalem model is regulated by an act on mutual understanding of different churches and religious communities known as the *status quo*. The legal act in question regulates the issue of using the religious buildings and sites in Jerusalem and Bethlehem, and does not include other holy places elsewhere in Israel and Palestine.

Turkish Sultan Osman III was the first to include the subject matter into the Ottoman legal system in 1757. On the occasion, it was decided that members of various confessions in Jerusalem and Bethlehem, who either owned or jointly used certain holy places, could not make any changes to these holy places nor act in ways that could disturb the existing relations without the consent of others. The second sultan's firman concerning the matter was issued in 1852, while the third, from 1853, confirmed the provisions of the 1757 firman. A British official, Lionel Cust [Cust 1980] in 1929 compiled a summary of this important document.

In the case of Kosovo and Metohia, the Jerusalem model is not acceptable as it is a legal act regulating the property-legal relations and the manner of use of such places, primarily for liturgy and other services, by different churches and religious communities exclusively in Jerusalem and Bethlehem and not in the whole of Israel and Palestine. The ownership of the holy buildings of the

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[5] For more details, see В. Џомић, Шта је СПЦ на Косову и Метохији и зашто је од 2008. године искључена из преговора о Косову и Метохији? [портал *Нова српска политичка мисао*, 21. септембар 2018 ("What the Serbian Orthodox Church in Kosovo and Metohia is and why has it been excluded from negotiations on Kosovo and Metohia? The NSPM portal, September 21, 2018). http://www.nspm.rs/kosovo-i-Metohia/sta-je-spc-na-kosovu-i-metohiji-%E2%80%93-i-zasto-je-od-2008.-crkva-iskljucena-iz-pregovora-o-kim.html?alphabet=l, May 4, 2019].

Serbian Orthodox Church, the Roman Catholic Church or the Islamic Community in Kosovo and Metohia, however, is not disputed. It is obvious that the Islamic Community in Kosovo and Metohia does not claim or seek ownership over the Patriarchate of Peć or Gračanica, nor does, for instance, the Diocese of Raška and Prizren have any legal claims to the Community's mosques.

Furthermore, this model, initially an 18th century Ottoman feudal formula, is not applicable in the 21st century in which the international law is increasingly gaining primacy over national legislation. Thirdly, Turkey was and still is a state, as is Israel. In our case, the Jerusalem model is unacceptable also because the compiling of a document based on it would require the participation of the so-called Republic of Kosovo, an entity not recognized by the Republic of Serbia or the Serbs, both refusing to acknowledge the existence of a state on an occupied part of their territory.

THE CONSTANTINOPLE MODEL

This model was formulated in 1923, based on the Convention Concerning the Exchange of Greek and Turkish Populations with a Protocol of January 30, 1923 [Стојковић 1998: 155–161]; the Peace Treaty with Turkey of July 24, 1923 [Стојковић 1998: 162–181]; the Convention on the borders of Thrace [Стојковић 1998: 181–184]; the Protocol relating to certain concessions granted in the Ottoman Empire and the Declaration of July 24, 1923 [Стојковић 1998: 185–189]; the Protocol on the evacuation of the Turkish territory occupied by the British, French and Italian forces of July 24, 1923 [Стојковић 1998: 189–191]; the Protocol relative to the Karagatch territory and the islands of Imbros and Tenedos of July 24, 1923 [Стојковић 1998: 191–192]; the Protocols from the Sèvres Treaty between the Great Allied Powers and Greece of August 10, 1920 in connection with the protection of minorities in Greece and the Treaty of August 10, 1923 in connection with Thrace of July 24, 1923 [Стојковић 1998: 193],; the Convention on the Turkish Straits of July 24, 1923 [Стојковић 1998: 194], and the Convention Respecting Conditions of Residence and Business and Jurisdiction of July 24, 1923 [Стојковић 1998: 195–202].

The above-mentioned agreements and declarations from Lausanne, with the participants in their preparation being Great Britain, France, Italy, Japan, Greece, Romania, the Kingdom of Serbs, Croats and Slovenes, Bulgaria and Turkey, were made after the Greco–Turkish War, also known as the War in Asia Minor, waged between May 1919 and October 1922. It ended unfavorably for the Greeks, who had to withdraw to the pre-war borders and then accept the exchange of population. As a result, the Greeks from Asia Minor were forced to leave their ancestral homes.

After the Lausanne agreements were signed and implemented, the Ecumenical Patriarchate in Constantinople (today's Istanbul) was left without the faithful and most of its priests and monks. The population exchange plan pertained to the Greeks from all parts of Turkey except Constantinople. The rights of the Ecumenical Patriarchate, especially property and religious rights, were not protected by said agreements, which is to say that this institution was left to the

mercy of the Turkish authorities in Ankara. Today, close to a century later, the Ecumenical Patriarchate in the territory of Turkey has some two thousand faithful, and only in Constantinople. Although formally they were exempt from deportation, the Orthodox Greeks from Constantinople were also forced to leave in the decades following the war. Many shrines were nationalized by the Turkish state and for almost one hundred years there have been no priests, monks, believers or liturgies in them. A number of the shrines were abandoned, many were declared immovable cultural heritage of Turkey, and some were completely destroyed.

The Constantinople model is also not applicable in the case of Kosovo and Metohia. The 1999 armed clashes there did not occur between two states as was the case with Greece and Turkey. In our case the regular military and police units were conducting campaigns to neutralize or destroy the so-called Kosovo Liberation Army's paramilitary units that were terrorizing civilians and security forces. In the period between March 24 and June 10, 1999, NATO intervened, siding with the terrorist KLA. The U.N. Security Council adopted Resolution 1244 pertaining to Kosovo and Metohia.

The Republic of Serbia has no right to conclude agreements with the so-called Republic of Kosovo on the moving of the remaining Serb population (around 120,000 to 130,000) from the territory of Kosovo and Metohia to central Serbia, but instead must assist and encourage their survival after the difficult, 20-year long occupation, and also persistently demand the return to Kosovo and Metohia of over 200,000 Serbs exiled from there in 1999 and later. In addition, the Republic of Serbia has no right to relinquish the state, private and church property in Kosovo and Metohia, but must persistently demand the return of all usurped property to their rightful owners. And, of course, the Republic of Serbia should also demand that all human rights and freedoms be respected and protected. It is thus obvious that this model cannot be acceptable to the Serbs and the Serbian Orthodox Church's Diocese of Raška and Prizren either.

THE MOUNT ATHOS MODEL

An organized monastic life in the Mount Athos peninsula began in 963 when St. Athanasius the Athonite founded the Great Lavra monastery. The first general ecclesiastic-legal act of Mount Athos was issued in 972 under the name of Tragos (meaning "male goat," as it was written on kidskin). From its inception, Mount Athos has been subject to various legal regimes, initially of Byzantium, then of the Tzar Dušan Empire, followed by Turkey, and, eventually, the Republic of Greece.

The issue of Mount Athos was also discussed at the Berlin Congress in 1878. Article 62 of the Berlin Agreement guarantees the freedom of religion and expressly prohibits discrimination based on religious grounds regarding the exercising of civil or political rights, admission to public employment, offices and honors and exercising of all professions and industries, whatever the locality may be. It guaranteed the absence of any impediment either to the hierarchical organization of the various religious bodies or to their relations with their spiritual chiefs. The monks from Mount Athos, whatever their nationality were

to be maintained in possession of their possessions and previous advantages, and were to enjoy without exception full equality of rights and prerogatives [Mowat 1915: 79–83]. As of 1912 *de facto*, and as of 1913 and the signing of the Treaty of Bucharest, *de jure* as well, Mount Athos has been an integral part of the Republic of Greece's territory.

The Mount Athos model became part of the contemporary ecclesiastic-legal vocabulary on May 10, 1924[6] when the Extra-ordinary Double Synaxis of the Twenty Monasteries adopted the Charter of the Holy Mount[7] (Καταστατικοσ Χαρτισ Του Αγιου Οροσ – The Holy Mount Constitutional Charter). In the contemporary state-legal sense, the model, as an authentic ecclesiastic formula, is tied to the Legislative Decree confirming the Holy Mount's Charter, signed by the president of the Republic of Greece, Pavlos Kountouriotis, on September 10, 1926.[8] Before that, "the beginning of the contemporary legal status of the Holy Mount was *de facto* tied to the establishing of Greece's sovereignty over the Athos peninsula in November 1812, while that sovereignty was *de jure* regulated by a provision of Article 5 of the Treaty of Bucharest (1913), whereby the new borders of the Ottoman territories in the Balkans were defined." [Папастатис 2004: 525].

The Constitution of the Republic of Greece of June 11, 1975, amended in 2005, in its normative part contains a provision regulating the position of the Holy Mount as a self-governed monastic republic in the territory of the Republic of Greece. Article 105 of the Constitution stipulates that "[T]he Athos Peninsula extending beyond Megali Vigla and constituting the district of Mount Athos shall, in accordance with its ancient privileged status, be a self-governing part of the Greek State whose sovereignty thereon shall remain unaffected. Spiritually, Mount Athos shall come under the direct jurisdiction of the Ecumenical Patriarchate. All persons residing therein shall acquire Greek nationality upon admission as novices or monks without any further formality." In other words, it is a self-governing monastic community on the *sui generis* Greek territory that is undoubtedly under the full sovereignty of the Greek state. Paragraph 2 of the same article stipulates that "Mount Athos shall, in accordance with its regime, be governed by its twenty Holy Monasteries, among which the entire peninsula is divided and its territory shall be exempt from expropriation." Paragraph 3 of the same article further stipulates that "[its] administration shall be exercised by representatives of the Holy Monasteries who constitute the Holy Community. No change whatsoever shall be permitted in the administrative system or the number of monasteries of Mount Athos, nor in their hierarchy and their position in regard to their dependencies. The dwelling therein of heterodox or schismatic persons shall be prohibited." It is further prescribed that "[T]he determination in detail of the Mount Athos regimes and the manner of operation thereof is effected by the Constitutional Charter of Mount Athos, which,

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[6] Καταστατικος Χαρτις Του Αγιου Ορος, Αγιον Ορος, 1931. In Serbian: [*Уста̄в Свеше̄ Горе од 10. маја 1924. го̄дине* 1959] and in: [Ангелопулос 1997].

[7] The highest legal act of the Holy Mount is also called The Statute.

[8] The Law-Decree on the confirmation of the Charter of the Holy Mount on September 10, 1926, in [*Уста̄в Свеше̄ Горе од 10. маја 1924. го̄дине* 1959: 69–84].

with the co-operation of the State representative, is drawn up and voted by the twenty Holy Monasteries and ratified by the Ecumenical Patriarchate and the Parliament of the Hellenes." [The 2001 Constitution of Greece, Article 5] The document adds that "[T]he correct observance of the Mount Athos regimes shall, in the spiritual sphere, be under the supreme supervision of the Ecumenical Patriarchate and, in the administrative field, under the supervision of the State which shall be exclusively responsible for safeguarding public order and security" [The 2001 Constitution of Greece]. And finally, Paragraph 5 of Article 105 stipulates that "[T]he afore-mentioned powers of the State shall be exercised through a governor whose rights and duties shall be determined by law "[The 2001 Constitution of Greece], as well as that "[T]he law shall likewise determine the judicial power exercised by the monastic authorities and the Holy Community, as well as the customs and taxation privileges of Mount Athos."

From the above citations it is obvious that the Mount Athos model, mentioned for the first time in 1998,[9] and later promoted on a few occasions by senior government officials[10] and by certain influential media outlets[11], is inapplicable and unacceptable for the Serbs and the Serbian Orthodox Church in Kosovo and Metohia for several reasons.

First and foremost, the Republic of Greece is a state and, at that, an ancient and serious one, whereas the so-called Republic of Kosovo is not a state but an occupied portion of the Republic of Serbia's territory. We could stop here, because the ecclesiastic-legal and state-legal position of the Holy Mount with its 20 monasteries, numerous hermitages and cells is regulated by the Church's Canonic Law and legal acts of the Holy Mount and the Republic of Greece. Sovereignty of the Republic of Greece over the Holy Mount as part of the integrated and indivisible territory of the Greek state which is under a special legal regime is undisputed and obvious to every jurist. The provisions cited above clearly show that the monasteries in question are not extraterritorial, but

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[9] The implementation of the Mount Athos model in Kosovo and Metohia was first promoted by former Federal Republic of Yugoslavia president and author Dobrica Ćosić (*Kosovo*, Večernje Novosti, Belgrade 2004) within the idea of the division of the Kosovo and Metohia territory and so-called delineation with Albanians. It is obvious that as a person not versed in legal matters Ćosić did not tell the difference between extraterritoriality as a legal principle and the position of Hilandar and other monasteries in the Holy Mount; for him, these were one and the same thing (p. 98). In his "Proposal for the co-existence of the Albanian and Serbian peoples" in September 2004 he suggested that "the medieval Serb monasteries – the Patriarchate of Peć, Dečani, Gračanica and Devič, after the restitution of their land and forests confiscated in 1945, be granted self-government and the rights in accordance with the Mount Athos model in Greece" (p. 254). He sought a special legal position for only four Serb monasteries. The proposal has never been discussed by the Serbian Orthodox Church.

[10] In his capacity of the Serbian foreign minister, Ivica Dačić has advocated the implementation of Ćosić's ideas about the Mount Athos model. In an article titled "Delineation with Albanians is a lasting solution," published in *Večernje Novosti*'s online edition on August 13, 2017, Dačić tied the idea of the alleged Serbian-Albanian agreement to "a compromise between the historical and ethnic rights," as well as to "securing the Serbian Orthodox heritage by creating independent monastery communities after the Mount Athos model in Greece."

[11] The so-called Mount Athos model was later additionally elaborated on in an article titled "What does the 'Mount Athos model' implies for temples – self-government for monasteries," published in *Večernje Novosti*'s online edition on August 15, 2018. Bishop of Bačka Irinej (Bulović) strongly reacted to this idea, rejecting the application of this model in Kosovo and Metohia.

are self-governed, and that all of them, without exception, are located in the territory of the Republic of Greece.

There are other facts clearly showing that the Republic of Greece and the so-called Republic of Kosovo can in no way be considered comparable. It should be kept in mind that the Republic of Greece, according to its Constitution of June 11, 1975, is a parliamentary republic. The so-called Republic of Kosovo is the result of occupation and is not recognized as a state by two-thirds of humanity. As far as the population structure is concerned, there are also major differences – 98 percent of the Greek population is Orthodox Christian, whereas the Jews, Muslims, Protestants and Armenians account for the remaining two percent. In Kosovo and Metohia, on the other hand, owing to a decades-long ethnic cleansing, persecution and expulsion of Serbs and other non-Albanians, the adherents of Islam are in absolute majority.

In Greece, a system of state church is in effect. Article 3 of the Greek Constitution stipulates that "[T]he prevailing religion in Greece is that of the Eastern Orthodox Church of Christ." The so-called Constitution of Kosovo[12] is predicated on the principle of separation of the religious communities from that so-called state, whereas the Law on religious freedoms from 2007,[13] promulgated by a special representative of the United Nations Secretary General, regulates relations with religious communities on the postulates entirely opposed to those from the Greek Constitution. In addition, the territory of the Holy Mount is unified, whereas our Serbian Holy Mount encompasses the entire territory of Kosovo and Metohia. In the Holy Mount there can be no other residents except monks, whereas our Church in Kosovo and Metohia includes priests and the faithful. Physical entities in the Holy Mount do not possess any property while in Kosovo and Metohia they do. In addition, all monks in the Holy Mount are, regardless of nationality, the citizens of Greece. The entry to and exit from the Holy Mount is under the exclusive control of the Greek police. Also, the Greek police are in charge of maintaining security in the Holy Mount.

All the above clearly shows that the Mount Athos model is not acceptable in regulating the position of the Serbian Orthodox Church's Diocese of Raška and Prizren in Kosovo and Metohia.

THE VATICAN MODEL

The Vatical model[14] is regulated by the legal system of the Republic of Italy, where the Roman Catholics account for 82 percent of the population. Religious minorities – the Protestants, Muslims, Eastern Orthodox, Jews and others – account for the rest. Article 7 of the Italian Constitution from 1948

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[12] The so-called Constitution of Kosovo, the so-called Official Gazette of the Republic of Kosovo, № 25/12, 6/13 and 20/15.

[13] The Law on religious freedoms, from 2007, the Official Gazette of the Temporary Institutions of Self-Government in Kosovo – Priština, year II, № 11/2007.

[14] I have partly dealt with the unacceptability of this model in a paper titled "A review of the proposals for regulating the status of the Serbian Church in Kosovo and Metohia within a political platform and a resolution of the National Assembly of Serbia" that was posted on January 13, 2013 at the Serbian Patriarchate's official website.

stipulates that "the State and the Catholic Church are, each within its own order, independent and sovereign. Their relations are regulated by the Lateran Pacts. Changes to the Pacts accepted by both parties do not require the procedure for constitutional amendment."

The Lateran Treaty between the Kingdom of Italy and the Holy See, of February 11, 1929 [Trattato 1929], regulates the position of the City of Vatican and the Holy See within the state of Italy and, in particular, their mutual relations, meaning that this model, too, is impossible to apply in regulating the position of the Diocese of Raška and Prizren in Kosovo and Metohia.

The Lateran treaty was concluded in the name of the Most Holy Trinity by representatives of the Roman Catholic ecclesiastic and Italian state authorities, both belonging to the Roman Catholic faith. The situation in Kosovo and Metohia is far from similar. The treaty's preamble states that it is concluded to "assure the Holy See the absolute and visible independence" and "guarantee its indisputable sovereignty" [Trattato 1929]. The document confirms the constitutional status of the "Catholic Apostolic Roman religion" as "the only State religion" since 1848 [Trattato 1929: Article 1], while also recognizing the Holy See's sovereignty and absolute dominion over the Vatican City [Trattato 1929: Article 2]. With this constitutional act not only the Holy See's religious, but its legal and political subjectivity has been recognized, which is to say that on that date it became a state-legal institution, with the clearly separated religious and state jurisdictions.

The provisions on the creation of the unified territory of the Vatican state in the territory of the Kingdom of Italy are actually the most important part of the agreement, which is clearly prescribed by the stipulation that "Italy recognizes the full ownership, exclusive dominion, and sovereign authority and jurisdiction of the Holy See over the Vatican" [Trattato 1929: Article 3]. Another provision regulates this with greater precision and more clearly, by stating that "[T]he sovereignty and exclusive jurisdiction over the Vatican City, which Italy recognizes as appertaining to the Holy See, forbid any intervention therein on the part of the Italian Government, or that any authority other than that of the Holy See shall be there acknowledged" [Trattato 1929: Article 4]. An exemption was made regarding St. Peter's Square that was to remain open to the public while being under supervision by the Italian police authorities [Trattato 1929: Article 3, Paragraph 2]. The Holy See is named as the owner of all immovable property in the territory of the Vatican City [Trattato 1929: Article 5, Paragraph 1]. The person of the "Supreme Pontiff" was declared "sacred and inviolable" [Trattato 1929: Article 8], and in regard to his legal protection, he was equalized with the King [Trattato 1929: Article 8]. Since then, the pope has not only been the religious head but the head of the state of the Vatican City as well, much like any absolute elective monarch.

In addition, the treaty established the Vatican citizenship [Trattato 1929: articles 9 and 10], while the Holy See was granted the right to found its diplomatic missions (nunciatures) [Trattato 1929: articles 11 and 12], with its property rights fully guaranteed [Trattato 1929: articles 13 and 14]. Also guaranteed is exemption from various contributions and taxes [Trattato 1929" articles 15 and

16], while all cardinals are envisaged to "enjoy the honors due to the Princes of Blood" [Trattato 1929: articles 20 and 21]. It is unnecessary to continue citing further provisions of this treaty as it is already clear that they cannot be applied to Kosovo and Metohia.

The 1929 Lateran Treaty was jointly amended by the Holy See and Italy on February 18, 1984 in the form of a new agreement between the Holy See and the Italian Republic [Accordo 1984]. The two states – the state of the City of Vatican and the Italian Republic – agreed as equals on regulating all status issues and the framework of mutual cooperation. In Italian conditions this was normal and natural, but in view of the circumstances the Diocese of Raška and Prizren faces and its position, it is difficult to see the Vatican model as an appropriate example to follow.

For, if the Serbian side agreed to the implementation of the Vatican model in Kosovo and Metohia, it would mean, firstly, that the state of Kosovo is the other contractual party, which is unacceptable for the Serbian Orthodox Church. Other conditions for the implementation of this model are also fully at odds with the reality in Kosovo and Metohia. For example, the Vatican City is a unified whole, while the situation with the Diocese of Raška and Prizren is quite different. Furthermore, in Italy, in whose center the Vatican City is located, also exists, like in all other countries in which the Roman Catholic Church is active, the Episcopal Conference of Italy. This fact, too, speaks against the acceptability of the so-called Vatican model in Kosovo and Metohia.

THE EXTRATERRITORIAL MODEL

As of recently, the so-called extraterritorial model – either independently or, erroneously identified with the Mount Athos model –is increasingly being mentioned as a solution to the position of our churches and monasteries in Kosovo and Metohia. But although it is described as being "optimal for our monasteries in Kosovo and Metohia," no example of a country where it was applied has ever been presented.

To understand the principle of extraterritoriality, it is necessary to first define the principle of territoriality. Territory, along with population and sovereignty (government), is one of the three elements essential to a state. State territory is inseparable from the principle of territoriality, meaning that the legitimate power of government is exercised over all subjects in a state territory. It should also be taken in account that "with the emergence of modern state, the territorial principle became the basic principle for the implementation of legal norms" [Лукић, Кошутић и Митровић 2002: 61].

Otherwise, in the theory of state and law the principle of extraterritoriality, also known as "a legal fiction," does not exist without the principle of territoriality. The former exclusively pertains to diplomatic and consular missions and other international organizations enjoying diplomatic immunity, as well as to foreign ships.

According to international law, extraterritoriality means that the authority or sovereignty of a state is not practiced in a certain area which is geographi-

cally located within it. In accordance with the extraterritoriality principle, "otherwise accepted by international law, the laws of a certain country do not apply to that part of its territory on which the facilities of foreign missions are located; there, the laws of such missions' respective countries are in effect" [Благојевић 2003: 49].

This model, thus, is in opposition to the very being not only of our Church but of our state in Kosovo and Metohia. Firstly, to debate the issue of extraterritoriality for a certain number of Orthodox churches and monasteries in Kosovo and Metohia means that Serbia is renouncing that part of its territory and is stating not only that it has no sovereignty over that part of its occupied region, but also that it does not want to govern it.

The principle of extraterritoriality is established by "special agreements" [Лукић 1995: 253] between two states which have recognized each other both *de facto* and *de jure*. Therefore, mutual recognition of two states is a *sine qua non* for the principle of extraterritoriality to be considered at all. Furthermore, state authority, in accordance with the principle of territoriality, is always exercised over all citizens in the territory of a certain state.

No one has the right to demand a special, extraterritorial status for only several important temples and monasteries, as that would actually imply that the implementation of the other state's principles of territoriality and sovereignty are simultaneously demanded for the bishop, the monks and nuns, and the faithful of the Diocese of Raška and Prizren, as well as for all other Orthodox Christian churches and monasteries which are all excluded from such status. Furthermore, such a model is not applied to churches and monasteries, and especially not if they are Orthodox Christian.

The person who would demand the application of this principle to several of our churches and monasteries in Kosovo and Metohia would actually ask for the principle of territoriality of the so-called Albanian authorities to apply to all other Serbs and everything that is Serbian and Orthodox Christian in Kosovo and Metohia.

Searching for an example of extraterritoriality (not related to diplomatic and consular missions and similar) we have come upon an instance in which the so-called extraterritorial model was applied in one-time Federal People's Republic of Yugoslavia. Namely, an extraterritorial Greek municipality existed from 1945 until 1949 in the territory of the village of Maglić (formerly Buljkes), near Bački Petrovac in northern Serbia. It is a village in which up to World War II ethnic Germans accounted for majority population. At the end of the war, the Germans left the village, and already in May 1945 it was populated by some 4,500 Greek refugees, communist members of the Greek People's Liberation Army (ELAS), and their families. The FPRY isolated the village in which Greek laws were in effect, the drachma was the legal tender, and where a special currency – the Buljkes dinar – was also issued. The village was governed by members of the Greek Communist Party. The extraterritoriality of the village was cancelled when its inhabitants supported the Cominform Resolution of 1948 (the split between the Yugoslav and Soviet communists), and its inhabitants were sent by train to Czechoslovakia, Poland and other socialist countries.

Science calls this example "an experiment" and "a Greek Utopia in Yugoslavia" [Ристовић 2007]. This example, too, very directly speaks against the implementation of this model in Kosovo and Metohia.

CONCLUSION

Acceptance of any of the afore-mentioned models for the protection of certain monasteries and churches in Kosovo and Metohia would unavoidably signify the recognition of the so-called Republic of Kosovo, on one hand, while, on the other, it would mean leaving everything else that belongs to the Serbian Orthodox Church's Diocese of Raška and Prizren, including the Patriarchate of Peć – a stauropegic monastery, i.e. the one subordinated directly to the Serbian Patriarch – to be subject to the legal and political regime of the so-called Republic of Kosovo or the so-called Greater Albania. Or, more precisely, it would mean allowing for its inclusion in the Greater Albania project, with all its negative consequences. This would simply equal to the Republic of Serbia's renouncing of Kosovo and Metohia.

In addition to a lack of an efficient and acceptable model for the legal protection of our sacred places which are part of the Serbian Orthodox Church's Diocese of Raška and Prizren, what is also of great importance is how the legal norms from the possible protection models would be applied by Albanians and their political representatives in Kosovo and Metohia. In other words, even if one of the said models were accepted, in what manner, if at all, would Kosovo Albanians implement its provisions to our monasteries, churches, clergy, monks, nuns and the faithful of the Diocese of Raška and Prizren.

The several protected medieval monasteries and churches would very soon be left without the believers, who in the course of 20 years have endured the most difficult and life-threatening conditions. The arrival of new monks and nuns would also be quite uncertain and would fully depend on Albanian authorities.

Furthermore, no international legal protection of our holy places would in itself be of great help. For, since 1999, the basic international legal provisions guaranteeing the life, safety and dignity to every person, even the Serbs, have been impossible to carry out. It is, therefore, illusory to expect any efficient protection of cultural property of our Church in Kosovo and Metohia. It suffices to mention the example of the Dečani monastery, listed as the World Heritage site by UNESCO, which was shelled on several occasions, or the destruction of internationally protected cultural heritage in Syria by Islamists.

Furthermore, all the afore-mentioned models are in contravention of the 2006 Constitution of Serbia. The Constitution's Preamble clearly declares that "the Autonomous Province of Kosovo and Metohia is an integral part of Serbia's territory" [Устав Републике Србије од 2006] and that "from such position of the province of Kosovo and Metohia stem the constitutional obligations of all state bodies to represent and protect the state interests of Serbia in Kosovo and Metohia in all internal and foreign political relations" [Устав Републике Србије од 2006]. True, there are some who – guided by the wish to minimize

and downgrade the said part of the Constitution of the Republic of Serbia – say that "the Constitutional Preamble does not have a normative character." These, however, forget the norm from Article 8 of the Constitution stipulating that, "[T]he territory of the Republic of Serbia is inseparable and indivisible" and that "The border of the Republic of Serbia is inviolable and may be altered in a procedure applied to amend the Constitution."

The inapplicability of the said models in Kosovo and Metohia and in the case of the Diocese of Raška and Prizren should be recognized by the authorities of the Republic of Serbia as the most relevant reason for not taking the resolution of the Gordian knot in Kosovo and Metohia lightly. Under no circumstances should they accept to settle the issue of the status and protection of the Diocese of Raška and Prizren in Kosovo and Metohia or cultural heritage through an agreement, such as in the case of the Gazivode Lake dam or the Trepča mine.

The very idea of searching for some new model to legally protect the Diocese of Raška and Prizren in Kosovo and Metohia indicates a negation of the legal protection provided by the Republic of Serbia in this territory. In such case, one part of the Diocese would remain under the regime of the Republic of Serbia (the Novi Pazar Deanery and the monasteries, church institutions, clergy, monks, nuns and the faithful in that part of the Diocese), while the other would be subject to different legal norms.

The Republic of Serbia, the Serbian people, and the Serbian Orthodox Church's clergy have an obligation to not only do their best to preserve Serbian cultural and sacral heritage, but also the rights of the Serbs, the Diocese of Raška and Prizren and all citizens of the Republic of Serbia in Kosovo and Metohia in accordance with only one model – the legal system of the Republic of Serbia.

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MEASURING OF CONCENTRATION AND COMPETITION: SERBIAN BANKING SECTOR

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SUMMARY: The author in this paper considers the question of the use of indices of concentration and competition in the banking market. As example he chose the Serbian banking sector during the second half of the 2010s. The analyses are based on the data of bank financial statements for relevant years, as well as the results of other researchers. The traditional concentration indicators (CRn and HH indices) are used, as well as the Gini coefficients and Rosenbluth and Tideman-Hall index and coefficient of entropy. At the end author calculated Linda Indices, the rarely used indicators not only in Serbia, and new Svetunkov's approach and coefficients of the model based on Gauss exponential curve. The concentration degree in all cases is calculated based on five variables: total assets, deposits, capital, bank operating income and loans. Although these variables are highly correlated, the results show relatively important differences of its use. In the case of such variable as capital, the Linda indices suggested the existence of an oligopoly structure. In conclusion, it was demonstrated that in the case of the relatively large number of banks in Serbia, the existing concentration degree is generally moderately low, which provides suitable conditions for the development of healthy competition among them. At the end, there is necessary to emphasize different capability of information respective indicators and its different discriminative power. In future research this is fact that is it undoubtedly necessary particularly not to ignore.

KEY WORDS: concentration, competition, banking sector, SCP paradigm, Serbia, Linda indices, Gini coefficient, Herfindahl-Hirschman index, Rosenbluth index, Tideman-Hall index, entropy index, concentration ratio, oligopoly
JEL: C38, G21, L10

In modern economic theory as well in economic policies of many countries competition is one of the most popular and most frequently used terms. The end of 20th and beginning of 21st century often are denoted as the competition epoch of global importance. Modern economic thought is united in believing that a competition is a factor that provides the efficiency of market economy. The concept of competition is universal model that is used not only in economics, but also in sociology, anthropology, theory of games and other

sciences and scholarly disciplines. But, despite two and half century tradition (Adam Smith is considered as a founder of the theory of competition), theoretic thought not yet succeed to build one undisputed, universally accepted, definition of competition: many aspects, phenomena and facts linked to competition stil challenge the researchers. One of such questions is how to measure the competition, which can be considered as one of the central question of the whole theory; it is also important when it comes to the practical use of results of the theory (say, in conducting of antimonopoly, i.e. competition policy).

The last few decades have seen considerable attention being paid to the analysis of development of market competition and affirmation of market principles. This coincided with the collapse of planned economies and the beginning of their transformation into market economies. In emerging market economies, one of the most important problems was the building of a new, market-oriented financial system, with a new role of the financial and banking institutions. As a result, the question of the evolution of the financial system, still remaining outside the mainstream neo-classical modeling, has come to the top of research work [Rybczynski 1997]. Consequently, considerations of the conditions for building the market circumstances are characteristics not only in the so-called real economy sector but in other branches, as well. Among these other branches, which are infrastructural both at the state level and at the international economic level, the banking sector is of particular interest. Its importance has been growing not only in the countries of the former socialist world, which is related to the hugely increasing role of the market and the consequent deregulation in this and other sectors, but also in developed countries, where deregulation and liberalization processes have also taken place, followed by an integration (mergers and acquisitions) of banks. At the same time, the developed financial markets, especially European ones, have become more market-oriented [Rajan and Zingales 2003].

Modern economic theory assumes that in order to create an efficient market system in all segments of the economy, especially in the banking sector, it is necessary to provide a competitive environment. It is argued that the potential benefits of competition in banking are similar to its benefits for other industries, such as: it can improve allocative, productive, and dynamic efficiencies (e.g. by promoting innovation), with the ultimate benefit being stronger economic growth [Northcott 2004]. These problems were the subject of many research, some of them are demonstrated in Table 1.

Competition in the banking sector is one of the forms of market competition. It appeared later than competition in industry, but it is characterized by a high intensity and a great diversity of forms and methods. The main characteristics of banking competition are described in detail in [Коробова 2006: 76–100]. Shortly, we can say that the perfect competitive environment in the banking sector has the three main characteristics: (1) there are a large number of banks in the market; (2) banks offer a homogenous product with regards to the cost and attribute of the product; (3) the cost for new banks to enter the market is very low [Tan 2016: 56].

Table 1. *Positive and negative effects of bank competition*

Author(s)	Year	Effects of bank competition: Conclusions
Petersen M. and Rajan R.	1995	In highly concentrated markets, small-business loans are more accessible, and in addition to that, new companies can take out loans with lower interest rates.
Jayaratne J. and Strahan P.	1996	Salaries and production grow faster after new bank branches can open unrestrained, therefore we can conclude that banking competition has a positive effect on the economic growth.
Shaffer S.	1998	Household income grows faster in areas with a larger number of banks.
Black S. and Strahan P.*	2000	The number of new companies and business associations is smaller in areas with higher market concentration.
Collender R. and Shaffer S.	2000	While the effect of market concentration on household income between 1973 and 1984 was negative, it became positive between 1984 and 1996.
Bonaccorsi D. and Dell' Ariccia G.*	2000	The start-up scene is more active in the markets with a concentrated banking sector.
Dell'Ariccia G.**	2000	Concentration in banking sector has negative effects on economic growth.
Cetorelli N.	2004	Sectors in which old companies ask more finances they are disproportionally big sized, if they are in countries where banking sector is more concentrated.
Deidda L. and Fattouh B.	2005	Banking concentration exerts two opposite effects on growth: it induces economies of specialization, which is beneficial to growth, and it results in duplication of banks' investment in fixed capital, which is detrimental to growth.
Bergantino A. and Capozza C.	2012	Bank concentration promotes entrepreneurship; however, an excessive level of concentration becomes harmful. The positive effect of concentration decreases for high-technology-intensive sectors.

* Mimeo, in: [Моисеев 2008]; ** Mimeo, in: [Cetorelli 2004].

Source: [Моисеев 2008], [Cetorelli 2004], adaptations and additions made by author.

SOME REMARKS ON THE DEVELOPMENT OF THE MODERN BANKING SECTOR IN SERBIA

Building a market economy and the affirmation of the market principles of doing business are among the main tasks in all countries undergoing transition. In parallel with the efforts of the legislative authorities and bearers of economic policy, these tasks are also reflected in theoretical and practical interests at the academic level, where a growing number of papers in various types of scientific publications tackle the appropriate problems. Although the problems of building market relations have not been unknown in Serbia, i.e. Yugoslavia, since the 1950s – unlike in other so-called socialist countries – the country still, due to a combination of certain circumstances launched the process of transition practically much later than aforementioned countries. Regardless of certain, not minor controversies regarding the nature of socialist market relations

at the time, the multi-decadal experience of their existence and activity was not adequately assessed and evaluated, while current titles did not even use it. Instead, the approach of not speaking about the subject was accepted, also seen in the official documents of the highest international organizations[1], or complete disdain. How much that approach contributed to the results achieved is a question that is probably still too early to expect an answer to, but it is also a question that is beyond the subject of research in this paper. It merely serves as grounds for noting that Serbia entered into the transition process without acknowledging and evaluating its previous experience.

The aforementioned statement was certainly relevant to and reflected on the reforming and development of the banking system. Although they had until then been treated as a "service for the economy," with strong interference of the political establishment, banks, like the rest of the economy, were familiar with the market principles of doing business and had partly been exposed to them. But not even this was the point at which past experience was evaluated. After the political changes that took place in 2000, the Serbian banking sector also underwent some great and significant changes. At the begin of 2001 86 banks operated in the territory of Serbia, but that same year 23 banks were stripped of their operating licenses, which, along with some other changes, reduced the number of banks to 49 at the end of the year [Bankarski sektor SRJ 31.12.2001, 2000: 1–2]. Right at the start of 2002, bankruptcy proceedings were initiated in four large banks (Beobanka AD Beograd, Beogradska banka AD Beograd, Investbanka AD Beograd and Jugobanka AD Beograd), which, combined, accounted for more than 57% of the balance sheet total.

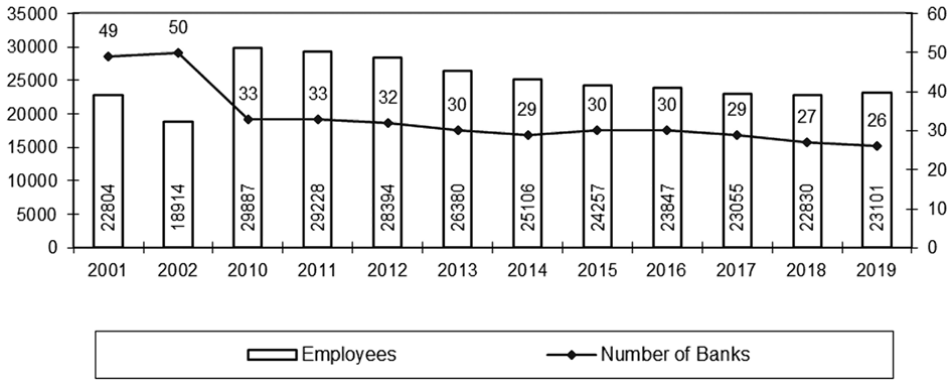

Figure 1. *Number of banks and employees in the Serbian banking sector 2001–2019*

Source: Bankarski sektor 2002, Banking Sector in Serbia. Quarterly Report. (2010–2019)

The changes continued in the next years: the once biggest banks ceased to exist (they were liquidated), some foreign banks entered the market, there

[1] So, the World Bank does not even mention the Yugoslav experience in its *World Development Report 1996*.

were a few acquisitions etc. On the whole, there is a noticeable trend of decline in the number of banks, which mainly happened through merger and consolidation processes, and only in exceptional cases through the revoking of an operating license by the National Bank of Serbia[2]. The process of foreign capital penetration into the banking sector unfolded simultaneously with those changes, incited precisely in 2001, when the National Bank of Yugoslavia granted operating licenses to five foreign banks: Micro finance bank AD Beograd, Raiffeisenbank Yugoslavia AD Beograd, Alpha bank AE (Belgrade affiliation), HVB bank Yugoslavia AD Belgrade and the National bank of Greece (Belgrade branch). At the end of 2019, there were 26 banks in the market, none of them having a particularly large market share. For small countries like Serbia, it is a considerable number, and it provides for the development of competition. Foreign banks entering the market and the processes of deregulation and liberalization have naturally created a tougher competition on the banking market. However, there are seemingly no serious and consequent analyses of competition in the market in question. The competition in this sector has not been of particular interest to researchers in the past, although Serbia (Yugoslavia) had, unlike other socialist countries, considerably developed market relationships, at least in the real sector. Therefore, the most extensive and comprehensive monograph [Begović et al. 2002] does not consider the competition in this sector.

The number of banks and employees in the banking sector in the period between 2001 and 2019 is shown in Figure 1. Both the bank and employee figures have decreased substantially in the present decade, by more than 10% and 20% respectively. However, both figures are still considerable for Serbia's relatively small financial market. According to the Quarterly Report for the 4th quarter of 2019, out of the total number of banks, 7 are domestic while 19 are foreign. The domestic–foreign ratio in total assets is 24.3:75.7, and in capital it is 25.6:74.4. The total number of business units (all forms of business network parts: corporate offices, subsidiary banks, branch offices, counters and other business units) amounts to 1,598 in 2019. The total number of business units has also decreased in previous years. It amounted to 1,719 at the end of 2016, 1,627 at the end of 2017, and 1,598 at the end of 2018.

SOME METHODOLOGICAL CONSIDERATIONS

Competition in general and especially in the banking sector, is a complex process difficult to measure, since there is no generally accepted or optimal approach to measuring it, nor is there a single indicator. In the lack of satisfactory answer to question what is the competition and how to measure it, oftens the relative estimates on nonquantitative scale are used – strong competition, moderate competition, weak competition and so on. As a basis for such type of estimation the expert assesments are used, as well as sociological questionnaires, or the results, i.e. aftermaths of competition. Principally, the researchers

[2] Besides the case of the four aforementioned banks, which were stripped of their operating licenses in 2002, Marinković lists three such cases from the first half of the first decade: Raj banka Beograd, Kreditno-eksportna banka Beograd and MB banka Niš. [Marinković 2007: 284].

can access different indicators, that are used for the achieving such estimates, including the data about prices and costs. But, the key, internal data in most cases are not accessible. Therefore the researchers must be satisfied with the data about the results of the competition struggle in the market, i.e. its aftermaths. As such results appeare the number of firms in market, its incomes and profits, i.e. assets and capital, and on the basis of that the shares of participants in market in observable variables, that are achieved just in the competition process. Of course, this is usable also for the profit rate in any branch.

These determine two basic approaches, which have been developed in order to measure the degree of competition in a market: direct and indirect approaches. Direct approaches are based on the degree of market power, as a source of addition to the market price. The direct estimation assumes the existence of data on bank service prices and their marginal costs, which is often lacking. In those cases, the indirect estimation method is used.

The method of indirect estimation is one of the most often used approaches in estimating the competition degree in the market. It begins just from the realized shares of market participants, and estimates the competition on the basis of distribution of these shares between the participants in the market. The logic in this approach is simple: as well the concentration is lesser, so the participants in the market have lesser market power, and so the possibility for the development of competition is bigger. It can be represented by simple model

$$L = 1–C \tag{1}$$

that shows inverse relation between competition (L) and concentration (C), where this relation is assumed as linear. This assumption is extremly simplified, and basically not correct, because the researches are shown, that this relation is different. But, it is yet necessary to accept this assumption, because the nature of this relation is not explained [Воробьёв and Светуньков 2016].

The indirect method of estimation can be structural and nonstructural. The structural approach is based on the paradigm "structure–behavior–result" and suggests using the market concentration degree to measure the degree of competition. The structure–conduct–performance (SCP) paradigm, also known as the Bain/Mason paradigm or concept, has been a very popular model in industrial economics since the Second World War. It is largely empirical, i.e. it relies on empirical data but for the most part, lacks a theoretical base[3]. Of course, the SCP was not originally developed for banks. But, applied to this sector, the SCP paradigm means that a change in the market structure or concentration of banking firms affects the way banks behave and perform:

$$\text{Structure} \rightarrow \text{Conduct (higher prices)} \rightarrow \text{Performance (higher profits)} \tag{2}$$

[3] For the theoretical background of the SCP paradigm, see for example: [Hannan 1991].

where it is assumed that a concentrated market allows firms to set prices (e.g. relatively low deposit rates, high loan rates) which boost profitability, i.e. the bank profit rate.

Contrary to this approach, the Relative Efficiency Hypothesis (RE) assumes that some firms are enormously profitable because they are more efficient than others. In other words, efficiency is exogenously determined, i.e. the hypothesis postulates that market concentration is a result of firms' superior efficiency, which leads to larger market share and profitability. The hypothesis states that the causality goes from greater efficiency, lower prices and higher concentration/market share:

$$\text{Efficiency} \rightarrow \text{Conduct (Higher Output and/or Lower Prices)} \rightarrow \text{Market Share} \rightarrow \text{Performance (Higher Profits)} \quad (3)$$

and can be linked to the X-efficiency (hypothesis): some firms have superior management or production technology, which makes them relatively more X-efficient with lower costs. Several authors have tested this hypothesis in various studies of the banking industry, but results are generally mixed, see for example [Evanoff and Fortier 1988].

The nonstructural estimation denies the correlation between concentration and competition, especially in systems with low entry and exit costs (contestable markets, see [Baumol 1982]). Within this approach many models examine the relationships between banks' performances depending on different exogenous factors (models of Panzar-Rosse, Boone and others).

Although we don't identify competition with concentration, our approach can formally be considered as structural. Forasmuch this research is one of the first steps in competition analysis of the banking sector in Serbia, we will not apply this approach in ordinary sense. After all, concentration coefficients can also be used in the nonstructural approach. We can define concentration as it is defined in the OECD Glossary: "Concentration refers to the extent to which a small number of firms or enterprises account for a large proportion of economic activity such as total sales, assets or employment" [Khemani and Shapiro 1993], without considering different contexts, which are observed by the Glossary.

Choice of the variables

Before carrying out an appropriate empirical analysis, some issues are to be resolved. The first of them pertains to the variables relative to banks and their business that are to be used. While in the case of manufacture and other branches in the real economy sector this issue is less or more solved, the situation is different in the banking sector: variables such as volume of production or sales cannot be used. Therefore, other indicators are necessary and were used. They can be, for instance, attracting deposits [Berger and Hannan 1989], assets [Маринковић 2007] assets and deposits [Berger et al. 1999], assets, loans and deposits [Vuković 2006] and [Ljumović et al. 2014], total assets, net interest

income and capital [Eraković 2017], deposits and loans to legal and physical persons [Коцофана и Стажкова 2011], deposits, loans to legal and physical persons and assets [Ракша 2010], deposits, loans to legal and physical persons and capital [Lončar and Rajić 2012], assets, capital, loans, deposits, interest income and net profit (loss) after tax [Miljković et al. 2013][4]. Finally, the National Bank of Serbia's regular quarterly reports [Банкарски сектор у Србији. Квартални извештај, 2010–2020] provides short surveys of concentration and competition in the banking sector, using nine financial balance variables: assets, loans (total), loans to the population, loans to companies, deposits (total), deposits of the population, income (total), interest income, income from fees and commissions.

As we can notice, the most frequently used variable is total assets, although its use does not exclude other variables. We will also not limit our research to using only one variable, therefore we have chosen five indicators: total assets (X1), deposits (X2), capital (X3), operating income (X4) and loans (X5). In our previous articles we used all five these variables, or three of them, e.g. [Буквић 2020]. Our choices are due not only to theoretical reasons, but also to the sources accessible to the author: bank financial statements available on the website of the National Bank of Serbia [Биланс стања/успеха банака, 2020]. In this paper we will analyze the data from the balances of Serbian banks during the period of second half of 2010s for all five aforementioned variables.

Although the problem of the choice of variables can be seem of great importance, the data we analyzed in previous articles listed in literature suggest that this is not so. The correlations between the selected indicators (see Table 2) are very high, and the differences practically negligible. The coefficients between capital and other variables are the smallest, which can be explained by the nature of capital as the residual variable, as we will see further on. Of course, these coefficients are also very high. But, as we shown in [Буквић 2020] such conclusion is not absolutely correct, the correlation coefficients are not enough for explanation of these complex question.

Table 2. *Correlation coefficients for the selected variables X1-X5 in 2016, 2018 and I-IX 2020*

	2016				2018				2020			
	X2	X3	X4	X5	X2	X3	X4	X5	X2	X3	X4	X5
X1	0,9975	0,9548	0,9923	0,9807	0.9979	0.9516	0.9894	0.9652	0.9988	0.9636	0.9847	0.9759
X2		0,9327	0,9910	0,9720		0.9315	0.9856	0.9551		0.9497	0.9825	0.9719
X3			0,9432	0,9549			0.9470	0.9437			0.9577	0.9472
X4				0,9719				0.9679				0.9610

Source: Based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

[4] A review of literature about the use of concentration measures in the banking sector until the beginning of the 2000s is given in [Bikker and Haaf 2002b].

Choice of the concentration indicators

The second methodological question is the choice of concentration indicators (indices). Among the many indicators, see for instance [Curry and George 1983] for standard used measures and [Martić 1986] for many indicators, two have been most often used by researchers and by the practical anti-monopoly policy: coefficients of concentration, or concentration ratios CRn (the share of n largest companies in a certain market, where n mostly stood for 4) and the HH Index (Herfindahl-Hirschman Index, or simply Herfindahl Index[5], the sum of the squares of the shares of all participants' in a market). Both indices are based on individual company shares in a market

$$Si = \frac{Qi}{Q} \tag{4}$$

where: Qi = volume of company production, Q = total production volume in an industry branch. Of course, the share (4) can be expressed as percent. Instead of the volume of production, other variables can be used, as it often occurs even in analyses within the real economy sector, for example income or company assets etc. The oldest and most commonly used of all indices is the CR-firm concentration ratio, defined as the cumulative share of the n greatest shares, as follows:

$$CRn = s_1 + s_2 + \cdots + s_n = \sum_{i=1}^{n} s_i \,. \tag{5}$$

CRn is extremely simple to be calculated, but the choice of n is arbitrary, and n very vary in different studies. It focuses on the "nucleus" of the market, and "periphery" for them is not of interest[6].

The HH coefficient (index) is defined as the sum of share squares of all participants in a market:

$$I_{HH} = \sum_{i=1}^{m} (s_i)^2 \,. \tag{6}$$

We can note, that Hirschman-Herfindahl index can be expressed as

$$I_{HH} = n\sigma^2 + \frac{1}{n} \tag{7}$$

where σ^2 is dispersion of market shares s_i. Therefore it is clear to see, that in the case of perfect competition this index has (minimal) value equal to 1/n, also the number of participant in market determines the range of the values of coefficients [1/n, 1]. On the other side, from (7) allows that myriad of combinations σ^2 and n exists, which can result to same value of coefficient, and these makes its applicability very questionable. But, despite of that, it is used in practice of antimonopoly authorities, even in developed countries.

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[5] We ignore the disputed problem of the 'paternity' of this index.

[6] The terms "nucleus" and "periphery" of the market were used in the usual sense, not strictly considered, as in the works of Motokhin and Smaragdov, see for example [Смарагдов et al. 2015].

We will also use these indices. But, unlike the aforementioned work [Ljumović et al. 2014], where the indices CR4 and CR8 were used, we will use both these indices and also the CR3 index. We consider, and this has been demonstrated on multiple occasions, that the CR8 index is too high for Serbia and therefore insignificant for the purpose of our work. All the more so that it can be said for the coefficient CR10, which uses National Bank of Serbia, together with CR5.

The advantages and disadvantages of the indicators (5) and (6) are described in the relevant literature, see for example [Буквич 2015]. Therefore, for the more precisely and comprehensive analyses it is necessary to use other indicators. Besides the aforementioned indices, we will also use the Gini coefficient, another frequently used method of assessing the degree of concentration. Out of the multiple ways to determine this coefficient, we have chosen the following one [Lipczynski et al. 2017: 278]:

$$G = \frac{\sum_{n=1}^{N} \sum_{i-1}^{n} s_i}{0.5(1+N) \sum_{i=1}^{N} s_i} - 1 \tag{8}$$

where s_i denotes shares (4), while N is the number of observed units (in our case – banks). This procedure is the inverse of the usual presentation (and calculation) of the Lorenz curve and the Gini coefficient, as it arranges the appropriate line into a descending one, thus the resulting graphical image is doubly symmetric relative to the regular Lorenz curve – diagonal from (0.0) to (1.1) and vertical.

Like a Hirschman-Herfindahl coefficient, Gini coefficient is characterized with variability of results, i.e. there are different configurations of market shares that as result can produce same value of coefficient. On the other side, the degree of competition, i.e. the limits between different market statuses, is here also arbitrary. So, by some opinions, values of coefficient bellow the interval of 0.6–0.4 characterize high competitive markets, although there are the others that consider it as not based upon and correct, see for example [Смарагдов и Сидорейко 2015].

We note that Hirschman-Herfindahl coefficient (6) sum the squares of market shares, what in fact means that market shares are pondered with its values. It is clear that this gives greater significance to greater shares, i.e. to stronger market participants. This is sometime emphasized as a lack of this indicator. But, more important is that index HH not provide unique relation between the distribution of shares and degree of concentration, so it can have same value for very different configuration of market shares [Смарагдов и Сидорейко 2015]. Therefore it was many attempts to make diverse weights in summing of market shares. Among them Rosenbluth and Tideman-Hall indices stand forward. Rosenbluths coefficient summing all market shares (arranged to descending order), but ponder it with appropriate ranks, while coefficient is calculated by the formula [Bikker and Haaf 2002]:

$$R = \frac{1}{2 \times \sum_{i=1}^{N} R_i s_i - 1}. \tag{9}$$

At the same manner Tideman-Hall coefficient is constructed [Hall and Tideman 1967]

$$TH = \frac{1}{2\times\sum_{i=1}^{N} R_i s_i - 1}, \tag{10}$$

but the shares are here arranged to ascending order.

Also, the coefficients (9) and (10) differ from HH coefficient through the weights of market shares of market participants. While the last, as well were emphasized, ponder in fact the shares with its own shares, in coefficients (9) and (10) weights are the ranks of these shares in their arranged group, in one case into descending and in other case in ascending order.

One of, in our circumstances, rather used measure of concentration is coefficient of entropy. It is defined as [Lipczynski et al. 2017]

$$CE = \sum_{i=1}^{N} s_i \, ln\left(\frac{1}{s_i}\right), \tag{11}$$

and it is in fact inverse coefficient: coefficient (11) has so lesser values as the concentration is bigger. Minimal value CE=0 coefficient achieves in case of perfect monopoly, and maximal value in case where all firms have same market shares ($s_i=s_j$, $i,j\in<1,2,...,N>$), but this maximal value is not unit and amount ln(N). This situation makes coefficient of entropy not appropriate to the need of comparison of sets with different size, therefore appeared the need for standardization of coefficient (11). For these purposes it is necessary to divide the expression (11) with ln(N), so we get the coefficient of relative entropy

$$CRE = \frac{1}{ln(N)} \sum_{i=1}^{N} s_i \, ln\left(\frac{1}{s_i}\right), \tag{12}$$

so the values of them are in interval [0,1].

The other coefficients of this type (coefficient of variation, Horvath's, Hanna-Key, Davis' and others) are used significantly rather, and we will not here they consider.

We included both of these indicators (5) and (6) in our calculations, also the Gini coefficient (8) and Rosenbluth and Tideman-Hall indices (9) and (10), as well as the coefficients of entropy (11) and (12). In addition to that, considering their disadvantages, we chose one more index used in Serbian literature only in our works, but also rarely used in other countries, especially in the so-called transition economies. One of the examples of its uses [Коцофана и Стажкова 2011] refers just to the banking sector in Russia. This index (more precisely, the system of indices) is calculated by following a general formula, which is developed into a specific formula for every value of m:

$$IL_m = \frac{1}{m(m-1)} \sum_{i=1}^{m-1} \frac{m-i}{i} \cdot \frac{CRi}{CRm - CRi} \tag{13}$$

This index was constructed by EU Commission consultant Rémo Linda [Linda 1976]. As well as the CRn index, it is only calculated in case of the few (m) largest enterprises and, therefore, also analyzes the "nucleus" but not the "periphery" of the market in question. However, unlike the CRn concentration

ratio, the Linda index (L-index) focuses on the differences in the market "nucleus". In other words, the L-index has to be considered in combination with the concentration ratio, it measures the "oligopolistic equilibrium" by giving information about the top firms' relative shares and their evolution. If the obtained series of indices (13) is monotonically descending, oligopolistic structure not exists, but for its existence, in contrary, indicates the first violation of descending series: ILm<ILm+1. Because the oligopolies, by the definition, is forming by three to four ("tight"), i.e. seven to eight firms ("loose"), Linda indices are calculated approximately to the tenth firm. At this manner, this indicator considers "nucleus" of the market, but difference in relation to CRn is very obvious. We have already shown the advantages of the use of Linda indices in [Буквич 2013], although this article was primarily illustrative. The calculations of this index are alternate and demanding. Of course, the use of personal computers renders the last note insignificant.

The distribution of the market shares of the participants was also considered by author and his co-author [Bukvić and Hinić 1995] in the analysis of commodity markets in FR Yugoslavia. To the distribution of indicators CRi (i=1, 2, 4, 6), which were calculated on the basis of enterprises' incomes, for 185 branches of commodity markets, authors identified 11 market types (from monopoly to competition) by the use of cluster analysis. This approach repeated author in purposes to establishing of types of market structures in Yugoslav food industry for the year 2000 [Буквић 2002], for all 218 product, on whole set of indicators CRi (i=1, ... 6), which were calculated on the basis of physical quantum of production. In both cases for discrimination of market statuses the Euclidean distance is used, as most famous metrics in cluster analysis:

$$d_{ij} = \sqrt{\sum_{l=1}^{218}\left(s_i^l - s_j^l\right)^2}\,. \tag{14}$$

Distribution of market shares is initial basis also in other approaches. One of them was used in the works of S. G. Svetunkov, see for example [Воробьёв и Светуньков 2016]. There new approach was demonstrated, which is based on the fact that (arranged) set of firms' shares in market (4) forms monotonically descending function (Figure 2). This function can be presented with exponential curve of the Gauss type (15), with two unknown parameters (*a* and *b*), which can be estimated by the least square method, directly, or after previous logarithm transformation, that as result gives linear function.

$$s_i = be^{-a(i-1)} \tag{15}$$

Denote, but, that for i=1 in (15) it follows that $b=s_1$, and by this replacement it is to get the function with one parameter (16), which by logarithm transformation results in (17), wherefrom parameter *a* can be easily estimated, follow to (18).

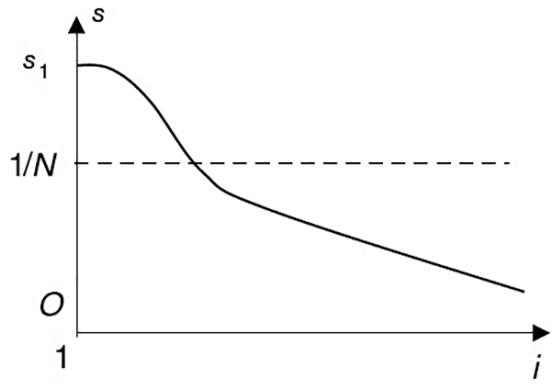

Figure 2. *Distribution of firms' market shares*

$$s_i = s_1 e^{-a(i-1)} \tag{16}$$

$$ln\frac{s_i}{s_1} = -a(i-1)\,. \tag{17}$$

$$a = -\frac{\sum_{i=1}^{N} ln\frac{s_i}{s_1}}{\sum_{i=1}^{N}(i-1)} \tag{18}$$

Coefficients b=s_1 and a represent, i.e. demonstrate properties of observed distribution of companies' shares in market, so they are in fact special coefficients of concentration, what is simply clear for parameter b without any consideration.

M. Kostić provided a review of the concentration index in his dissertation [Костић 2013], including indices (4)–(10), but his analyses do not pertain to the banking sector, he focused to the cooking oil and beer markets. In all other aforementioned works, excluding [Коцофана и Стажкова 2011] and myself, the Linda index was not used, but CRn, HH and others were: reciprocity index, comprehensive concentration index or Horvath index (CCI), Entropy index (E-index) and the Gini coefficient. For our purposes, all other indices except the CRn index bear no importance. The Rosenbluth and Tideman-Hall indices, as well the new Svetunkov's approach [Воробьёв and Светуньков 2016] was used in [Буквић 2020], but the goal of this article was other, the comparison of the concentration indices.

CONCENTRATION AND COMPETITION IN THE SERBIAN BANKING SECTOR: ANALYSIS OF CONCENTRATION INDICES

Unlike some empirical research, which divides the banking sector into small, middle and large banks, see for example [Bikker and Haaf 2002a], we will consider the whole sector as one set. Clearly, it doesn't mean that in a theoretical sense we prefer that approach. The main reason for our choice is obvious enough:

regardless of the relatively large number of banks, the banking and financial markets in Serbia are small, by all relevant indicators (see Table 3). As we can see, the exchange rate of the euro in this period decreased for circa 5%, so the growth of the chosen amounts presented in euro was some lower. Therefore, for the purposes of this work, we don't find this division useful by any criteria.

Table 3. *Total assets and capital of the Serbian banks in 2016 – 30 IX 2020*

Average exchange rate of the euro	31. XII. 2016	31. XII 2018	30. IX 2020	Index 2020/2016
	123.4723	118.1946	117.5803	95,2
Total assets (dinars)	3,241,504,719	3,774,055,499	4,509,836,905	139,1
Capital (dinars)	632,486,285	676,704,699	716,956,940	113,4
Total assets (euros)	26,252,890.070	31,930,862.315	38,355,378.450	146,1
Capital (euros)	5,122,495.369	5,725,343.620	6,097,594.070	119,0

Source: Calculated on the base of Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

This paper can be considered as a continuation of our research of the concentration and market structures in the modern Serbian banking sector. In previous works we analyzed the status in this sector in 2016 [Bukvić 2017], in 2017 [Bukvić 2019], and in 2018 [Bukvić 2020]. In these works the Linda indices were used into addition to standard coefficients (5) and (6), and lesser the other here mentioned indices of concentration. The recent our work is not only renewed with data and an analysis for next years. We have made some new calculations by using indicators that were not used and some other considerations that enable better observation of the bank concentration by the variables used.

The degree of concentration according to traditional indices is shown in Table 4. The CR3 coefficients were chosen, which are used in anti-monopoly practice in many countries, as well as CR4, which was often used in research works in the former Yugoslavia, see [Bukvić 1999], also in the monograph [Begović et al. 2002], and finally CR8[7]. The table also shows the Herfindahl--Hirschman indices, since the author had access to the financial statements of all the subjects, which is not always possible in similar analyses.

The CRn and HH indices are also used by the National Bank of Serbia in the aforementioned reviews of concentration and competition presented in the Bank's quarterly reports, earlier in Economic Overview. However, due to reasons unknown to the author of this work, they do not use the CR3 and CR4 indices, which are justified from the standpoint of small markets and a small number of participants in the market, but they use the CR5 and CR10 indices instead, considering the share of five, i.e. ten largest banks. We deem that the use of these indices is not adequate and argumentative, and we will not consider

[7] The National Bank of Serbia uses the CR5 and CR10 coefficients in its quarterly reports. The matter of (un)justifiability of using one of the CRn coefficients, i.e. its informative capability in both a general case and where the Serbian banking sector is concerned, will remain outside our scope of consideration.

them. Instead,we can consider the results obtained from the report through the use of the HH index (see Table 5).

Table 4. *Standard concentration indices in the Serbian banking sector, 2016 to I-IX 2020*

Criterion	Year	Total assets	Deposits	Capital	Operating income	Loans
CR3	2016	39,6	40,1	38,7	36,8	36,9
	2017	38,5	38,8	37,7	34,8	37,5
	2018	37,4	37,6	37,2	37,0	37,3
	2019	37,4	37,6	37,1	36,0	36,1
	I-IX 2020	36,8	36,9	37,0	34,1	36,6
CR4	2016	47,4	47,9	47,4	44,6	45,3
	2017	47,0	47,7	46,9	43,4	46,2
	2018	45,8	45,9	45,8	46,2	45,1
	2019	45,6	45,9	45,3	44,7	44,0
	I-IX 2020	45,0	45,1	45,9	42,2	44,2
CR8	2016	69,4	69,7	73,6	67,9	67,9
	2017	70,6	71,0	73,3	69,0	70,2
	2018	70,1	70,9	72,3	70,2	69,0
	2019	70,1	71,0	72,5	70,3	68,4
	I-IX 2020	70,7	71,7	72,6	70,3	69,1
HH	2016	813	819	882	764	763
	2017	813	818	848	762	787
	2018	779	786	807	805	771
	2019	800	814	799	791	781
	I-IX 2020	792	801	804	768	783

Source: Based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

Table 5. *Hirschman-Herfindahl indices for chosen indicators in Serbian banking sector 2010–2019*

Balance variable	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Assets	629	660	678	741	794	796	813	813	779	800
Loans (total)	649	722	721	774	771	763	736	788	793	789
– to population	687	684	687	714	715	729	728	810	812	838
– to companies				788	779	782	768	812	821	840
Deposits (total)	720	714	726	777	818	816	817	827	798	840
– from population	796	799	811	866	903	930	939	977	967	968
Income (total)	679	721	916	844	719	734	804	720	746	818
– interest income	620	640	678	712	736	734	737	767	776	755
– from fees and commissions	739	722	760	828	849	860	879	911	927	930

Source: *Банкарски сектор у Србији. Кварталнu извештај*. (2010–2020)/ Banking Sector in Serbia. Quarterly Report

All index values in Table 5 are less than 1,000, therefore the market should be by all indicators classified as lowly concentrated. This is constantly emphasized in the NBS reports. However, there is an obvious growth trend in practically all values, with a significant increase in some cases. In this sense, even if we ignore the problem of arbitrary limits between the different market concentration types, there is hardly any room for the satisfactory report estimations that are constantly being repeated ("The banking market in Serbia is still characterized by a satisfactory level of competition and a low concentration of activity"). The paper [Miljković et al. 2013], which analyzes the period between 2008 and 2012, demonstrated a growth trend of the HH index practically for all observed financial balances' variables, with very small exceptions only in certain years and for some variables, so it can be concluded that there is an almost ten years' growth trend of the HH indices in the Serbian banking sector.

In case of both coefficients (CRn and HH), the limits between different market concentration degrees are set arbitrarily. So, the US authority has been using HH-indices for market classifications since 1982. The limits in its Guidelines were set in 1997 and 210. Firstly, the limits had been set at 1,000 and 1,800, and since 2010, they have been 1,500 and 2,500 (see Table 6). In evaluating horizontal mergers, the Agency (or Agencies, i.e. Department of Justice and the Federal Trade Commission) will consider both the post-merger market concentration and the increase in concentration resulting from the acquisitions and mergers (see Table 6).

Table 6. *Degree of concentration in economy branches by HHI values (in anti-monopoly practice in USA)*

Types of market concentration	In Guidelines 1997	In Guidelines 2010
Highly concentrated markets	Above 1,800	Above 2,500
Moderately concentrated markets	Between 1,000 and 1,800	Between 1,500 and 2,500
Un-concentrated markets	Below 1,000	Below 1,500

Source: [Horizontal Merger Guidelines, 1997; Horizontal Merger Guidelines, 2010]

The anti-monopoly authority in Russia simultaneously uses both indices, CR and HH. The limits for the three types of market concentration are 45% and 70% for CR3 and 1,000 and 2,000 for HH, which separate lowly, moderately and highly concentrated markets (see Table 7). The calculated values of the HH indices for all variants in our analysis are less than 1,000, so the market should be classified as lowly concentrated. On the other hand, according to the CR3 index, it also belongs to non-concentrated markets, but if we were to use the CR4 index, we would have to classify the market as a moderately concentrated one (except for the third variant, the capital, but in that case, the value of CR4 is practically at the limit between a non-concentrated and a moderately-concentrated market).

Table 7. *The classification of branch markets by level of concentration used in the anti-monopoly practice of Russia (ФАС Российской Федерации)*

Branch market classification	Value of K3 concentration coefficient	Value of Herfindahl--Hirschman index (HHI)
Lowly concentrated markets	K3≤45%	HHI≤1,000
Moderately concentrated markets	45%<K3<70%	1,000<HHI<2,000
Highly concentrated markets	K3>70%	HHI>2,000

Source: [Федеральная антимонопольная служба, 2016]

Clearly, other possible limits between lowly, moderately and highly concentrated markets could result in a different classification. This is one of the main flaws of the CRn and HH index use. Therefore, other approaches to researching concentration and competition are also necessary. Of course, given the conditions that dominate our economy (smaller overall market, fewer producers in each production sector etc.), it turns out that this market classification by degree of concentration is inadequate (in nearly any kind of production the value of HHI would be in the second group), so it is possible and recommended that appropriate modifications in Table 6 be made. One such relatively successful attempt was made in the monograph [Begović et al. 2002] (see Table 8).

Table 8. *Degree of concentration in economic sectors by value of HHI (modified classification)*

Degree of concentration	Value of HHI
Absolutely concentrated	10,000
Extra concentrated	From 2,600 to 10,000
Highly concentrated	From 1,800 to 2,600
Moderately concentrated	From 1,000 to 1,800
Unconcentrated markets	Below 1,000

Source: [Begović et al. 2002]

Obviously, the indices from Tables 4 and 5 show different tendencies through the times. It is, therefore, useful to examine the concentration by using some other indicators. In such analyses, the researchers also use the Gini coefficients and the Lorenz curve. So, we shaped the Lorenz curve (see Figure 2) for the V1, i.e. total assets in 2018. After them, we calculated these (Gini) indices for the observed five variables, for 2016, 2018 and 2020 (I-IX). The results are shown on Table 4.

As we can see, the Gini coefficients for all five variables increased from 2016 to 2018. This shows (undoubtedly?) that the concentration in 2018 is greater than in 2016. It may be an opposite result compared with the results from the use of CRn and HH coefficients. But, in 2019 and 2020 Gini coefficients are significantly lesser in general, that implies the decreasing of the concentration degree. On the other hand, a problem appears in both the Lorenz curve and the

Gini coefficient, and this also exists in the usually used CRn and HHI coefficients. It is necessary to define in advance the limits whereby certain, empirically calculated concentration will be classified as high, moderate or low, or on some scale that has been accepted for distinguishing concentration forms.

Table 9. *Gini coefficients for the observed indicators in 2016, 2018 and 2020 (I–IX)*

	2016	2018	2019	2020
Total assets	0.5681	0.5808	0,5231	0.5244
Deposits and other liabilities	0.5722	0.5856	0,5289	0.5290
Capital	0.5833	0.5935	0,5269	0.5276
Operating income	0.5489	0.5855	0,5156	0.5107
Loans and receivables	0.5544	0.5719	0,5117	0.5151

Source: Calculation based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

We also calculated here the other indices – Rosenbluth, Tideman-Hall, coefficient of entropy and coefficient of relative entropy for the same period (see Table 10).

Table 10. *Rosenbluth, Tideman-Hall, coefficient of entropy and coefficient of relative entropy for Serbian banking sector, 2016 to I –IX 2020*

Index	Year	Rosenbluth index	Tideman-Hall index	Coefficient of entropy	Coefficient of relative entropy
Total assetts	2016	0.021	0.081	2.804	0.824
	2018	0.024	0.081	2.795	0.848
	2019	0.025	0.084	2.751	0.844
	2020	0.025	0.084	2.750	0.844
Deposits	2016	0.021	0.082	2.792	0.821
	2018	0.024	0.082	2.786	0.845
	2019	0.025	0.085	2.738	0.840
	2020	0.025	0.085	2.738	0.840
Capital	2016	0.021	0.084	2.759	0.811
	2018	0.024	0.084	2.769	0.840
	2019	0.025	0.085	2.751	0.844
	2020	0.025	0.085	2.750	0.844
Operating income	2016	0.021	0.077	2.850	0.838
	2018	0.024	0.082	2.782	0.844
	2019	0.025	0.083	2.769	0.850
	2020	0.025	0.082	2.774	0.851
Loans	2016	0.021	0.078	2.834	0.833
	2018	0.024	0.080	2.809	0.852
	2019	0.025	0.082	2.768	0.849
	2020	0.025	0.083	2.761	0.847

Source: Calculation based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

The result show some different tendencies. This is, also, one more reason for further research, i. e. for the use of other methods.

One of them would be the Linda indices. Unlike the previously mentioned ones, the Linda indices are meant to reveal the existence of oligopoly structures without using any arbitrarily established limits. In contrast, the index values indicate whether oligopoly is present or not in a given market. In the case of a competitive market, the index value decreases ($IL_m > IL_{m+1}$ for all m). If this pattern is broken, it indicates that there is an oligopoly situation in a given market. In our case, only the third variant points to the existence of oligopoly, which are the Linda indices calculated on the basis of the capital value (see Table 11). Besides the Linda indices (V1, V2, V3, V4, and V5, for five variables in Table 11), it also shows the column (PE). It represents the so-called perfect equilibrium curve, which is the situation of perfect equality among the participants in a market. The shares of such perfect competitors are the same to each other, and equal to the value 1/n (n = number of market participants).

Table 11. *Linda indices for selected variables in Serbian banking sector in 2017 and I –IX 2020.*

Year	IL		IL2	IL3	IL4	IL5	IL6	IL7	IL8	IL9	IL10
2016	V1		0.69	0.49	0.42	0.35	0.32	0.30	0.27	0.25	0.21
	V2		0.63	0.48	0.41	0.35	0.33	0.30	0.27	0.25	0.21
	V3		0.97	0.62	0.44	0.34	0.28	0.25	0.27	0.27	0.23
	V4		0.76	0.51	0.41	0.32	0.29	0.27	0.25	0.23	0.20
	V5		0.70	0.48	0.38	0.32	0.30	0.28	0.25	0.24	0.20
2017	V1		0.77	0.47	0.38	0.32	0.29	0.28	0.26	0.24	0.20
	V2		0.72	0.46	0.37	0.31	0.30	0.28	0.26	0.24	0.20
	V3		0.86	0.55	0.39	0.31	0.27	0.25	0.25	0.25	0.21
	V4		0.85	0.52	0.38	0.30	0.25	0.24	0.24	0.22	0.19
	V5		0.68	0.47	0.37	0.32	0.29	0.26	0.24	0.23	0.20
2018	V1		0.65	0.44	0.36	0.31	0.29	0.26	0.23	0.22	0.19
	V2		0.64	0.43	0.37	0.31	0.27	0.25	0.23	0.23	0.19
	V3		0.68	0.47	0.37	0.30	0.25	0.23	0.24	0.24	0.20
	V4		0.83	0.52	0.38	0.31	0.30	0.27	0.25	0.22	0.19
	V5		0.67	0.47	0.39	0.34	0.30	0.27	0.23	0.23	0.19
2019	V1		0.74	0.46	0.38	0.31	0.29	0.26	0.23	0.21	0.18
	V2		0.78	0.48	0.39	0.32	0.29	0.26	0.23	0.21	0.18
	V3		0.58	0.41	0.36	0.29	0.25	0.22	0.22	0.21	0.18
	V4		0.79	0.52	0.38	0.30	0.28	0.26	0.23	0.21	0.18
	V5		0.79	0.51	0.40	0.33	0.29	0.26	0.23	0.21	0.18
2020	V1		0.67	0.45	0.37	0.30	0.27	0.25	0.23	0.21	0.18
	V2		0.69	0.46	0.38	0.30	0.27	0.24	0.22	0.21	0.18
	V3		0.64	0.44	0.35	0.30	0.26	0.22	0.22	0.21	0.18
	V4		0.80	0.52	0.39	0.30	0.25	0.22	0.20	0.19	0.16
	V5		0.71	0.49	0.41	0.33	0.28	0.26	0.23	0.22	0.18
	PE	1	0.50	0.33	0.25	0.20	0.17	0.14	0.13	0.11	0.10

Source: Calculation based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

The third variant (variable X3, i.e. capital) indicates the existence of oligopoly (IL8>IL7) in all years: the sequence of indices ILi is not monotonically decreasing function. However, the observed variable (capital), as residual of assets and liabilities, is the "worst quality" variable among the chosen ones. Therefore, having taken into consideration the other results from Tables 4 and 5, it could be said with great certainty that the results obtained by the CR3, CR4 and HH coefficients were confirmed, i.e. that the Serbian banking sector in the analyzed years is lowly concentrated. And this is a good foundation for competition development.

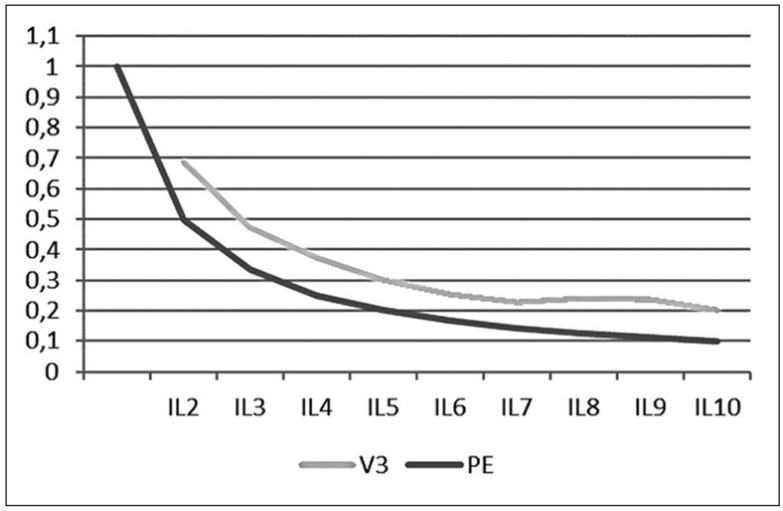

Figure 3. *Linda indices for capital and „perfect equilibrium" curve for banking sector, Serbia 2018*

Source: Based on financial statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

The graphical representation of the Linda index is also of great interest (see Figure 3). We choose the Linda indices for capital in 2018, the figure is very illustrative. It shows indices for capital, where, as shown in Table 3, indicates the suspicion of oligopolistic structures. Unlike the CRn indices, which are a monotonically increasing function as each following participant is added (CR1<CR2<...<CRn), The Linda indices form a broken curve (Figure 3). The area between IL and PE is called the "oligopolistic arena" and it even visually shows the difference between the real situation and an ideal, perfect competition.

It is important to denote that by the use of aforementioned method of market nuclei [Смарагдов et al. 2015] we get the main nuclei that consist from 9, 9, 7, 9, 11 firms respectively for chosen five variables. This result confirms the nucleus of seven leading banks in Serbia by capital.

The bank shares in the total banking sector capital are shown in Figure 4. They suggest that the first seven banks form an oligopolistic structure – the

seventh one in the range (Societe Generale) is greater by over 68% in terms of capital than the next, eighth one (Vojvođanska banka) (the shares are 7.2:4.7, while in 2018 it was 6.5:3.9). If so, of course, this could be a case of a so-called loose oligopoly, in which, by theoretical propositions, 6–7 firms participate in a market with a 70–80% share. In our case, this share for the first seven firms in 2018 is 68.4% and in I –IX 2020 67.9%, very close to the bottom limit of theoretical loose oligopoly. Therefore, such a conclusion can be drawn. The state of the banking market must constantly be observed, because the values of the HH coefficients, and even CR4, are close to being moderately concentrated. As shown previously, the National Bank of Serbia does so, although through the use of simple instruments.

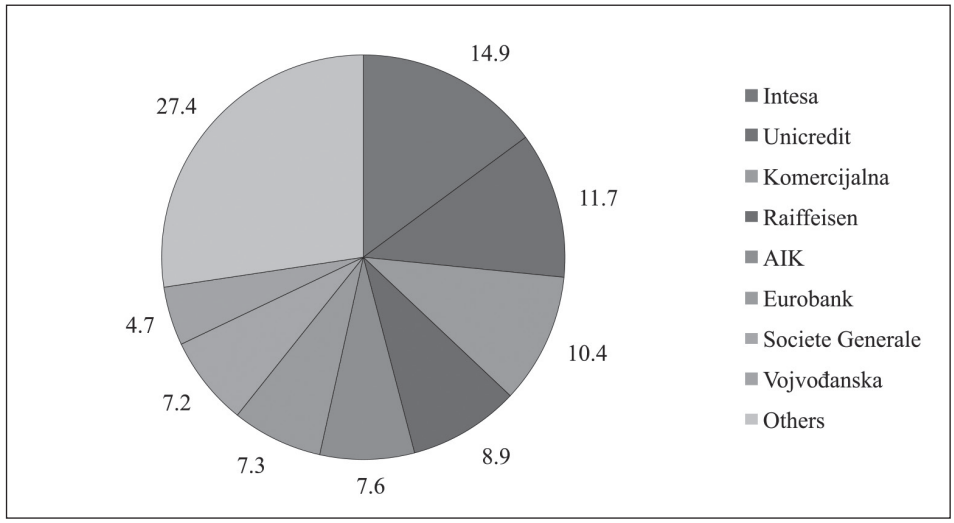

Figure 4. *The shares of leading banks in total banking sector capital in I–IX 2020*

Source: Based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

At the end we calculated the parameters of the Svetunkov's model (15), see Table 12. Identically for previous calculated indicators, here exist the significant differences of coefficients between the observed variables, as well as some lesser its divergent moves through analyzed period.

As we can see, coefficients have different values for chosen variables, and the differences not in the least are not significant. If we observe it moves through the analyzed period, we can conclude that these differences stand greater and complicated, particularly in relation to divergent moves. It can be seen for each of variables itself, also for the values of coefficients, which are very different in the sense of ascending or descending practically for each of observed variables.

Table 12. *Coefficients of the Svetunkov's model*

Total assets	2016	2018	2019	2020
b	0.170	0.151	0.160	0.152
a	0.168	0.149	0.173	0.172
Deposits	2016	2018	2019	2020
b	0.166	0.151	0.165	0.154
a	0.173	0.149	0.177	0.176
Capital	2016	2018	2019	2020
b	0.196	0.157	0.142	0.149
a	0.178	0.154	0.160	0.164
Operating income	2016	2018	2019	2020
b	0.164	0.171	0.163	0.155
a	0.163	0.158	0.173	0.172
Loans	2016	2018	2019	2020
b	0.158	0.157	0.163	0.159
a	0.167	0.150	0.176	0.177

Source: Based on Financial Statements, http://www.nbs.rs/internet/cirilica/50/50_5.html

CONCLUSION

Despite a multi annual downward trend in the number of banks, the banking market in Serbia is characterized by a relatively large number of banks (26). There are no prominently large banks among them. According to all the chosen indicators (total assets, deposits, capital, operating income and loans), the greatest share in 2020 (I–IX) is held by Banca Intesa 15.2; 15.4; 14.9; 15.5 and 15.9%, respectively. These results are somewhat lower than in 2016 (16.4; 19.6; 16.6; 17.0 and 15.8%, respectively). The concentration indices (CR3, CR4, HH, G, R, TH, CE, also Linda indices IL) indicate a low concentration degree, although close to being moderately concentrated, but also an absence of oligopoly, with the mentioned exception by the results of capital. Even though this does not assume the existence of true competition, these results point to good prospects for the creation and development of competition. In fact, we could state that our results in general confirm the results obtained by [Lončar and Rajić 2012] and [Miljković et al. 2013], which referred to three quarters of 2012, as well as those of [Ljumović et al. 2014], for the period between 2003 and 2012. However, we should take account of slight growth in concentration. It is difficult to compare the results of these works due to the differing approaches that were used, although the application of the HH index is a solid foundation for comparison in such cases.

Concentration in the banking sector can have many implications, among them on competitiveness. For that reason it is necessary, on the one hand, that regulatory bodies strictly monitor concentration degree trends, especially since the processes of acquisition and merger, i.e. consolidation of the banking sector can be expected to further intensify in the future. On the other hand, competition in this sector needs to be reviewed and analyzed in a more complex way, which

certainly cannot be reduced only to the degree of concentration. As banking competition is very complex, this paper should be considered as one of the first analyses of concentration and competition in banking, and in the Serbian financial market in general. We emphasize that this research continues our dealing with concentration and competition in the Serbian banking sector. However, we hope that it will be a research subject of other researchers. New approaches would, naturally, be desirable in such future research. On the other side, this may be also of some interest in the comparative analysis of the concentration and competition in Serbian and the banking sectors of the neighboring countries, as well the other former socialist countries, by the use of more indicators than for example in [Barjaktarović et al. 2013].

In addition to the fact that the concentration degree is not high despite its increase, more attention should be paid to the actions of banks in the market, which falls under the scope of regulation and control. In particular, the issues of collusion and deals between banks should be dealt with, although they have not been considered in this paper.

At the end, there is necessary to emphasize different capability of information respective indicators and its different discriminative power. In future research this is fact that is it undoubtedly necessary particularly not to ignore. The second problem concerning to choice of variables that should be the basis for specification of the degree of concentration. The consideration in this article shown that this choice is not unimportant, as prior else mostly was believed. Therefore this choice set to future research one important question.

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A CENTURY OF PHILOSOPHY OF LAW AT THE FACULTY OF LAW IN BELGRADE (1841–1941)

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SUMMARY: Philosophy of law has always had a prominent role and important place at the Belgrade Faculty of Law, since its very establishment. Over time, its idea has undergone many transformations, which confirmed its wealth, its thematic diversity. That helped to fortify awareness of the unbreakable connection between law and philosophy, as well as of the need for the legal philosophical education of the Serbian young jurists. Belgrade Faculty of Law, still is a true hotspot of legal philosophical thought, its development and enhancement always had its ear on relevant events and the mainstream of European legal philosophy, trying to provide something new and original in the process. As a whole, the philosophy of law cultivated at тхат Faculty constitutes a high-class spiritual legacy – not as a stone monument that should be visited and bowed before from time to time, but rather as a living, effective heritage which should constantly be returned to in dialogical reconsideration, interpretation and evaluation.

The philosophy of law at Belgrade's Faculty of Law is as old as the Faculty itself. If someone would, perchance, doubt that fact, of the utmost cultural, historical, spiritual, scientific, pedagogical and educational importance, it would be enough to remind them that Jovan Sterija Popović (1806–1856) at the very source of legal studies in Serbia (1840/1841), i.e. at the very beginnings of the then-Legal Department of the Lyceum and subsequently the Faculty of Law, gave lectures under the title *Natural Law*. Sterija perceived natural law as eternal, general and unchangeable. It is the pattern for positive law. From the point of view of the individual, law according to Sterija is primarily "permission," that is the moral capacity of acting toward other individuals.

Soon after Sterija, Dimitrije Matić (1821–1884), his former student, in 1848 became a professor of "domestic law." Three years later (1851), he published a text in the *Herald of the Serbian Letter and Wisdom Society* entitled "A brief overview of the historical development of the principles of law, morality and state, from the olden days to our time," in which he also presented his own extremely liberal legal philosophical views. The core of his interpretation of law, his guiding idea, was freedom. Moreover, he equalized law and freedom and developed his own legal philosophical point of view on that (Hegelian) basis.

After Sterija and Matić, with whom Philosophy of Law flourished at the Faculty, the second half of the 19th century brought "low tide." Nevertheless, legal philosophical questions were discussed within the Encyclopaedia of Law. Gligorije Geršić (1842–1918) provides a nice example for that.

Although he predominantly dealt with private law in the broadest sense of the word, Živojin Perić (1868–1953), diving down to the very core of law, reached his legal philosophical standpoint which is dominated by the idea of law and legality. Perić raised respect for the law as a rational creation so high that he turned it into a moral duty. In addition to legality, and thereby legal security as a value in and of itself, Perić cared equally about individual rights, and added pacifism to the mix, dismissing the use of violence both without and within.

In the first few decades of the 20th century, Paris was the meeting place of a considerable number of young Serbian jurists, who earned doctoral titles at the Sorbonne by defending highly valuable and notable doctoral dissertations. Among them were some who devoted their theses to the big questions of philosophy and legal theory, and later went on to become teachers at Belgrade Faculty of Law. Distinguished figures in this group were Živan Spasojević (1874–1938), Božidar S. Marković (1903–2002) and Radomir D. Lukić (1914–1999). In his Paris thesis (1911), Spasojević discussed the problem of analogy and interpretation, proposing a truly thorough solution: abandonment of the traditional definition of law. Law should be seen as a sociological creation filled with purpose. Božidar S. Marković in his 1930 Paris thesis, dedicated to the relationship before the term justice and the development of positive private law, developed a vitalistic concept of justice derived from a central principle of Spinoza's philosophy. No less successful and provocative was 25-year-old Radomir D. Lukić, when in his 1939 Paris thesis on the obligatory power of legal norm and the problem of objective law he dealt with one of the key legal philosophical problems, the problem of law–value, law–ideal, i.e. objective law. He returned to that problem half a century later and considered it in a systematic manner.

Aspects of philosophy of law, touching on or even partial processing of certain legal philosophical themes can also be found with former professors of Belgrade Law Faculty for whom philosophy of law was not at the very center of their interest. On this occasion the names of our faculty "Russians" – Fyodor Taranovsky (1875–1936) and Evgeny Spektorsky (1875–1951) should also be mentioned.

One of the greatest representatives of legal philosophical thought at Belgrade Law Faculty between the two world wars was Đorđe Tasić (1892–1943). Refusing to accept firm boundaries between the disciplines dealing with the origin and essence of law, its purpose and value – and they are theory, sociology and philosophy of law – in many of his works he searched for a comprehensive approach to the legal phenomenon.

No one has disputed yet the opinion that at the very summit of the legal philosophical legacy of the Faculty, or to be more specific: at the very summit of Serbian philosophy of law so far, is Toma Živanović (1884–1971). That opinion and that assessment are firmly based in the fact that Živanović, who with his tripartition introduced an important novelty in the science of criminal law, managed an autonomous accomplishment in the philosophy of law as well, to develop and complete an entire legal philosophical system. Živanović obviously started from the notion that philosophy of law must have two main characteristics: systematicity and syntheticity. His synthetic philosophy of law is an unusually complex and branched out spiritual creation – a logical structure consistently

executed by the method of generalizing abstraction. Its goal is to systematically and synthetically encompass not only the whole of law, but knowledge of it, too. Hence the idea of its duality, i.e. division into philosophy of law and philosophy of legal sciences, as the guiding idea of Živanović's legal philosophy. Each of them is accompanied by science. Therefore: philosophy of law, science of philosophy of law, philosophy of legal sciences, science of philosophy of legal sciences. Furthermore, the science of a common genus of philosophy of law and philosophy of legal sciences, i.e. science of synthetic philosophy of law proved to be necessary.

Radomir Lukić, to an extent, went down the same path in the philosophy of law as Toma Živanović. He and Živanović shared the belief that philosophy of law needed to be systematic, to be developed and presented in the form of a system. However, the difference between them lies in the fact that Lukić thought philosophy of law had to be preceded by a system of general philosophy whence it should emanate and be indistinguishably connected with, which was not the case with Živanović. That is why in his twilight years he undertook constructing such a system as the presumption and condition of philosophy of law. From that effort, from long and persistent work, came Lukić's *System of Philosophy of Law,* published in 1992. In line with the initial idea, it consists of two parts. The first showcases Lukić's philosophy in general, while the second presents his philosophy of law. There is no need to go into Lukić's general philosophy here, especially not his ontology of the real world, the backbone of which is the teaching of the triune (matter, energy and spirit). It is enough to focus on his philosophy of law, and that too, of course, in a completely summary way. Like his general philosophy, Lukić's philosophy of law is also divided into three disciplines: ontology, axiology and gnoseology of law. The first of the three aforementioned is the most important. There Lukić returned to the same question that had consumed him in his youth, during the making of his Paris thesis on objective law. In accordance with the supra-experiential orientation of the philosophy of law, objective law personifies a special legal supra-experience and thus exclusively belongs to the "subject" of the philosophy of law. That law, as harmonious order stemming from the essence of the world and connected with its goal, is the privileged field of legal philosophy. Defined by the essence of the world, objective law is to an even greater extent defined by the goal of the world which is also the supreme value. If Lukić found that goal in the existence and sustenance of the biggest possible number of as perfect as possible beings, primarily people, in their individual perfection, in the complete development of all characteristics of their nature, then objective law is the means to that end, then it contains the norms and rules which enable the most complete achievement of the goal of the world.

KEY WORDS: Philosophy of law, natural and rational law, law and justice, aretology, *dikeology*, encyclopaedia of law, sociology of law, 1835 Sretenje Constitution, Faculty of Law, Belgrade, Serbia, 1841–1941

Law is, therefore, freedom, and vice versa: freedom is law.
Dimitrije Matić

I

Philosophy of law among the Serbs does not begin only with the founding of the Belgrade Faculty of Law. There were serious and significant and therefore from a spiritual, cultural, political and historical standpoint inevitable legal

philosophical efforts and achievements even *before* its founding, just as there were such efforts and achievements *outside* the Faculty after it was founded.

Where to look for the beginnings of philosophy of law in Serbia, which exact historical period do they belong to, when can there be talk of its birth and formation – one cannot easily and in a completely reliable manner answer those questions. It is especially not easy to do if philosophy of law is taken in the sense of a fully shaped and clearly defined philosophical discipline, separate and independent from other related disciplines, e.g. political philosophy. In that strict sense there could barely be talk of philosophy of law in Serbia before the late 1830s! On the other hand, if the term *philosophy of law* is taken too broadly and thus dissipates to the point of being unrecognizable, there is a danger of going too far and acting arbitrarily in seeking its origins here. That is why it is methodically recommended and fruitful in an investigative sense not to take philosophy of law in the strict disciplinary meaning of the word, but also not to step beyond the boundaries of conceptual reflection on the main issues of law and state.

If that is done, the necessary guiding thread will be found which may save us from extremes and point us to the beginnings of Serbian philosophy of law. Then it will be revealed that those beginnings, apparently, date back to the last decades of the 18th and first decades of the 19th century. Those beginnings, those roots, should be sought in the political, cultural and spiritual space of the Vojvodina Serbs, whose interests and aims also found their legal philosophical expression.

Given the nature, purpose and clearly defined boundaries of this review, this, of course, is neither the place nor the opportunity for a more extensive presentation on the subject. Nevertheless, it will not be excessive if at least some important names are mentioned[1]. So, for example, at the end of the 18th century Pavle Đulinac advocated the principle of absolute state and absolute power by the grace of God as the best form of state fit to secure the peace and well-being of all. Petar Stojšić had a similar view, who based on the Bible equalized submission to the authorities with pleasing God as the sole source of all power. Efrem Lazarović completely agreed with him.

Being supporters of (essentially medieval) theistic natural law as the basis of legitimacy of state absolutism, these authors obviously remained indifferent to the new spirit of the time they were living in, to European Enlightenment. The matter is quite different where Dositej Obradović is concerned, who, starting with the basic ideas and demands of rationalist natural law and using its conceptual structures (natural state, social contract etc.), came to an enlightened perception of the state and its tasks. Established on a natural philosophical norm, that state should exercise the rule of law and thereby contribute to spreading well-being and general benefits. Its determination, as we can see, is practical and utilitarian, but its role is not exhausted in that. The state the great Serbian enlightener had in mind, in which the government is focused and

[1] The presentation relies on the following highly informative, documented and clear writings of Rade Radović, which on their part are based on the abundant references listed therein: [Радовић 1939: 409–425] and [Радовић 1939: 449–464].

represented in the ruler's person, is at the same time called upon to work on achieving freedom and culture. It is, therefore, enlightened, and only then is it justified. In the same spirit, albeit not in an identical way, thought Lazar Vojnović, a professor of state and international law and criminal procedure at the Great School in Belgrade. He adopted the idea of man's social nature and derived the state and law from the urge for association (*appetitus societatis*). Like Dositej, he also considered the ruler the bearer of sovereignty, but the state authorities which are to perform justice rather than merely ensure "general harmlessness," are limited by natural laws. Written positive law is also bound by the norms of natural law.

Even when it is abstract and "eternal", philosophy of law is not beyond space and time, beyond political events and historical currents. It articulates political aims and needs, just as it affects their presentation and shaping. The First Serbian Uprising, the resurrection of the Serbian state as Stojan Novaković called it, with which the process of state, political and legal constitution of the Serbian people finally and unstoppably started, after centuries of bondage, also incited legal philosophical thought in Serbia and had its own legal philosophical dimension. A fine example and confirmation of that is the noble person of Božidar Grujović (Teodor Filipović)[2].

A highly educated jurist (doctor of law, appointed as a professor in Kharkov), having come to the rebellious Serbia Grujović started working on establishing one supreme civil government that would be capable of limiting the personal rule and arbitrariness of the "lord." He was rightfully called "the main bearer and perhaps the true parent of the idea of establishing the Council as the central country government." [Новаковић 1907: 7].

Thanks to Protoiereus Matija Nenadović, Grujović's draft of the organization of the Governing Council and the speech he had intended to give at its establishment were preserved. No matter that what Grujović had predicted did not materialize completely, no matter that his speech remained unspoken, there is no doubt that he is the founder and – it is not an exaggeration to say, as will be immediately evident – a true apostle of the rule of law and the principle of legality at the very birth of the state of the First Serbian Uprising.

Grujović's understanding of the law, his glorification of legality are certainly rooted in the democratic and rational natural law of the Age of Enlightenment. Only with that in mind can the legal philosophical views and principles he advocated be comprehended. In the aforementioned speech he says: "Law is the will of the land which orders good and forbids evil to all the land. The first, therefore, master and judge in the land is the law. The lords, and leaders, and the Governing Council (general office), and the priests, and the army, and all the people shall be under the law, under one and the same law. And this wise and just law shall be our first and foremost master and commander. It will defend us and preserve our freedom and will. Where there is good constitution, i.e. a good establishment of law, and where the government is well organized

[2] For literature on Grujović and his activities, see: [Караџић 1965; 11 and onward: Ненадовић 1951: 116 and onward, 141 and onward, 186; Новаковић 1907: 7 and onward, 81 and onward; Радовић 1940: 40–48; Ристић 1953; Чубриловић 1982: 65, 75].

under the law, there is freedom, there is will, and where one or more command at their own will, give no regard to the law but rather do as they wish, there the land has died, there is no freedom there, no security, no good, there is banditry and brigandry there, only under a different name."

Instead of personal arbitrariness, Grujović asks for the rule of an impersonal law. It must be based on reason and justice, precisely on what the new age theory of natural law highlighted as the only source and highest purpose of law. That is why Grujović will say: "Reason, therefore, and justice are two halves of well-being. Where there is no reason and justice, there is no law." A product of reason and in line with justice, the law not only embodies the idea of law but rather, precisely because of that, puts everything, including the state, under its rule. Only in that way can freedom and security be guaranteed, only such a law provides good to the people and the state. And since it stems from reason, the law entails equality. Thus it turns out that Grujović's notion of the law is driven by extremely modern political ideas, the same ones (besides brotherhood) based on which the French Revolution began some 15 years prior. The assumption that Grujović's efforts regarding the materalizing of the principle of rule of law were guided by a desire to connect the "Serbian revolution" [Ранке 1965] with the democratic direction of the French Revolution, with all reservations, is not unfounded and is more than an attractive inkling[3]. In any case, Božidar Grujović is not only the first Serbian author of the Constitution, but also a man who brought to the rebelling Serbia the democratic idea of law and legality. His tragedy is that he had come with a modern idea to an underdeveloped and disordered political situation that did not allow that idea to be realized. That, however, in no way diminishes the importance of Grujović's theoretical and practical work. It is to his everlasting credit that, on the grounds of enlightened natural law, he even advocated the undisputed rule of the law, thereby becoming the founder of an anti-authoritarian tradition in Serbian political and legal philosophy.

What Grujović started, Jovan Stejić later continued. With him we find a developed form of thought on man's natural rights as a dam against arbitrariness. Born with man, those rights are stable, clear and eternal [Стејић s.a.: 82]. The mind is their interpreter ("decipherer"). To live by those rules (and Stejić particularly debates the right to education and culture, the right to freedom and equality, the right to freedom of learning, writing and thinking, the right to honor and a good name, the right to an estate and acquired property, the right to safety and defense, the right to marriage, the right of parents and children) means to live in freedom. "Living by the rules of nature is true freedom... Where they are stamped on, forbidden and disregarded, there is sickening highhandedness, and severe discontent of many people, born out of misery, injustice, bad governance, unrest, and necessity." [Стејић s.a.: 82–83].

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[3] In this chapter, however, Milovan Ristić leaves no room for doubt and explicitly claims: "He (Božidar Grujović, *D. B.*) was a man who wanted to install organization according to the progressive and democratic principles of civil society which are proclaimed in the French Democratic Revolution." [Ристић 1953: 60]; also [Баста VIII, 2020: 412–424].

Natural righs are "the foundation and pattern" of state laws. Without the former, the latter cannot be either good or long-lasting. If, however, they are in tune with natural rights, if they are "wise and good," civil laws are "the guardians and defenders of freedom." [Стејић s.a.: 91]. Already at first glance it is clear that Stejić is dealing with a legal philosophy of freedom that rests on liberal natural law. Stejić was consistent in his demand that through natural rights, unalienable and exempt from the reach of the government, the arbitrariness of the authorities be reined in on the one hand and that the unbound development of all of man's capabilities be enabled and secured on the other. So much so, that his teachings on natural rights appear as a part of his ethical doctrine.

On the same line of restraining absolutist power and state arbitrariness, i.e. on the line of defending and securing individual liberty, alongside Božidar Grujović and Jovan Stejić was Dimitrije Davidović, the author of the 1835 Sretenje Constitution. Reconciling individual freedom with the interests of a government, in this case monarchical, that was a problem of the Constitution for Davidović. Achieving that required a division of government. Davidović, who coined the term "constitution" in Serbian, shared Montesquieu's belief that there can be freedom only where the three governments in a state prevent (constrain) each other and balance each other out. A supporter of enlightenment, he ascribed to the state a cultural mission, stressing freedom and the individuality of a person as the highest goal of the state and law.

Among the first (and possibly the first) to systematically present philosophy of law in Serbia was Jovan Filipović. It seems that his name ought to be tied to the final independence and disciplinary shaping of philosophy of law in Serbia of that time [Филиповић 1839[4]]. It is also unusually important and worthy of attention that Filipović viewed legal philosophy in the spirit of Aristotelian tradition, i.e. that he considered it a part of practical philosophy. The consequence of that was a close tie between philosophy of law and ethics, and so with Filipović the very idea of law emanates from the idea of moral good [Филиповић 1839: 32]. Thence follows that we are entitled to all that the moral law prescribles and to all that is permitted, as well as that, vice versa, in no way can we be entitled to what the moral law forbids [Филиповић 1839: 34].

Filipović adopted a division of practical philosophy into aretology as a science of duties and philosophy as a science of natural or rational law "which is completely opposite to the empirical or established." [Филиповић 1839: 38–39]. It should be noted that he puts an equals sign between natural and rational law, which unambiguously shows that he followed the transformation of the former into the latter carried out in the legal philosophy of German idealism. The only source of law, just like morality, is the practical mind. That is why ethics and philosophy of law share the same root, that is why they cannot be separated from each other. Filipović divides philosophy of law itself into two categories: philosophy of law of the general private and philosophy of law

[4] A second, more extensive edition was published in 1863.

of the general public, while labeling its method as "synthetic," allowing for the possibility of the critical and analytical method also being applied in processing certain issues [Филиповић 1839: 52].

The difference between "subjective" and "objective" law plays an important role in Filipović's legal philosophy. Subjective law means the possibility of "acting in accordance with the idea of law," whereas objective law "is law in its very effect" [Филиповић 1839: 55–56]. By its very essence, subjective law can only apply to what is aligned with the true and just, i.e. what is in line with the idea of law. The most important of the innate rights, which holds the highest rank in Filipović's opinion, was *"the right to humanity or morality, i.e. the right to exist as human and to be human:* because humanity or morality are our choice." [Филиповић 1839: 62].

Jovan Filipović is a strong representative of the point of view according to which legal philosophy and ethics are one. Being one of those "who adhere to the unity of ethics and natural law," those who "rest all matters on a moral foundation" [Филиповић 1839: 56], he assigned the idea of law the task of being not just company but also an assistant to the moral idea, to support it, fortify it and enable it to be fulfilled freely. If ethics commands duties, if there is also a desire to perform them, there must also be a *possibility* to realize them. That possibility, that "to be able to," contains, according to Filipović, the essence and calling of the law. Such a concept of law and consequently such a concept of philosophy of law could only be created in the way that took the practical minds as free and active as the starting point.

Besides Jovan Filipović, a prominent representative of rational law was Mihailo Hristifor Ristić. Under the open influence of Kantian Wilhelm Krug and leaning on him, he also accepted the transformation of natural into rational law and on those grounds built his own philosophy of law with definite liberal elements. The creator of a comprehensive philosophical system, which deserves attention not only because it is so rare in Serbian entire philosophy, Ristić, of course, presented his legal philosophy as an integral part of it, too. He did so under a quite special title comprising two Greek words: *dikeology* [Ристић 1860]. If that was his way of recalling the birthplace of legal thought, its source, and if we wanted to put to the forefront the fact that legal philosophy's task can be nothing other than seeking the logos of law (*dike*), then he had sufficient strong reasons for choosing that title.

In Ristić's opinion, *dikeology* is a part of moral philosophy, it showcases the external legality of human acts, examines their external compliance or non-compliance with natural law (cf. § 1). He divides it into clean and used (i.e. practical or applied, as we would say today). While the former considers the legality of human acts only with their end cause in mind, the latter takes into account the circumstances in which they are carried out. What is certainly crucial for insight into Ristić's general legal philosophical standpoint are his presentations within pure *dikeology* (§§ 2–33). Ristić's definition of the term "law" should first and foremost be mentioned here. It will immediately become evident that it is given under the sign of juristic activism, because law is defined as "the power to act based on the law" (§ 2). Aside from the element of action,

it is noticeable that law stems from the law, not the other way round. That law may, however, be double: either it is given by "nature itself" or by man. Hence the existence of two types of law. It is "either given by nature and is called *natural*, or the cause of its being is in the law of man, in the law of will, and is then called *positive, law of will*" (§ 2).

The act that for Ristić natural law, by its origin, content and essence, is rational law, is crucial. He says: "The natural law, on which natural law is based, is prescribed by the mind. Thus, therefore, man is by nature entitled to rights if he has a mind, which gives him law and whereby he can recognize the law" (§ 3). The mind is man's nature and thus the highest legal source. When asked about the reasons for the existence of natural law, Ristić replies by stating two such reasons: "1) the mind exists and the man it is in. 2) If there were no law in and of itself, there would be no law for circumstances, i.e. positive law" (§ 4).

Ristić solves the classic problem of the relationship between natural and positive law in the spirit of the predominant natural legal tradition. Due to its characteristics (general applicability, unchangeability and unconditionality), the primacy unambiguously belongs to natural law, and so positive law, stemming from the will of the legislator "which may be unjust," must not contradict it (§ 3). Ristić sees – one might also say: personalistically – the purpose ("goal") of natural law in "securing the particularity of an idividual being" (§ 4). All acts by others which oppose this purpose are simultaneously unlawful and illegal. Its universal character entails every individual's right to maintain and develop their personality. That right, however, is not unlimited. It goes only to the point where it begins to endanger or prevent the right of other individuals. Thus Ristić, completely in the sense and on the grounds of Kant's transcendental teachings on law, emphasizes mutual restriction as a requisite for the possibility of law. In corollary § 4, he says: "Man, therefore, has a *sphere of law* which is also called the *sphere of legal freedom* (die Rechtssphäre). Only within the boundaries of this sphere can man act lawfully."

The concept of a legal sphere of free action led Ristić to the supreme legal principle[5]. It goes like this: *"*You may do all that does not offend the personal dignity (persönliche Würde) of another man – or that does not disrupt the sphere of external freedom of the other..." (§ 5). When expressed differently, when reversed, this principle clearly reveals that law is inseparable from force and enforcement, that legal duties go together with it. In that phrasing it goes: *"*You may to such an extent limit anyone in using their external freedom that he does honor your personal dignity – or, that he does not disturb the use of your own external freedom..." (§5).

Ristić's supreme legal principle, as it is adopted and expressed, is very important. As far as it is known, he is the first to have included to the Serbian philosophy human dignity as a legal category of the highest order. That is Ristić's undisputed merit and for that he deserves full attention. Generally speaking, his *dikeology* – which is not just the science of law but also of justice,

[5] Intellectually honest, Ristić openly admits to having "borrowed" that principle from W. Krug.

and contains views on the organization of the state – is imbued with the idea of a free person. Law, based on the mind, is a means and condition of its (self-) realization. In service of that is also the state, which must rest on equality and freedom (§ 27), which is created by a contract and the sovereignty of which is limited by the realization of rights (§ 25). All this shows that Ristić's *dikeology* was in tune with the liberal spirit of the time in which it was created. The fact that it has somewhat fallen into oblivion and has been left without any significant influence, that is something that does not speak about it, its content and value.

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Based on all of the above, there is no doubt that the history of the Serbian legal philosophy – which is, unfortunately, still unwritten and is still waiting to be processed in a comprehensive and systematic way – is broader and in equal measure richer than the legal philosophy at the Faculty of Law in Belgrade. But there is also not even a shred of doubt that since it was founded and started working, the Belgrade Faculty of Law has been a true hotspot of the Serbian philosophy of law, a place where it was carefully and persistently nurtured. The creation of the faculty gave philosophy of law its institutional auspices, which inevitably had a beneficial impact on its development. A consequence of that was, albeit not always continuous and even, the rise of legal philosophy at the faculty. It is, therefore, not that it simply "existed" there or that some of the faculty teachers "dealt with it". It is about something much more important and far-reaching: philosophy of law had a prominent place at the Belgrade Faculty of Law in the first 100 years of its existence, it marked the faculty and was a noticeable and important component of its entire spiritual image and habitus in that period. Furthermore, but no less deserving of attention, it holds a central place in all of legal philosophy in Serbia; it is its main, i.e. all-defining stream.

The task of this debate is to provide introductory information and initial explanations which – so the author hopes – may be of use and assistance in understanding the historical development of legal philosophy at the Belgrade Faculty of Law in the time span of a century. That is why it should be taken as a sort of guide, which is to help one find their way around the subject matter and facilitate orientation. It is a historical overview, but not the history of legal philosophy at the faculty itself. Ideally, it can be taken as a supplement to that history. That is illustrated, among other things, by the fact that it was designed and written as a string of brief intellectual portraits.

II

Since the very founding of the Lyceum in Serbia in 1838, philosophy and law were in a close relationship. That is a first-class cultural, historical, spiritual and scientific fact, the importance of which, of course, is not just symbolic. The founders of the Lyceum, from which the "Serbian university" (the idea and need for which was first publicly presented in 1850 by jurist and philosopher Dimitrije Matić, a student and subsequently professor at the Lyceum) developed

were, without a doubt, aware of the close connection between philosophy and law. It was already evident in the fact that in the draft timetable of classes, which the "minister of enlightenment" (education minister) submitted to the Prince on September 18, 1838, under item 4) expressly envisaged "Natural Law" [Пржић 1940: 3], a discipline whose origin and nature have always been philosophical.

That initial, perhaps not completely formed awareness of the unity of philosophy and law found its best and most beautiful manifestation two years after the founding of the Lyceum. After fourteen students of the first class of the Lyceum finished their second year of philosophy in July 1840[6], Stefan Radičević, the education minister at the time, submitted a proposal to the Council that another class be founded for them, where legal sciences would be taught, i.e. where "the same students of legal sciences for one more year would absorb [as much as possible] from skilled professors and graduate, so that the knowledge they have gained so far they may solidify and multiply, and so that they may be educated in that way for becoming perfectly good and learned members of the Fatherland" [Пржић 1940: 4]. The proposal was first accepted by the Council and then by Prince Mihailo too, and so philosophy graduates were enabled to "study for one more year judicial and political sciences". That was how the "Legal Class" of the Lyceum was created, in which, out of those fourteen philosophy graduates, nine students enrolled in the autumn of 1840.

The fact that the creation of the Faculty of Law in Serbia was marked by a strong link between philosophy and law, that it was, as one might reasonably say, marked by philosophy of law, is notably confirmed by another circumstance. Writer Jovan Sterija Popović who, alongside Jovan Rajić, had been accepted as a "temporary Professor of legal sciences at the Lyceum" at the beginning of November 1840 started giving lectures on Natural Law, i.e. on the subject already envisaged by the curriculum for the Lyceum dated September 18, 1838. An examination of the content of those lectures, the manuscripts of which have been preserved, unambiguously shows that Sterija's Natural Law, which encompassed the main terms and institutes of private and public law, and was therefore the original form of this discipline which would later be taught at the Faculty of Law under the name Encyclopaedia of Law, imbued with the spirit of unity of law and philosophy. Thus it may be said that with his Natural Law Jovan Sterija Popović laid the foundations of and provided a decisive incentive to legal philosophy and its future development at the Belgrade Faculty of Law[7].

It did not take long for the seed sown by Sterija to bear fruit. In 1848, Dimitrije Matić, Sterija's former student and subsequently friend, was appointed as professor of "national law" at the Lyceum. Taking on teaching work, Matić considered it to be highly necessary that he first provide his listeners with an overview of the historical development of the ideas of law, state and

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[6] In 1838 there was only a proposal to create "the first class of philosophical sciences." [Пржић 1940: 3] .

[7] On Sterija as a legal philosopher [Лукић 1957: 1–14]. Basta reviewed Sterija's basic idea of natural law more extensively in his paper The Idea of Natural Law with Jovan Sterija Popović [Баста VIII, 2020: 425–451].

morality. Thanks to that circumstance Matić wrote A Brief Overview of the Historical Development of the Principles of Law, Morality and State, from the Ancient Days to Our Time, published in the *Herald of the Serbian Society of Letters and Wisdom* (volume III/1851, 63–130). Although Matić's legal philosophical concepts can be found in his other works, especially in *The Principles of Rational State Law* (Belgrade, published by the Serbian Bookprinting Society, 1851), they are, of course, most completely and most systematically presented in A Brief Overview[8].

One cannot help but notice the structure of Matić's treatise. Having provided a general philosophical view of law, morality and the state on the first few pages, he dedicates the middle and biggest part to presenting (and partially critiquing) the main currents and thinkers from the history of legal philosophy (from the Pre-Socratics to Kant and Fichte), and finally, on the last few pages very fruitfully formulates his own legal philosophical standpoint. As it will be seen immediately, that standpoint is – basically and predominantly – Hegelian, although traces of Spinoza, Leibniz, Kant and the Historical School of Jurisprudence can easily be identified in it. Standing under a strong influence of Hegel's thought, primarily Hegel's philosophy of law and philosophy of world history, Dimitrije Matić strove to add to his Hegelian legal philosophical framework elements he had found in the works of other philosophers, which he considered unavoidable for a philosophical understanding of the law. More eclectic than synthetic, that attempt by Matić deserves full attention and a high mark as the most prominent example of modified Hegelianism in Serbian legal philosophy of the 19th century[9].

The basis of Matić's philosophical concept of the law is freedom. Moreover, it would not be an exaggeration to say that the concept is characterized by the true enthusiasm of freedom. It seems that in Serbian legal philosophy as a whole no one, neither before nor after Matić, advocated the idea and prospect of freedom so strongly, decisively and nobly like he did. Perhaps that does not

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[8] Matić as a legal writer was extensively dealt with in recent times in Serbia by Prof. Božidar Marković in his monograph *Dimitrije Matić. The Portraite of a Jurist* [Марковић 1977]. Marković's book is marked, among other things, by moderate judgement and balanced conclusions, which rectified some earlier unilateral or too ideologically intoned views on Dimitrije Matić. Prof. Marković reiterated his main thought and results of that book in an article entitled Dimitrije Matić – Life and Work, written for the Classics of Yugoslav Law series in the *Pravni život* (Legal Life) journal. The article was published in edition 4 (1987), pp. 487–506. – See also: [Јеремић 1966: 7–19], [Стојковић 1972; especially 42–45, 112–118]. – A valuable source of data on Matić's life and work can be found in a speech by Stojan Bošković, Matić's friend, given at a ceremonial session of the Serbian Learned Society two years after Matić's death. What should also be highlighted are Bošković's critical observations which particularly pertain to Matić's dependence on German metaphysical philosophy, primarily Hegel's, as well as to Matić's overlooking of the accomplishments of natural sciences and the inductive method. See: [Бошковић 1889]. As for Bošković's critique: [Бошковић 1889: 41 and onward].

[9] Božidar Marković [Марковић 1977: 41] wonders at how in A Brief Overview Matić "at no point mentions Hegel and his teaching of law, despite the fact that Hegel is one of the greatest theorists of state and law and that Matić... is simply enchanted by him as a philosopher". Perhaps that fact, as insteresting as it is strange, may be explained precisely by the fact that in the field of philosophy of law Matić was Hegelian to such an extent that he did not deem it necessary to particularly mention or cite Hegel.

apply equally to all periods of Matić's activity and to all his legal writings, but it is certainly the alpha and omega of his legal philosophical point of view presented in A Brief Overview. On a foundation of ontological dualism, i.e. division of the world (reality) into nature and spirit, Matić says: "Law belongs to spirit, it is not a product of nature, *rather it is spiritual.* The main characteristic of nature is *gravity;* conversely, in spirit is *freedom;* and law falls under the domain of spirit. *Law is spirit, spirit is freedom, and freedom is again law.* Freedom is predominantly a characteristic of law." (121–122).

Of course Matić did not stop at this general and somewhat abstract definition. Answering the question of the essence of freedom, he says, wholly in the spirit of Hegel's philosophy: "Freedom is: *that I am and when I am myself with another, that I am free in something else as well.* Freedom stems from the contrast of what is *subjective and what is objective;* it is when the subjective exists in the objective" (122; all the underlining, earlier and upcoming, is Matić's). Having drawn a line between theoretical and practical freedom, with the latter consisting of "our thoughts and *our understanding are realized,*" Matić stresses that what belongs to law is "practical freedom," which is, again, the domain of will (123).

On his journey to the concept of law, Matić somewhat engages in consideration of the anthropological problem. In his opinion, freedom, albeit man's "most becoming characteristic" (128), is still not the only one; man is also a being of urges and must satisfy them. Rationality and true freedom are nothing else but "man, by satisfying an urge, does not want the urge, but rather that which is general, the mind" (129). Contained herein is the condition of the possibility of law. Matić writes: "The general or the mind demands: *that my freedom is in harmony with the freedom of others.* It is, therefore, the understanding of law: *that I satisfy my urges only to the extent that the satisfying of my urges does not disturb another, i.e. I should want a free will that wants the freedom of others, too.* Law is, therefore: *restricting only arbitrariness,* but not freedom, because what it wants is precisely freedom, i.e. rationality... *Law is, therefore, freedom,* and vice versa: *freedom is law*" (129–130).

As we see, freedom is at both the beginning and the end of Matić's legal philosophical deductions, it is both the starting and end point of his legal philosophy. It would, however, be wrong to think that Matić's concept of the law as freedom remained outside of time and outside of history. In this regard, too, he was Hegel's follower. Together with his role model, he perceived philosophy of law as being unbreakably tied to philosophy of history, where he saw the former as an integral part or "moment" of the latter. That is clearly visible and properly confirmed in those places where Matić determines the relationship between the rational and the positive law. After a historical overview of the main ideas and thinkers of legal philosophy, he writes: "Now to speak a little about the relationship between *rational and natural law. Philosophical law is rational, whereas natural is law written for certain peoples;* their determination is: to both become identical; it is the task of world History, as a world judge, to produce that identicalness, *because world History is nothing other than the development of rational ideas, a gradual raising of natural law into rational law"* (117).

Differentiating two basic types of law, rational and positive, Matić rejects extremes and one-sidedness, he does not absolutize either. Just like narrow legal positivism is alien to him, so is exclusive legal rationalism. He saw a solution in the gradual historical development of law, in achieving *"earthly equality* between rational and natural law" (118). He argued in favor of "resolving that counterposition between them", which was why he praised and appreciated Eduard Gans, who "mediated between the *Historical School of Jurisprudence and natural law*" (119). Generally speaking, Matić viewed the truth of law in both its idea and in its life, history.

As a legal philosopher, not only was Matić up to date with the main currents of legal philosophy of his time, but rather he himself stood at its level. The adoption of Hegelianism as the main orientation did not prevent him from fruitfully receiving the achievements of other philosophers and schools. An open and uncompromising spirit (in the good sense of the word!), Matić was prone to, staying away from exaggeration or straying in any direction, build a legal philosophical standpoint with freedom as the backbone and guiding idea. Such a legal philosophy could only awaken and incite awareness of the need for constant enhancement and improvement of the legal order, in which there will always be enough room for a free and active expression of man and citizen. How important that was in the political and spiritual circumstances in 19th century Serbia does not need to be particularly emphasized. If one observes the history of legal philosophy at the Belgrade Faculty of Law, and not just only during the previous century, then Dimitrije Matić is certainly one of its most important characters and greatest representatives[10].

The upswing of philosophy of law, after Jovan Sterija Popović, experienced at the Faculty of Law with Matić was, unfortunately, short-lived. Matić's removal from the Lyceum probably contributed to that as well[11]. A low tide followed, but not a complete disappearance of the legal philosophical problematics. It was, although truth be told insufficiently and on a narrowed foundation, cultivated in the disciplinary framework of the so-called Encyclopaedia of Law. This circumstance is very important because in that way continuity was more or less maintained[12].

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[10] Despite Matić's importance not just as a legal philosopher, but also as the writer of a history of philosophy (made according to Schwegler) which played a big role in Serbia at the time, he did not get a place in M. Milovanović's book *Philosophy and Science in Their Historical Development. Book Six (of the second series). Philosophy Among Serbs* (Belgrade 1904). In a note on p. 79, the author offers the excuse that "due to the small space of this debate the works of many more Serbian philosophers could not be reviewed," among whom he mentions Dimitrije Matić, too.

[11] Matić was a professor for just over three years, in 1848–1851. He was removed from the Lyceum for his free thinking, together with his friends Kosta Cukić and Đorđe Cenić. – Cenić – his personality, work and activities – was thoroughly dealt with by Tihomir Vasiljević in his monograph: *Đorđe D. Cenić. Development of Criminal Legal Thought in Serbia in the 19th Century*, Belgrade 1987. Cenić's "displacement" from the Lyceum is mentioned on p. 5. – On the "case" of Matić, Cenić and Cukić see an article by Mihailo Popović: The Fellowship of Serbian Youth and Dimitrije Matić, Đorđe Cenić and Kosta Cukić, *The University Herald,* № 35, 1950.

[12] According to the data presented by Čeda Mitrović, Encyclopaedia of Law was in 1853 taught by Nikola Krstić and in 1862 by Stojan Marković. The same author recalls that in 1863, under the Law on the organization of the Great School, among other subjects, Encyclopaedia of Law was also envisaged, and that its teachers were Nastas Petrović and Giga Geršić [Митровић

Gligorije Giga Geršić provides a fine example of how matters of legal philosophy can find their place and be discussed within the boundaries of Encyclopaedia of Law. Although Encyclopaedia of Law was not at the center of his scientific interest and teaching work, he also taught that scholarly discipline at the Faculty of Law and those lectures, judging by the preserved notes from them, largely tackled basic legal philosophical problems. Of course, the central place there belongs to the very term of law – a matter common to both legal philosophy and general theory, i.e. encyclopaedia of law, because of which, among other things, it has not been possible, to date, to draw a clear and undisputed line between them.

According to Geršić, there are three questions legal science, i.e. jurisprudence was to focus its research on and answer. They are: 1. What is considered and exists as law? 2. How did that which is considered law develop and how did it become law? 3. Is it reasonable and good that it exists as law, or what are the highest demands of the legal idea and how does existing law fit those ideas? Thence, of course, stems a division of the legal science ("introduced back from the time of Leibniz") into dogmatic, historical and philosophical [Гершић s.a.: 58, 59].

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s. a.: 11]. – Giga Geršić explicitly claims that in the second half of the 19th century Encyclopaedia of Law had opponents among our legal scientists, too: "That was evident, among other things, in the fact that after several years the Encyclopaedia was neglected, slept like the dead, was not taught at all at our Faculty of Law up until the year 1894, when I had the honor of returning to the rostrum of the Great School, and then I undertook the forgotten and neglected discipline." [Гершић s. a.: 4]. The data presented by Mitrović – that the Law on organization of the Great School (Academy) of September 24, 1863 Encyclopaedia of Law was envisaged at the Faculty of Law – is, however, not correct. Instead of the erstwhile Encyclopaedia of Law, none other than Philosophy of Law was introduced, with Stojan Marković appointed as professor. (Two study programs of Philosophy of Law made by Stojan Marković are preserved in the Archive of Serbia, the Fund of the Great School, in 1864 – one dated January 21, 1864 and the other dated January 31, 1867. Based on them one may get an idea of the questions Marković presented in his lectures, just like it can be concluded with a certain degree of reliability that he perceived Philosophy of Law in the spirit of the theory of natural law as rational law). Unfortunately, in Philosophy of Law, which he taught for ten years, Marković did not publish a single paper, and so nothing more detailed or definite can be said about his actual and contentual understanding of legal philosophy, his pillars and role models etc. – on December 20, 1873 a Law on amendments and supplements to the Law on organization of the Great School was passed, whereby instead of Philosophy of Law, Encyclopaedia of Law was added to the curriculum again as a general science of law. In the beginning it was also temporarily taught by Stojan Marković, and then in 1876 Nastas Petrović (author of the famous French–Serbian Dictionary and translator of Tocqueville) was appointed as professor, who taught it, with breaks, for almost ten years. His lectures were not published and remained unknown. The eight-year hiatus in lectures in Encyclopaedia of Law ended in 1894, when the subject was taken over by Gligorije Geršić. He taught the subject, albeit with breaks (due to retirement and dismissal from the position of professor), until 1902. After he was dismissed (for the sixth time!) the following year, in 1903 Geršić was replaced by Čedomilj Mitrović, a professor of Church Law. When the Great School grew into a University in 1905, Encyclopaedia remained a part of the Faculty of Law's curriculum. The person who can be greatly credited for shedding light on a number of details regarding the place and development of Philosophy, i.e. Encyclopaedia of Law at the Belgrade Faculty of Law in the second half of the 19th and first decades of the 20th century (up until World War II) is Miroljub D. Simić, who published a number of papers on the subject. [Симић 1990: 335–353]. Most of them are devoted to the presentation and commenting on Geršić's ideas); Philosophy of Law at the Faculty of Law of the Great School in Belgrade (A Fragmentary Sketch), [Симић 1987: 151–161]. Development of Legal Theory in Serbia Until World War [Симић 1982: 301–310]. These papers by Simić represent a valuable source of data which we have gratefully used, too.

It must be noted that Geršić's concept of the subject of legal science is not in complete alignment. He resolutely advocates the position that the subject "can only be positive law, therefore the law that really and factually existed or still exists in life itself, and is not the subject of legal science... some ideal law." [Гершић s.a.: 55]. Keeping this in mind, it comes as no surprise that Geršić dismissed natural law, to which it denied any scientific value, although he did acknowledge its political and social importance and influence [Гершић s.a.: 83]. Dismissive of "abstract legal philosophy" (Fichte, Hegel, Schelling), in which he found "genius misconceptions", Geršić in turn thought very highly of the Historical School of Jurisprudence (Hugo, Savigny), because it had "reached significant and important results and a broader view which became a permanent scientific gain in the area of law and legal life." [Гершић s.a.: 85]

Nevertheless, Geršić was not an uncritical supporter of the Historical School of Jurisprudence. The main objection pertained to the fact that the school wanted to completely push out legal philosophy and put history in its place. Geršić demands that "*historical investigation be combined with a deeper philosophical understanding*... That means the historical and philosophical current in jurisprudence do not cancel each other out, but rather complement each other. But, of course, in that way, at the same time, the task of legal philosophy is understood more correctly and differently than before." [Гершић s.a.: 86–87, 95].

And that task, in Geršić's opinion, predominantly consists of examining and logically developing the common elements of various parts and branches of law, as well as of determining the general laws of development of those parts. Philosophy of law is called upon to study and reveal the final foundations of all law, the necessary birth of the legal idea in the human spirit and its relationship with other factors of social life. In short: the task of legal philosophy is to determine the position of law in the rational universe. "It is, therefore, first and foremost a science of the essence of law and its necessary and constant connection with the overall moral, intellectual and social development of a people and an epoch." [Гершић s.a.: 97].

To complete that task, philosophy of law, Geršić demands, must constantly rely on the factual material provided by comparative legal history on a broad ethnological and social basis. In that way, with the help of reflection, it will reach the highest principles and be able to serve as "a deeper criterion for evaluating and critiquing positive law." [Гершић s.a.: 97]. An explanation of the origin and essence of law and a critique of positive law – those are, therefore, the calling and the task of legal philosophy as Geršić saw it. As for his concept of the law, for him it is an anthropological, social and historical phenomenon. He defines it like this: "Law is an order of a human social circle in the external relations of its members, between each other and with things, based on the biological and social nature of man and conditioned with the level of intellectual and cultural development." [Гершић s.a.: 97; this definition is repeated on p. 110 as well]. It is important to note that law is here primarily perceived as a principle of order, whence the conclusion may be drawn that for Geršić order was the highest legal value. Moreover, he also stressed purposefulness and justice as the aim and characteristic of law, while being aware of

their merging in "the composition and body" of law [Гершић s.a.: 97]. From the standpoint of legal philosophy, Geršić's work on the encyclopaedia of law is not the only thing that is important. Equally important and unavoidable for a historical overview of legal philosophy at the Belgrade Faculty of Law is Geršić's paper titled A Theory of the Retroactive Power of the Law [Гершић 1883[13]].

In that paper Geršić considered and resolved in a remarkable manner the multiply complex matter of the permissibility or impermissibility of the retroactive effect of the law, which delves into the very core of law and has far-reaching practical consequences on legal life. In doing so, Geršić did not shy away from engaging in a polemic with even the highest legal authorities. Having dismissed the concepts that cite the causes of purposefulness, morality or usefulness in favor of the non-retroactive power of the law, Geršić demands that a deeper justification be found for that principle, that it be *legally* grounded, derived from the *legal idea* itself. He wonders what it would mean if the law had retroactive power. And answers: "It would mean nothing other than that a violation was committed, that *the freedom and sanity of man were touched.* And only for that reason is the retroactive power of law unfounded and unpermitted." [Гершић 1883: 28]. The law with a retroactive effect would subsequently violate man's desire and action, it would commit violence against the individual. That is why he opposes "the very *concept* of all law, which consists only of that, that positive law is a secured sphere and organized area for the realization of free will. That kind of law is therefore *not* a law, it is absolute injustice, the annulment of the legal concept in general." [Гершић 1883: 29].

Regardless of potential objections to Geršić's solution to the problem of the retroactive effect of the law (which at this moment and in this context may be put aside completely), what is reliable is his *method* of solving, his *approach* to the problem, an approach that reveals the idea of law Geršić cared about. It can be clearly and unambiguously seen that the idea is – the idea of freedom.

Geršić is one of those great Serbian jurists who during the second half of the 19th century accepted the – generally widespread in Europe at the time – spirit of science and scientific approach, the belief that the truth can be reached only on the grounds of positively determined and checked facts. That became the spirit of the general attitude toward law and his understanding of jurisprudence. That spirit of positive science, however, did not turn into its cult in Geršić's case. Thus with him legal philosophy not only has its own place, but rather that place is very prominent and important because without it one cannot reach the essence of law, nor can positive law be evaluated and critiqued.

Although he essentially accepted the positive scientific spirit of his time, Geršić cannot be said to have succumbed to that spirit. Not only because his general understanding of law is marked by a cultivated sociological method – in Serbia Geršić is among the first, if not the first, to have introduced sociology to legal thought – but also because that understanding is included in a broader, it can freely be said: cosmic perspective [Гершић s.a.: 33 and onward]. For, law,

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[13] Published in the *Herald of the Serbian Learned Society*, book 54 (Belgrade 1883), pp. 1–94 → [Гершић 1883].

like the entire social structure it is a part of, is subject to a universal law that governs the whole universe. According to Geršić, that is the law of repulsion and attraction. This law maintains the balance in both the stellar system and in social life. Furthermore, it encompasses every individual. Its rule determines that the human individual is, on the one hand, a separate organism, and on the other a part or, as as Geršić calls it, an "element" of a wider and higher system. That same law explains the fact that every individual simultaneously feels authorized and obliged. At first those "feelings" appear urgeively, whereas later, in more developed forms of social community, they appear as a legal sense and legal awareness.

Geršić, therefore, discovers the foundation and root of law in the cosmic law of repulsion and attraction. He explicitly claims that "human legal life by its seeds and foundations is woven into the great framework of nature and the universe, it is an expression and a manifestation of a general cosmic law." [Гершић 1883: 37]. Falling under the power of that law, law in itself contains freedom and necessity (connectedness) as two of its main elements. Citing and leaning on Russell, Geršić points out that law must constantly harmonize the two and keep them balanced[14].

Regardless of Geršić's dependence and sustained influence of others, which he himself did not hide, all of the above shows that his view of law was formed and developed in a broader ontological framework. Besides being sociological, that view, as could be seen, is also cosmological. That proves that Geršić did not strip legal thought of its philosophical dimension and did not leave it to the one-sidedness and exlusivity of positivism. At the same time, it undoubtedly confirms that he was an open-minded jurist.

It was said that after Dimitrije Matić came a period of low tide in legal philosophy at the Faculty of Law and that certain legal philosophical problems, which contributed to maintaining continuity, were processed within Encyclopaedia of Law, which could not be said to have been taught as much as necessary. It should be added here, for the sake of comparison, that outside of the Faculty of Law the problematics of legal philosophy was found and expressed in relatively numerous legal journals and bookss published in Serbia in the second half of the 19th century. The ones certainly worth mentioning are: *Pravda* (*Justice*) ("a journal for all branches of legal sciences," published in 1869–1870), *Porota* (*The Jury*) (1880–1882), *Pravo* (*Law*) (1885–1886), *Branič* (*Defender*) (first published in 1887), *Pravnik* (*Jurist*) ("a journal for legal and social sciences", 1892–1894), *Srpski pravnik* (*Serbian Jurist*) ("a journal for law and judiciary", 1881–1883) etc.[15]. All of them contain significant contributions on legal philosophical themes, for the most part translations or adaptations of foreign writers, and to a lesser extent articles written by domestic authors[16].

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[14] Russell's influence on Geršić is also mentioned by Milijan Popović in an article entitled Gligorije Geršić as a Legal Theorist [Поповић 1974: 67–79, especially p. 77].

[15] Gojko Niketić gathered, systematized and published valuable data in *Legal Bibliography of Articles and Books in Serbian Literature Until the end of 1905.* [Никетић 1907].

[16] Thus *Pravda,* which we take as an example here, in its first year of existence published, among others, the following articles: Frank's Philosophy of Criminal Law (Serbified by Stojan Antić) and Natural Law (in the Older Sense) According to Stahl, by Uroš Knežević. In the second year, the following articles were published: Law Schools – Savigny's Opinion, by Bluntschli

All that undoubtedly helped to constantly keep awareness in Serbia of the need and importance of legal philosophy awake, which certainly must have influenced its future at the Factulty of Law.

One of the conspicuous properties related to the legal philosophy cultivated at the Belgrade Faculty of Law, especially from the beginning of the 20th century to 1941, is reflected in the fact that even jurists – scientists who otherwise predominantly dealt with particular legal areas or branches, be it private, criminal, public or international law, often focused on it, or at least some of its questions. The question arises, how should that circumstance be understood and interpreted? Is it simply about personal propensities and choices, about satisfying a more or less coincidental and secondary need or is it about something else, something deeper, which surpasses coincidences and the impermanence of subjective predilections?

Although factors of certain authors' spiritual idiosyncrasies certainly should not be ruled out, apparently a satisfactory answer to this question should nevertheless be sought on a different side and in a different direction. Those who in their research of the given legal areas went the farthest, who covered them completely, who processed their subject both broadly and deeply, naturally reached the final questions of law and jurisprudence. Even accidentally, they faced the essential problems of the origin, value and purpose of law, the foundation and manner of its existence; they faced the shapes and forms of its knowledge, its need and its role in man's social and individual life, its relationship with morality, its "idea," etc. Delving down to the limits of the legal sciences in question, they inevitably, by the logic of the matter, reached questions which could not be answered in principle within the boundaries of their respective "disciplines". In short: they reached the philosophical questions about law, questions which make up the elements and driving force of legal philosophy. Only in that way can it be understood why among Serbian prominent and renowned legal scientists, who by their main calling and predominant determination were not legal philosophers, there are those who left an important and indelible mark in Serbian legal philosophy. Besides Giga Geršić, who has already been mentioned, one such legal philosopher was undoubtedly Živojin Perić as well.

Perić's work is both diverse and large. An unusually fruitful writer (close to 660 bibliographical units[17]), he persistently and successfully dealt with many

(translated by U. Knežević) and On the Differences and Relations Between Law and Morality. An article by Ahrens, by J. M. Lešjanin. – Legal philosophical papers were not published only in professional legal journals. They also appeared on the pages of publications of a different nature and with a different purpose. It may seem odd, but it is true that, for example, *Srpske novine* (*Serbian Newspaper*) (1834–1905), which was an official organ of the Principality (subsequently Kingdom) of Serbia, in 1867 published as a series a translation of Beccaria's famous work *On Crimes and Punishments,* or that *Javor* (*Maple*) (1862–1893), "a magazine for entertainment, education and literature" which was published in Novi Sad, in 1876 published an article by Miša Dimitrijević headlined On Human Rights. Later on, the *Serbian Literary Gazette* occasionally opened its pages to authors with legal philosophical articles. (e.g., in 1901, in book three, it published an article by Dobrivoje Arnautović entitled On the Concept of Law. From the Philosophy of Law.)

[17] Cf. a chronologically composed bibliography of his works published in the *Archive for Legal and Social Sciences*, Nos. 1–2, 1938. This edition of the *Archive* was published in honor of Prof. Perić on the occasion of his 70th birthday and 40 years of professorship.

legal branches and problems, where his central scientific interest nevertheless pertained to the area of private law taken in the broadest sense of the word. According to an appropriate observation, with Perić it is "not just about one civilist jurist but also an encyclopaedist jurist." [Перовић 1987: 47]. Indeed, Perić is the embodiment of that – today, in a time of narrow specialization, nearly forgotten and discarded – type of jurist as a person of broad (not only juristic) horizons, who knows (and acts accordingly!) that law is a cultural phenomenon and cultural factor, not an arbitrary expression and instrument of state authorities. Those who have not lost sight of that kind of jurist today will not be surprised to learn that Perić was, among other things, a political writer, too [Перић 1908].Viewed as a whole, Perić's legal thought is dominated by one idea. That is the idea of law and legality, an unshakeable belief that the law is the only source of law and the highest stake of legal security. Perić was a true supporter of that idea and he – not without cause, but often one-sidedly – is frequently considered Serbian prominent representative of the dogmatic and exegetical method. How important respect for the law was to Perić, how much he underlined the importance and necessity of that respect, is best seen in the fact that he raised it to the rank of moral duty. He wrote: "The law should be for us the same as morality for good people, we should respect it everywhere and always, only because it is the law, the same as we respect morality just because it is morality." Or: "... morality itself orders us to respect the law in any case, disrespecting the law is not only contrary to the law but also to morality, disrespect for the law is not only illegality but also immorality." [Перић 1915: 17–18]. One cannot avoid the impression that they are dealing with something that could, akin to Kant's ethical rigorism, most suitably be labeled as juristic rigorism. It is also expressed in Perić's demand for the existence of two kinds of conscience, a moral and a legal one, with the latter being a narrower term encompassed by the former. The legal conscience is the one "that will keep us from violating the law in any case." [Перић 1915: 8]. It seems that in Serbian entire legal science and legal theory no one ever defended the principle of upholding the law in such a fervent and unshakeable way like Živojin Perić did. What more could have been done for that principle than moral commitment, than ethicizing it?!

Upon closer and more careful inspection, it is evident that Perić's idea of respecting the law and legality, which he defended consistently and passionately, is derived from the idea of authority of state government and is merely a consequence thereof. That could lead to the thought that Perić was simply a supporter of the jurisprudence that is often called etatist, for which law is not nor can it be anything other than a product of the state, an emanation of its authority, for which all of law is ultimately just state law. That conclusion, however, would be one-sided and therefore wrong. It would also be superficial because it would ignore two crucial moments: the first being that Perić, insisting on the idea of state authority, at the same time and no less persistently advocated the idea of individual rights, and the other, perhaps even more important one being that Perić always perceived the state as a rational institution. Đorđe Tasić made a good and accurate observation: "Mr. Perić bases the authority of

the state on rationalism. The state represents a higher order, built consciously and rationally as opposed to disorganized and unconscious social forces. Order, conscious and rational, that is not a bare word for him. The rationalism he refers to is the rationalism that means consistency in behavior and action, which has its own immanent logic and rules. The state, as a rational being, is also subject to these rules. And so, when a constitution and a law, positive law, are adopted, they are to be respected." [Тасић 1938: 18].

It turns out, therefore, that rationalism represents a dimension of depth in Perić's legal thought. Only against the backdrop of rationalism, active and activistic, can one fully comprehend Perić's jurisprudence and his legal philosophical standpoint in general. That is when all his fundamental legal philosophical ideas appear in their true light. In addition to faith in the law as the sole legal source and act of legislative will, in legality and legal security, along with the principles of interpretation of law stemming therefrom, and in addition to the defense of individual rights, among those ideas – and not in last place – is certainly Perić's pacifism, to which his firm Christian ethical position, a kind of Christian socialism, should be added. As a pacifist (one might say) of the Kantian sort, Perić was uncompromising, rejecting in principle the use of violence and violent means, and dismissing them both from the outside (war) and from within (revolution, coup d'etat)[18]. Adhering to rationalism, Perić believed in the possibility – and necessity! – of a gradual and legal improvement of the state and law. Thus his rationalism is combined with evolutionism. They cannot be separated from one another in Perić's legal philosophy[19].

At the very start of the second decade of the 20th century, several of Serbian younger jurists very successfully defended their doctoral theses in legal

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[18] On that subject Tasić says: "In this regard he is among the rate consistent thinkers, and he has seen what is not always seen, that an idential position must be taken from without and within." [Тасић 1938: 19]. Further on, Tasić very justifiably writes: "It is difficult to deny that his concept (Perić's pacifistic and Christian concept – *D. B.*) does not ultimately lead to denial of law. Once an empire of love is achieved in the world, then neither the state nor law are needed."

[19] When evolutionism is mentioned as an element of Perić's legal philosophical point of view, it does not indicate that he was an open supporter of evolutionist jurisprudence. Perić's evolutionism moves in the direction of pointing out the need for laws to be incessantly adapted to altered social circumstances and thereby improved. Where the evolutionist school itself, especially some of its postulates (the creative role of a judge and their freedom in solving cases not regulated by the law) are concerned, Perić had a great deal of reservation and many criticial objections. Cf. his treatise A Look at Evolutionist Jurisprudence [Перић 1908: 122–267]. This study by Perić is the most complete source for getting acquainted with his general philosophical views and especially his legal philosophical positions. It also contains Perić's philosophy of private law and is all the more unavoidable for complete comprehension of his civilistics. (That study by Perić, right after its publication, was criticially examined by Lazar Marković in an article entitled On Evolutionism in Law [Марковић 1908: 416–426 and 505–512]. Perić's text *On Schools in Law* relies on that study. A lecture at the Seminar of Civil Law at the University in Belgrade (Geca Kon, Belgrade 1921), where the focus is on the role of the judge in the interpretation and application of the law. In a legal philosophical sense, some other short texts by Perić are also interested and worth mentioning, such as, for example, the article Nuances in Law, published in the *Spomenica Mauroviću* (Maurović commemorative book), but also printed separately (Belgrade 1934), or his foreword to Arsen Ćubinski's book *On the Statute of Limitations in Civil Law* [Чубински 1927: III–XIII], titled Time as an Element in Law. His considerations in an article titled Unsolvable Problems in the Field of Law [Перић 1939: 1–12], are not without legal philosophical importance.

theory, i.e. philosophy of law and state, in Paris[20]. One of them was Živan Spasojević, who took on one of the most difficult and most tangled, and thus most challenging problems – the problem of analogy, its relationship with interpretation and its role in the application of law[21].

Many have clashed over – and been defeated! – by the problem of analogy. Many jurists, even the greatest and most renowned among them (e.g. Windscheid, Dernburg, Jhering, Gierke, Geny), dealt with it and invested an enormous effort in solving and clarifying it. Spasojević was well acquainted with all those attempts, especially Geny's, which he used as his starting point[22]. This famous French jurist, following the German doctrine, separated analogy as a distinctive and independent procedure from interpretation and underlined its sociological aspect. While interpretation always remains tied to the formal source and logic of law, that analogy exceeds and relies on the logic of social reality. With impressive courage, Spasojević radicalized Geny's view and daringly presented his own take on the problem. After he brought attention to the levels of analogy, which range from closeness to the law to the creation of a new independent rule, he intensifies the whole problem by underscoring the irreconcilable contradiction between the two aforementioned logics, i.e. between the creativity of analogy and the reproductivity of interpretation. That contradiction is expressed in all its sharpness in the antagonism between the rational plane of interpretation and the teleological plane of analogy: the former may lead to opposition to the needs and interests of society, while the latter may lead to arbitrariness.

Spasojević proposes a thorough solution: abandoning the traditional concept of the law. Law and the laws should be taken as a sociological construct filled with purpose. Then the importance and influence of formal elements disappear on their own, then former problems with analogy vanish. In turn, the importance of science and the sociological method grows.

Albeit thorough, Spasojević's solution is, of course, not final (there probably is no such solution). Having emanated from an analysis and critique of previous concepts, it points to a new direction in researching analogy. Not having overcome, but simply having abolished contradiction in the very being of analogy, Spasojević moved too far away from the normative dimension of law, subjugating it exclusively to the logic of social reality.

Since the fundamental problems of law, legal science and philosophy are refracted through analogy, it is no wonder that Spasojević, thanks to effective impulses from his doctoral dissertation, returned to the riddle of law all his life. Thus from the pen of "our first sociologically oriented jurist" (as described by his student Božidar S. Marković) came a vast number of notes and fragments which, when organized into a whole, undoubtedly form an interesting, unique, intellectually rich and stimulating legal theory focused on the four postulates

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[20] For example, Milan Gavrilović, *L'Etat et le Droit*, Paris 1911; Ilija Šumenković, *Les droits subjectifs publics de particuliers*, Paris 1912.

[21] *Analogie et l'interprétation, contribution à l'étude des méthodes en droit privé,* Paris 1911.

[22] On the following, cf. Božidar S. Marković: Analogy and the Work of Živan Spasojević [Марковић 1940: 185–191].

of law: positive order, the social causality of law, evolution, and contradiction which is not an obstacle (to the scientific and practical plane of law)[23].

Just like Perić, dealing predominantly with private law, reached philosophical questions about law, so one of Serbian other great jurists, Toma Živanović, working in the field of criminal law, reached legal philosophy. And not only did he reach it, but rather built an entire system of legal philosophy which he called synthetic. In his entire scientific opus, criminal law and legal philosophy occupy equal positions[24]. Živanović is equally known as a criminal law writer and as a legal philosopher. If anyone attempted to give either the advantage, they would have a hard time finding sufficient valid reasons for that. Živanović remains documented in the history of Serbian legal thought both for his results in criminal legal sciences and for his achievements in legal philosophy.

If one were to look for a characteristic that predominantly marks Živanović's scientific work, then it would most likely be his consistent systematic approach, almost an urge for systematization. He arranged, divided and grouped terms with a lot of logical skill and to the final limits, thereby creating a building of systematic, in itself harmonized criminal law, i.e. legal philosophy. In that Živanovic seems to be unrivaled in all of Serbian legal science and legal philosophy. One could say that he is Serbian most prominent representative of the so-called conceptual jurisprudence – a term taken with a completely positive meaning – which is also elegant.

Attached to Toma Živanović's name is a big novelty he introduced to the theory of criminal law and thereby gave it a new direction and set it on new foundations. As it is known, it is tripartition (trichotomy), i.e. the division of the general part of criminal law into three parts. Živanović was among the first, if not the first[25], who in the global science of criminal law in a decisive and uncompromising – but no less argument-backed and convincing – manner

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[23] For more details on Spasojević's legal theory, with a simultaneous critical look at it, cf. Foreword and Afterword for the book: Živan Spasojević, *The Draft of a General Legal Theory* [Марковић 1989: 1–16. and 113–131]. – Certain elements of Spasojević's view of law, especially the creative role of the judge and judicial activity relative to the law are also contained in his opening lecture of April 3, 1912 On Jurisprudence. See: [Спасојевић: 1912: 391–412].

[24] Živanović's doctoral thesis titled *Du principe de causalité et son application en droit penal* (Arthur Rousseau, Paris 1908) already hinted at the connectedness/pervasion of criminal law and legal philosophy as the subject of his scientific interest and work. Certain authors often pointed out that connectedness as a general characteristic of Živanović's opus. Cf. e.g. [Лукић 1965: 219–233, especially p. 220; Лазаревић 1986: 5–25, especially p. 10]. There the author even talks about "a symbiosis of legal philosophy and the science of criminal law" as a mark of Toma Živanović's entire scientific activity.

[25] The connoisseur of the science of criminal law that Tihomir Vasiljević was left no room for doubt as to the originality of Živanović's tripartition: "The thought of tripartition was a completely original thought, not a transfer, development, improvement, echo of an idea that would have essentially existed elsewhere in science." [Васиљевић 1973: 25]. Milan Milutinović advocates the same point of view, underscoring that the theory of tripartition "carried out a revolutionary transformation in criminal law" and that Živanović was "the creator of this theory." Cf. his text Scientific Creative Work of Prof. Dr. Toma Živanović in the Field of Criminal Legal and Criminological Sciences, written on the occasion of the 100th anniversary of Živanović's birth, in: [Милутиновић 1987: 162]. – Živanović's thought of tripartition was not, of course, spared critical objections. For example, cf. [Симић-Јекић 1984: 743–760].

dismissed the classic two-part (dichotomous) division, finding in it a number of shortcomings and calling it "the traditional misconception" of criminal law. Until Živanović, criminal law had rested on two basic concepts and institutes, on criminal *offense* and *punishment*. Živanović bravely added a third basic *legal* concept and institute, the concept of the *culprit*, and in that way revised the very foundations and systematics of the science of criminal law[26]. It does not need to be particularly emphasized that in this way he opened up criminal law more to other (also non-legal) sciences, at the same time enabling its greater humanization.

According to the model of tripartition introduced to criminal law, Živanović made an interesting attempt to rearrange ethics as well [Живановић 1935]. In his opinion, ethics, just like classical theory of criminal law, was not spared flaws and weaknesses caused by bipartition either. For that reason he proposed that a distinction be made between normal and anormal (delicate) ethics, and that both of these types of ethics be further divided into a moral act, moral subject (agent, perpetrator) and a moral sanction, i.e. immoral act, its perpetrator (culprit) and a sanction. Applied to ethics, tripartition results in personalism, while previous ethics, not separating a moral subject as an autonomous ethical being from the moral act but rather always tying him to it, was impersonal [Живановић 1935: 49 and onward]. At the same time, tripartition in ethics also accomplishes the liberation of the moral act i.e. offense from the subjective element that was traditionally added to its concept [Живановић 1935: 51, 60, where the "personalization of ethics" is discussed].

Based on such postulates and from that framework, Živanović also looked at the relationship between law and morality. He perceived that relationship as a great difference, because the subjective side in law, except in delicate law where it is a regular element of accountability, plays a much smaller role than in morality. "In law it is enough that the legal duty is done, and it does not matter if it is spontaneous or not, for the purpose of fulfilling the duty (out of duty) or to a personal end (out of greed, for example), or even if it is conscious or unsconscious. On the contrary, in morality, for there to be a *moral* agent, a moral action had to have been performed with *premeditation,* i.e. that the agent is aware of the act itself, and even of its *moral* character." [Живановић 1935: 50]. The reason for this difference between law and morality lies primarily in the fact that morality recognizes a double sanction – the sanction for an immoral, but also the sanction for a moral act, "where in law, on the contrary, there can be no talk of either merit or sanction as a consequence of merit. A reward for action in line with law falls exclusively in the domain of morality." [Живановић 1935: 51].

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[26] He first quite clearly presented that idea back in 1909 in an article titled On the Subjective (Moral) Element in the Concept of Criminal Offense, published in the *Archive for Legal and Social Sciences,* № 5, 1909, 376–384. The same article was published that same year in the French language, too, under the title "De l'élément subjectif (moral) dans la notion du délit" in the magazine *Schweizerische Zeitschrift für Strafrecht*, 22 Jahrgang (1909), pp. 257–265. Soon after, Živanović developed that initial idea to the level of theory in the work The Main Problems of Criminal Law [Живановић 1910]. This work was published in a much more developed form in 1930 (Belgrade, printed by "Gundulić"), and the following year in France as well: *Les problémes fondamentaux du droit criminel* (Rousseau et Cie, Paris 1929).

Živanović was systematic and synthetic in equal measure. In fact, he always performed the work of systematizing for the sake of synthetizing. That characteristic of his scientific and philosophical procedure found its best confirmation in his legal philosophy, which is completely justifiably called synthetic. It is Živanović's broad-based and successfully completed *A System of Synthetic Legal Philosophy* which includes three books (1921, 1951, 1959). Strictly time-limited, this review can only take the first book into account [Живановић 1935][27]. It is programmatic and introductory by nature.

The synthetic legal philosophy Živanović has in mind is an unusually complex and branched out spiritual creation. It is a logical structure consistently built by the method of generalizing abstraction. It was made for the purpose of systematically and synthetically encompassing the entire legal phenomenon and knowledge about it. But despite the complexity, which sometimes leaves the impression of intricacy, Živanović's legal philosophy nonetheless rests on several basic assumptions, from which it begins and develops further. Given its starting point it is, therefore, extremely clear and simple. That starting points consists of Živanović's insight and drawing a line between law on one side and legal science on the other. Both law and legal science appear as the subject of study. Thus there is legal science and the science of legal science. With that difference in mind, Živanović also constructs his legal philosophy which, in his opinion, is a double novelty relative to the previous legal philosophy. That novelty, as it is said at the very beginning of book one of *A System,* is "1. that two kinds of legal philosophy, philosophy of law or legal institutions and philosophy of legal sciences, and a system of philosophy of legal sciences, are distinguished in it; 2. that both of these kinds of legal philosophy are perceived as synthetic philosophies." [Живановић 1935: 5].

The guiding idea of Živanović's legal philosophy is, therefore, the idea of its double nature, division into philosophy of law and philosophy of legal sciences. What he wants and what he strives for, that is not the legal philosophy usually referred to when that philosophical discipline is mentioned. Moreover, with Živanović, strictly speaking, it is no longer legal philosophy in the usual sense, because that term is insufficient to encompass all that he considers to be its subject (law and legal sciences). Hence the attribute "synthetic," the introduction of which – it should be noted – is doubly justified: both given Živanović's *procedure,* and given the fact that the subject *range* of his legal philosophy. That is why Živanović can say that the attribute is used "in an encyclopaedic sense." [Живановић 1935: 6].

The methodical distinction between philosophy of law and philosophy of legal sciences is only the first step of Živanović's construction. It is the foundation of the system, but not its entire building. The design structure itself, however, envisages that each of the aforementioned philosophies is acommpanied by the science of it. Therefore: philosophy of law, science of the philosophy of law; philosophy of legal sciences, science of the philosophy of legal sciences. Furthermore,

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[27] Živanović's *A System of Synthetic Legal Philosophy I, The science of synthetic legal philosophy* was published in French in 1927.

the sciences of the common genus of philosophy of law and philosophy of legal sciences is necessary, i.e. the science of synthetic legal philosophy, to which the first book of *A System* is devoted. That, however, is not all. For, philosophy of law itself, i.e. philosophy of legal sciences has a general and a concrete part. The general one should contain the general philosophy of law (or simply philosophy of law) and the general philosophy of legal sciences (or simply philosophy of legal sciences), presented in one book each. The concrete part, as Živković thought it up in 1921, should ("probably," he says) encompass the following in four books: a) philosophy of private law and private legal sciences, b) philosophy of criminal law and criminal legal sciences, c) philosophy of public, i.e. state law in a broader sense (constitutional, administrative and international public law) and state legal sciences, and d) philosophy of procedural law and procedural legal sciences.

As can be easily seen and concluded from this draft, it is a legal philosophical system designed to provide a general, integral, complete and harmonious image of the legal phenomenon in all its forms and dimensions. There has not been a more ambitious project in Serbian legal philosophy which was, luckily, largely realized. In that, on a wider plane, few could stand shoulder to shoulder with Toma Živanović. With his system, he undoubtedly established new criteria in Serbian legal philosophy, having raised it to a high, European level.

Intellectually formed at the end of the 19th and the beginning of the 20th century, Živanović accepted the scientific spirit of his time which was ruled by the ideas of Auguste Comte, Herbert Spencer and Wilhelm Wundt. Following them, essentially sharing their positivistic and scientistic beliefs and citing them, he was nevertheless not their blind follower without his own image or any independence. If it were different, it would be difficult to explain Živanović's fundamental and initial idea of the double nature of sciences (science of objects and science of sciences), i.e. of legal philosophy and, finally, philosophy in general[28]. Even if it was not wholly his own (the origins seem to belong to Kant), he advocated that idea in his own way and brought it to a developed form. In his legal philosophy it bore all its fruits. And they are considerable and important.

Building his own synthetic system, Toma Živanović was guided by the ideal of so-called scientific philosophy. That resulted in the dominance of the scientific over the philosophical and, due to the problematic nature of the term scientific philosophy itself, caused uncertainty as to the true nature of his endeavor. Živanović's placement of legal philosophy under the methodical sovereignty of science even gave cause for placing it in dogmatic positivism[29].

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[28] In this regard, Prof. Radomir Lukić underlines Živanović's originality: "There particularly comes his original, independent discovery of two kinds of sciences... He came to this discovery quite independently of logical positivists, during the first world war, and published it in 1921. He thereby independently discovered a way of thinking which is very modern today and represents the basis of a number of works (difference between theory and meta-theory) in the area of so-called philosophy of sciences." [Лукић 1957: 229].

[29] Cf. [Sauer 1936: 118]. – Đorđe Tasić also put Živanović in positivism. Cf. his review of book one of Živanović's *A System* [Тасић 1921: 398–406, especially 400–402]. At one point Tasić appropriately notes: "Mr. Živanović is a positivist. But is positivism really a sufficient foundation for the philosophy of law? It seems that philosophy is something more than a science, something

This is not without a cause where book one of *A System* is concerned, but it could not apply to books two and three (which are not discussed here anyway). In any case, insistence on scientific philosophy, on the integration and equalization of legal knowledge through the scientific method, does not always ensure a unified and unmarred appearance of the system of synthetic legal philosophy. Moreover, the idea of a science of legal science, i.e. the science of the philosophy of legal sciences, with all its fruitfulness consequently leads *ad infinitum*. For, if there is such a metascience, why would not there be science about it, and so on to infinity?

Due to the postulates it is based on, Živanović's legal philosophical synthetism[30] seems fairly anachronous today. It is not devoid of bloodless abstractions and formalistic constructs either. However, it does encompass the total legal world, but the wealth and dynamism of legal life are barely felt: a magnificent structure, yet without enough attraction for permanent housing. But in spite all of that and regardless of all possible objections, all potential critique it can be subjected to, Živanović's synthetic legal philosophy – in the unanimous opinion of all who dealt with it and wrote about it – represents an achievement of high and lasting value, a work multiply stimulating for anyone in our environment who has legal philosophy and its development at heart. It is a fortunate circumstance and a fact worthy of constant respect and mention, that a legal philosopher of Živanović's rank was active at the Belgrade Faculty of Law.

A number of legal philosophical articles by Božidar S. Marković were published in the *Archive for Legal and Social Sciences* during the 1930s. Most of them are dedicated to one of the central problems of legal philosophy starting from Aristotle, the problem of reasonableness (*epikeia*), the constant company of the idea of justice. Relying on the insights and findings he had gained in his doctoral thesis in Paris[31], Marković tackled that problem in an intensive and versatile way. Certainly there is no author in Serbian legal philosophy who researched reasonableness as much as Marković did. It interested him in different dimensions (of course, mutually closely linked) – as an idea, as a practice, as a legal source, and it would not be an exaggeration to say that Marković's works contain elements of a complete and consistent view of reasonableness. That would

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more than a synthesis of sciences, synthesis of scientific facts" [Тасић 1921: 402]. – The opinion of a more recent researcher of Živanović's legal philosophy moves in a similar direction. Cf. [Бабић 1982: 169–192]). Lately there has been a noticeable tendency of drawing more attention to the metaphysical aspect of Živanović's legal philosophy. So, for example, Milijan Popović, without disputing that Živanović essentially stood at the positivistic point of view and, furthermore, counting him among "the most prominent representatives of the positivistic, scientific philosophy of law... in Europe and the world," underscores Živanović's legal metaphysics "as a supra-empirical layer of his philosophy of law." [Поповић 1990: 91]. Popović otherwise wrote about Toma Živanović as a legal philosopher on several occasions. Cf., e.g. [Поповић 1978: 581–612].

[30] Cf. [Врачар 1984: 617–654]. On the last several pages of that paper (pp. 642–650) the author, not diminishing in the least the enormous value and importance of Živanović's legal philosophy, sent it a few serious critical objections. Cf. also [Врачар 1982: 217–248], as well as [Врачар 1987: 139–160].

[31] [Marković 1930]. It is undoubtedly a sign of the value of this work that it is also cited in more recent books devoted to justice. Cf., e.g. [Tammelo 1977: 142]. As a writer for "processes the problem of justice based on a dynamic concept of law, under the essential influence of French teachings," Marković is mentioned already by W. Sauer [Sauer 1936: 118].

be easily seen and convincingly confirmed if they were gathered in one place. One can regret the fact that Marković did not bring his efforts regarding reasonableness to the level of a theory on it.

Marković's considerations of reasonableness are an expression and confirmation of his overall position on law and legal philosophy, on the relationship between legal theory and legal practice. In the spirit of the prevailing French tradition, he, for example, never takes legal philosophy separately from actual reality and the real life of law. Furthermore, Marković, firmly convinced of the methodical imperative that legal thought must never leave legal reality, disputed the very need for legal philosophy as a separate discipline which has its own independent reason for existence. "We are prone to conceive that it finds its justification almost exclusively in connection with live law."[32]

Marković treated the issue of reasonableness in the same way. Far from neglecting its purely theoretical side, he nonetheless gave an obvious advantage to the historical and practical dimension of the issue. He put reasonableness to the forefront as a necessary factor of actual legal life, and particularly examined the ways and forms of its embodiment in certain legal orders throughout history (e.g. in Roman and English law), in order to focus his main research interest on the effect and role of reasonableness as a (material and formal) legal source.

What seems especially valuable is Marković's differentiation between the four basic functions of reasonableness[33]: technical and legal (reasonableness as a means of rectifying technical faults of a law stemming from its general nature and inability to encompass all the relevant properties of a given concrete case), moralizing (reasonableness as a means of adding moral content to law), economic (reasonableness as an instrument of influence of economic reality on the legal order which, for example, manifested in a change of the traditional concept of property or, especially, in the field of labor law), and evolutionary (reasonableness as an instrument of achieving the evolution of law, i.e. assisting the creation and confirmation of new law). It all shows that reasonableness is as much an irreplaceable as it is a complex criterion of substantive justice. Thus taken, reasonableness in a way coincides with the "social". Marković says: "... reasonably encompasses mostly the same subject matter as the concept of 'social'. To say it is reasonable at the same time means to say it is logical and economically purposeful, and it is moral and politically necessary, although not all of it always together." [Марковић 1939: 26].

What Marković particularly emphasized, besides complexity, are the openness and vagueness of reasonableness. He saw in those essential characteristics of reasonableness the only possibility of it "completing its multiple task and justifying its existence" [Марковић 1939: 27]. Reasonableness does not tolerate being crammed into rigid formulas and strict definitions. That completely contradicts its nature. That is why reasonableness is incapable of providing

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[32] [Марковић 1939: 464]. – Marković's general orientation and view of the law may be most noticeable in his opening lecture, given on November 13, 1933 at the Belgrade Faculty of Law. The content of that lecture greatly exceeds the title under which it was given and published. [Марковић 1934: 99–121].

[33] Cf. his article Reasonableness as a Source of Law [Марковић 1939: 20–29, especially 21–25].

precise and concrete instructions. Quite modern, that is in the sense of the movement that will in European legal thought of the 1950s and 1960s work on restoring jurisprudence in the spirit of classical topics and rhetoric, Marković already in the late 1930s put forward the demand that reasonableness "primarily be seen as a way of reasoning, a method of interpreting law, which, besides sovereignly ruling the legal technique, presupposes a multitude of other kinds of knowledge and an assessment of value" [Марковић 1939: 27].

Marković, of course, was not unfamiliar with the objections that had always been made to reasonableness. The most severe and most serious one among them is the one that disputes and dismisses reasonableness in the name of order and security. If the purpose of legal organization is to establish order and ensure certainty, by legal norms enacted in advance, then reasonableness comes to jeopardize and render worthless those values. Not denying that there is "permanent and latent disagreement" between order and security on one side and reasonableness on the other, Marković through the strength of arguments and decisively removes out of force that classic and repeatedly highlighted objection against reasonableness [Марковић 1938: 107 and onward]. He particularly insists on the notion that security and order are not the only principles of legal order and, furthermore, on the notion that without reasonableness security cannot be complete either. Persistent and one-sided defenders of legal security at the expense of reasonableness ought to be warned by these words from Marković: "Unreasonableness can compromise law even more and more deeply than insecurity. Unreasonable law is also insecure law..."[34]

Seeing as security and reasonableness do not cancel each other out, and that law equally needs both, Marković seeks "a synthesis of the maximum of security and the maximum of reasonableness". Although he did not go into it in more detail, the conclusion is that a jurist's highest calling consists precisely of building and maintaining that synthesis. That is the tacit, albeit quite clear and easily identifiable message of all of Marković's efforts regarding reasonableness. Metaphorically speaking, for him reasonableness was always a bridge on which law meets life, aligns with it and in that way serves it.

Two Russian immigrants also had an important role in the development of legal philosophy at the Belgrade Faculty of Law. They are Evgeny Spektorsky (Russ. *Евгений Васильевич Спекторский*, Serb. Евгеније Спекторски) and Fyodor Taranovsky (Russ. Фёдор Васильевич Тарановский, Serb. Теодор Тарановски). Both left a visible mark on Serbian legal philosophy, a mark that has unfortunately been neglected and has not been given enough attention.

Spektorsky was a man of unsually broad scientific and philosophical interests, which were accompanied by equally broad erudition. If one looks at the works he published in the late 1920s and especially in the 1930s in the *Archive for Legal and Social Sciences* alone, they can easily notice their thematic diversity. For example, Spektorsky wrote about Descartes' influence on social sciences, Schopenhauer and contemporary culture, Pavel Novgorodtsev (a

[34] [Марковић 1939: 107]. On the place of justice and reasonableness in Marković's legal thought, the author of this paper wrote in more details in: Božidar S. Marković Before the Challenge of Justice and Reasonableness. [Баста VIII 2020: 472 –480].

famous Russian legal philosopher), Montesquieu, Heinrich Rickert, Tocqueville, Hobbes and his influence on the science of state. He was no less attracted to problems related to the nature of normative sciences, to the modern state of the science of the state, to legal systematics or to the relationship between legal sciences and psychology. Spektorsky published brilliant papers. His most important works published in Serbia certainly include a book about the state [Спекторски 1933] and a two-volume history of social philosophy published in the Slovenian language [Spektorskij I 1932 and Spektorskij II 1933].

A review of works by Evgeny Spektorsky shows that he was primarily focused on the history of legal philosophy, i.e. that he was first and foremost a historian of legal philosophical thought. What characterized him the most in that role was moderation in interpretation and reason in critique. That already shows that Spektorsky did not take his task as mere disinterested presentation on certain legal philosophers or legal philosophical orientations from the recent and distant past. On the contrary, he consistently aimed, in addition to reliable presentation, to always also provide a social and spiritual context, and to critically reconsider and determine how substantiated and sustainable the legal philosophical standpoint in question was.

Such characteristics of Spektorsky as a historian of legal philosophy manifested in many of his works, including the one on Hugo Grotius. An outstanding connoisseur of 17th century European rationalism, for which he was a true specialist, Spektorsky managed to review, define and present the epochal work of Hugo Grotius in an authentic historical perspective, both given the prior and subsequent development of legal philosophy, particularly the theory of natural law. He revealed the depth and importance of the turnabout which, by releasing natural law from the theological framework and consecreation and placing it on a new foundation of true reason (*recta ratio*), Grotius had carried out, not missing the opportunity to highlight the social principle (*socialitas*) as another key characteristic of Grotius' natural law. That enabled him to consider this great Dutch legal thinker the Descartes of legal philosophy and the initiator of the transformation of natural law which Kant would bring to its peak in rational law.

On the other hand, such a high opinion on Grotius did not disarm Spektorsky in the face of the weaknesses of his rationalistic and geometrical method. He considered the attempt to logically deduce everything from one supreme principle both brave and dangerous [Спекторски 1930: 8]. For: "The method of logical purity easily turns into a method of emptiness... A priori formulas lack flesh and bone, blood and vitamins. But rationalism does not bother with that, because its direction is not from life towards thought, on the contrary, from thought towards life." [Спекторски 1930: 8].

Predominantly a historian of legal philosophical thought, Spektorsky did not shape his own concept of law and legal philosophy. That, however, does not mean one could not draw from his numerous works, if not his concept, then certainly his view on that. As for his attitude toward legal philosophy, Spektorsky sought the overcoming of opposites between subjectivism and objectivism, i.e. a synthesis of both principles. He also supported efforts toward clearing the mess caused by legal thought's leaving itself and seeking methodical support

elsewhere, in sociology, psychology, ethnology etc. Demanding "a return of legal philosophy to its own problems and its own tradition, the interruption of which added nothing but confusion to the noble legal culture" [Спекторски 1931: 171], Spektorsky was – undoubtedly – guided by personal freedom as a value legal philosophy must never ignore or wrong.

By his main scientific calling and orientation, Fyodor Taranovsky was a legal historian, and primarily a historian of Slavic laws, including of course Serbian law. But he was not only and exclusively a legal historian, especially not a historian of narrow views and strict positivistic determination. Quite the contrary, Taranovsky personifies and is an excellent representative of the type of legal historian who does not forget to ask himself a question and be accountable for the philosophical foundations of his science, who, in other words, does not separate history (of law) from the philosophy of history. Sufficient proof of that is his unavoidable and unsurpassed *Introduction to the History of Slavic Laws*, the first part of which (almost half of the book) is devoted to the theoretical foundations of the history of law and where, among other things, the school of natural law, Historical School of Jurisprudence, Hegel's philosophy of history or positive philosophy in France etc. are reviewed – of course, given their influence on the history of law [Тарановски 1933]. It is, therefore, no wonder that Taranovsky is also the author of a comprehensive *Encyclopaedia of Law* [Тарановски 1923], which is not just a standard introduction to law and legal sciences (although it is that, too), but rather, seeing as it encompasses and contemplates many legal philosophical questions, it can and must be read as a sort of philosophy of law[35].

Abundant (at times to the point of saturation) in data, facts and details, with a documentary and literary backing, Taranovsky's *Encyclopaedia of Law* shows that it was written by a legal historian. It is also evident in the space that is given to the historical study of law. In spite of that, the impression that this is about the dominance of historicism, about dissolving legal philosophical issues in history, to the extremes of historicism, would be one-sided and therefore wrong. Truth be told, legal philosophical problems are primarily presented and processed in their historical dimension, but there can still be no talk of abandoning the philosophical theoretical plane of consideration. Apparently Taranovsky, albeit not always and in not in equal measure, managed to harmonize history and abstraction, to find their necessary measure in debating legal philosophical problematics. In his case, history is the framework and base of theory, i.e. philosophy of law, rather than its undisputed instance and sole purpose.

Like Spektorsky, Taranovsky did not build an independent and complete legal philosophy either. Nevertheless, considerations that bear the mark of his independence and particularity as an author can be found in his works. Among them is certainly his view of one of the central questions of legal philosophy, the question of the mutual relationship between law and morality.

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[35] The book was first published in the Russian language in 1917. – The fact that this work is in fact a philosophy of law whereby Taranovsky "in many of our young people awoke an interest in philosophical legal problems," was underscored by Đorđe Tasić in a text on the occasion of Prof. Taranovsky's death. [Тасић 1936: 1].

Wholly in line with the prevailing standpoint in Russian legal philosophy, the representatives of which, even the most important ones (for example, Vladimir Solovyov), spoke with great understanding and no less insight about the mutual relationship between law and morality, Taranovsky did not accept the sharp separation or irreconcilable opposition of law and morality. He believed that they were linked by common creation and a common goal, and that is the needs and opportunities of social life [36]. As they reach for the same goal – maintenance of society and helping its development toward just principles – law and morality to an extent share the same content. The conclusion can be drawn that the difference between them cannot be determined on those grounds. Taranovsky sees it in the different ways and means of performing the same social task. While morality prescribes only unilateral duties, law establishes both duties and claims (as Taranovsky understands the German term *Anspruch*). Or, to put it in terms used by Đorđe Tasić[37]: morality performs only an imperative function, while law performs an imperative and distributive one. According to Taranovsky, three characteristics separate law from morality: typicalness, distinctness and formalism. They always belong to legal duties and claims and emanate from the attributive nature of law. This separateness and difference, however, in no way produces the general contradiction between law and morality. Taranovsky believed that legal duties reflect moral duties, which is why they cannot contradict them either in terms of their typical content or regarding their concrete realization. That is why it seems it is not wrong to say that he was very close to Georg Jellinek's teaching of law as the minimum of morality.

Although the special legal philosophical character of Fyodor Taranovsky frequently manifests in considerations of other fundamental questions, too, such as, for example, the question of the relationship between the state and law, a reminder of his view of the relationship between morality and law shows convincingly enough that this respectable legal historian, who has indebted the history of Serbian law so much, at the same time was and remains an important figure in the history of legal philosophy at the Belgrade Faculty of Law.

If the development of legal philosophical thought at the Belgrade Faculty of Law that makes up the time frame of this review, i.e. from its founding to 1941, is observed as a whole, then there is no doubt that the development peaked in the work of Đorđe Tasić[38].

The broadness and diversity of Tasić's scientific and philosophical interests are conspicuous[39]. They were not tied to the (already broad) range of legal

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[36] On that and what follows, cf. [Тарановски 1923: 117 and onward].

[37] Tasić had some reservation toward the way in which Taranovsky distinguished law from morality, because that excluded awareness of law from the moral area, and also leaves open the question of whether a moral personality can be understood without recognizing law [Тасић 1936: 2].

[38] Germany occupied Serbia in April 1941. Immediately after occupation Tasić was "removed" from the Belgrade University. As an antifashist he was arrested by Gestapo on November 4, 1941. He has spent some time at Banjica concentration camp. On August 25, 1943 Gestapo arrested him for the second time. Next day, at the age of 50, he was executed.

[39] The presentation that follows largely, albeit not literally, relies on the D. Basta's The Character of Đorđe Tasić's Jurisprudence [Баста 1986: 337–341]. – Useful data and interesting observations can be found in the text Legal Philosopher and Sociologist Đorđe Tasić, by Rista M. Simonović. The text was published in *Two Yugoslav Greats (Borisav Stanković and Đorđe Tasić*)

theory, but rather reached into sociology and philosophy of law, even general sociology. In fact, Tasić rejected any rigid delineation between these disciplines, as if there were no points of contact between them and as if they did not share the same task[40]. He opposed strict disciplinary framing, and especially did not agree to any sort of specialist "cocooning" where fathoming of and shedding light on the legal phenomenon was concerned. That methodical determination of his is no "epistemological anarchism;" it is the product of a firm belief that law, put in more modern terms, is a multidimensional and multilayered phenomenon, that the question about its origin and its essence, its function and its purpose, cannot be answered by solely using one method or persistently staying on the ground of one discipline. Tasić, if one can say so, demanded – and in a remarkable way himself applied – a multimethodical approach to law. Since he did not care about the boundaries between theory, philosophy and sociology of law, but, on the contrary, surpassed them, Tasić should not be forcefully put into either of those disciplines. Perhaps it is best to speak about Tasić's jurisprudence.

With fantastically developed and insatiable curiosity, Tasić was diversely and thoroughly informed about the mainstream in the theory, philosophy and sociology of law of his time, and that primarily means about the social solidarity of Leon Duguit (and the school of social law in general) on one side, and about the normativity of Hans Kelsen (and the pure theory of law in general), on the other. He was fully familiar with these two orientations which – there is no doubt about that – strongly marked the theoretical and philosophical legal thought of the 20th century, especially its first half. One can easily see that on almost every page Tasić wrote, i.e. published. They can equally easily see something else, far more important than the fact that Tasić was well acquainted with the trends in the field he dealt with. That other and more important thing is the undisputed fact that Tasić was an equal participant in the debating of even the most complex problems of legal theory and philosophy with the leading names in the field at the time, even with Duguit and Kelsen themselves. Even though he held these two in high regard, particularly appreciating their, albeit differently led, struggle for the liberation of legal science and its methodical independence from other related sciences, for placing legal thought on its own ground, Tasić never shied away from expressing his own critical opinion of both Kelsen and Duguit. Completely clear about their greatness and importance for legal theory, ready to accept what he considered to be an inevitable truth with both (with Kelsen: highlighting the *normativity* of law, with

[Симоновић 1982: 23–27]. – As of recently, a complete picture of the range and thematic diversity of Tasić's opus may be obtained thanks to Miroljub D. Simić, who had enthusiastically and industriously for years gathered bibliographical data on Tasić's works and works on Tasić, and put them at public disposal in the book *The Bibliography of Đorđe Tasić* [Симић 1990].

[40] That is evident in the way Tasić defined the tasks set before the theoretical study of law. He says on the subject: "... the legal science in a broader and deeper sense has several tasks: 1. as the highest theory, regardless of whether it is legal sociology or philosophy, defines the concept of law, 2. it interprets legal regulations and then presents them in the system and 3. examines legal regulations in relation to society first for a practical purpose in interpretation (in practice and theory) and dedicates itself to that especially, independently from the practical goal as history and sociology and 4. finally proposes the legal measures to be taken." [Тасић 1941: 125].

Duguit: highlighting his *socialness*), Tasić knew how to stand up to the extremes and excesses of both schools of thought, by using arguments that were as convincing as they were lucid. He equally criticized social solidarity and normativity without dismissing them, he enriched his own truth about law, his jurisprudence with their "rational cores," without being an eclectic. He knew there was truth to be found with both Kelsen and Duguit, but he could not be satisfied by the general unilateralism of these great legal theorists. Between them, but together with them, he searched for his own intellectual path, a path of synthesis, rather than a path of compilation[41]. Tasić's opus shows how far down that path he went and how far he could have gone if he could have lived at least an average human life span.

Tasić was a man of ideas, a man of new and brave concepts. It is a matter of his *inventive spirit*. He did not only draw from others, although he did lean on them; others also inspired him, sparked the creation of independent ideas in him. That can be seen in many of his articles and treatises, be they about, e.g. a court act, state sovereignty, subjective law, the relationship between customs and laws, discretionary authority, legal gaps or some other issue. However, Tasić did not only have the spirit of inventiveness inside him. No less typical of him was a *spirit of nuance.* Furthermore, his inventiveness most notably found its expression precisely in the capacity for nuancing, in that rare gift of identifying and expressing barely noticeable passages and delicate nuances that law is abundant in. That analytical discernment and a fine-tuned sense of fathoming law, not in its completeness but rather in its becoming, makes Tasić so extraordinary that few in Serbian legal theory and legal philosophy can compare to him.

All those characteristics were also expressed in Tasić's works devoted to key legal philosophical problems, including natural law. Aware of its importance and value, which he knew how to point out to a sufficient extent, Tasić on the other hand did not overlook its weaknesses and flaws either[42]. He perceived natural and ideal law as something belonging to the sphere of practical postulates, the accuracy of which depends on whether people accept them, respect them and believe in them. He was, therefore, not inclined to absolutize natural law either in a metaphysical or in a religious sense. That, again, did not in Tasić's case produce any denial of the metaphysical aspect of natural law. He argued in favor of natural law being explained by one – as he himself called it – evolutionist metaphysics. In that way it is connected with social and historical reality and perceived as a matter of gradual progress and development.

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[41] Tasić's student Radomir Lukić particularly singles out and stresses the synthetic aspect of his thought: "Always strongly emphasizing the normative nature of law, Tasić also constantly underlined its social foundation and his concept may thus be labeled as a fortunate synthesis of healthy normativity and the formal element of law on one side and its material element on the other and thereby, on a higher philosophical plane, also as an original synthesis of idealism and materialism." [Лукић 1984: 11]. – In our opinion, the notion that in Tasić's case there was "an original synthesis of idealism and materialism" is an exaggeration.

[42] On what follows, cf. his article On Natural or Ideal Law. [Тасић 1984: 194 and onward]. – Basta aimed to thoroughly review Tasić's attitude toward natural law in an article titled Đorđe Tasić and the Problem of (Absolute) Natural Law [Баста VIII 2020: 452– 471].

Of course, Tasić also headed down that road when looking for a way out of the aporia of positive and natural law. That was not an exclusive and irreconcilable opposite for him, but rather "a relationship between static law and a law of the potential, dynamic and future." In Tasić's opinion, those two laws, thus understood, "constitute moments of the same stream." [Баста VIII 2020: 452– 471].

How balanced Tasić was, how adept at analyzing and critiquing he was, how skilled at unifying individual partial truths into a new complete truth about law, can be tracked in all the matters he dealt with. There are truly many examples, and one may take whichever they like. Let us take, however, one that is particularly prominent. That is Tasić's contemplation of order and justice as the principles or values of law. If we rule out those who reduce law (and with it, of course, the state too) to force, then legal philosophers, given the question of the main legal value or idea of law, can generally be divided into those for whom it is order, i.e. peace, and those for whom it is justice. The two groups are more or less irreconcilable: supporters of order as the main or highest legal value dispute justice, and vice versa. Tasić does not agree to this exclusivity, but in the process does not fall into legal philosophical relativism which ultimately leads to authoritarian consequences. He recognizes order as a legal value, recognizes it in a subjective and objective sense, but not unconditionally. For, order can be an order of slaves or, which is the same thing, an order of despots and tyrants, Tasić warns. That is why he says "that justice also has its own value," that "humanity is moving down a path between justice and order," and the elasticity of order allows for a relative matching of order and justice [Тасић 1984: 212][43]. Not prone to metaphysical legal axiology, which hypostasizes and as a rule absolutizes values, Tasić sees them in a social perspective and it can be said with good reason that "justice and order come from the same source, solidarity" [Тасић 1984: 212]. His conclusion is simple and clear: "And the whole point is to find the best way to balance out the two elements: order and justice, security and development of society." [Тасић 1984: 213].

There is no doubt and anyone can easily see for themself: Tasić's jurisprudence is primarily a modern jurisprudence, i.e.: jurisprudence built on a foundation of authoritative events in the theory and philosophy of law of his time. It harbors reservation toward abstract metaphysics, but it is not antiphilosophical. Tasić stayed away from lifeless constructs, scholastic concepts and anemic abstractions, and thus resisted the temptations facing on any legal theorist and philosopher. Tasić's jurisprudence was based on the dynamics and richness of legal life; it respected the legal empirical area, but did not become positivistic. Tasić never forgot about the elements of authority, force and hierarchy in law, but also did not forget its value content, its idea. The realism of his jurisprudence did not turn into facticity. Since its starting point was the practical reality of law and it respected its evolutiveness, Tasić's jurisprudence was elastic. He approached all the problems of legal theory and legal philosophy, especially those whose solving presupposes a personal stance, from the standpoint of his – as he called it himself – activistic idealism. In the article titled

[43] Cf. article Justice and Order as the Principles of Law [Тасић 1984: 212].

Modern Relativism and the Problem of Natural Law, he wrote: "What we are preaching is an activistic idealism which, having real life in mind, does not close the door on the absolute moral." [Тасић 1984: 205]. Thus in Tasić's jurisprudence, with all the awareness of their differences and mutual irreducibility, the link between law and morality is not broken. Finally, the jurisprudence Đorđe Tasić developed and advocated was a jurisprudence that did not sacrifice the individual man, his rights and freedoms, his dignity, which in no way means that it was individualistic. In a paper entitled On the Principle of Equality of Citizens Before the Law, he warned: "The main thing in law is and will remain: the relationship of the individual with the whole, the position of the individual in the whole." [Тасић 1984: 269].

As can be seen, with Tasić Serbian legal philosophy was led onto the European path[44], with him it gained a new methodical direction, an upswing, it expanded and enriched its problematics. Thanks to that, his opus, albeit incomplete, signified the establishment of a higher criterion for legal philosophy in our environment, a criterion that binds, no less today than yesterday.

The turnabout Đorđe Tasić made in Serbian legal thought, liberating it from excessive dogmatism, opening it to philosophy and especially turning it toward sociology, toward the application of the sociological method, was fruitful and attracted younger researchers[45]. Among them stood out Radomir D. Lukić, who followed in the footsteps of his teacher, not only adopting his basic view of law, but also beginning to independently develop and deepen certain integral elements of that view[46].

Having defended his doctoral thesis in Paris, in which he had undertook the processing of one of the central legal philosophical problems, the problem of law–value, law–ideal or objective law, where he reached a synthetic point of view that did not lose sight of the social dimension of value[47], Lukić most completely presented his aims in his opening lecture at the Belgrade Faculty of Law, held less than four months before the start of the war (December 18, 1940). That lecture, published under the title On the Concept of Sociology of Law[48], undoubtedly has the characteristics of a program, almost a manifesto. Wholly in the spirit of the sociological direction of Tasić's jurisprudence and

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[44] It is therefore no wonder that Tasić's jurisprudence was commended and that it had a good reputation internationally, too. For example, the famous *Philosophy of Law* textbook by Giorgio del Vecchio [Vecchio 1937] highlights Tasić's spiritual independence and critical sense, and also underlines the methodological value of his views. Cf. German translation: *Lehrbuch der Rechtsphilosophie*, Berlin 1937, pp. 217–218. A similar opinion on Tasić is provided by Wilhelm Sauer, *Rechts- und Staatsphilosophie*, Stuttgart 1936, p. 118.

[45] The best confirmation of that are some contributions in the extraordinary first book of the *Sociology Review* (published by the Society for Sociology and Social Sciences, Belgrade 1938), prepared and edited by none other than Đorđe Tasić. Cf. articles by Jovan Đorđević Sociology and Law (pp. 141–152) and Božidar S. Marković Law and Sociology (pp. 153–158).

[46] As a reminder, the period in question lasted until 1941.

[47] Radomir D. Loukitch: *La force obligatoire de la norme juridique et le problème d'n droit objectif*, Librairie du Recueil Sirey, Paris 1939. – Tasić himself provided a critical analysis of Lukić's thesis [Тасић 1940: 71–72], which ends with the words that completely came true: "We believe that this excellent paper by Mr. L. represents the start of fruitful scientific work."

[48] In the *Archive for Legal and Social Sciences*, № 3, 1941, 175–203.

with respect for the results reached by renowned representatives of legal sociology abroad (primarily Eugen Ehrlich and Georges Gurvitch), Lukić stresses the need for this discipline, points out its achievements until that point, warns about its main interest in learning, i.e. the main directions of its research. Legal sociology as he sees it should focus on three questions: the origin, structure and effect of law, but always and primarily by applying the sociological method. In fact, the sociological method has the advantage in the formation of sociology of law, because it is thanks to the method rather than to the subject matter that it is set apart and shaped as an independent science of law. Sociology of law uses the method of observation, its exclusive task is to learn law as fact, as a social given, as the content of social consciousness, rather than law as a norm or an ideal. It should explore the legal dynamics and legal statics, making sure in the process not to move onto the ground of legal dogmatics and legal philosophy, which, of course, certainly does not mean that cooperation and connection are impossible between these three disciplines. They do not cancel each other out, but rather mutually presuppose each other; the methodical and subject independence of one does not mean the denial of the other two. In spite of that, one gets the impression (and it is always personal and thus impossible to prove!) that sociology of law in Lukić's case has a certain primacy which, apparently stems from the newness and possibility of its procedure, as well as from its scientificity.

In this framework and in this place, the way Lukić perceives legal philosophy, its position, method and task is interesting [Лукић 1941: 191–193]. Somewhat parallel with legal sociology, seeing as, like the latter, it aims to build a complete image of law, philosophy of law separates from it by "encompassing law within a general image of the word, determining its position relative to all other phenomena." The difference between them is even more noticeable if one takes into account the fact that philosophy of law primarily deals with the ideal side of law and in the process uses its special method – intuition, whereby it "concludes directly based on the facts it experiences and penetrates the essence, the core of the matter." That enables it to immerse itself into the examination of ideals, even the creation of a system of values–ideals. In Lukić's opinion, it has two main tasks. One is to *establish ideals* and the other is to *study the essence of ideals.*

It is not difficult to note that such a concept of philosophy of law is too narrow because it reduces it to a kind of legal axiology. It is also narrow, i.e. unilateral, because it sees intuition as the only and authentic philosophical method, which, of course, invalidates reason and the mind as means of learning, while putting in parentheses, if not completely expelling from philosophy (of law) rationalist tradition in its entirety. This, however, is not the place for critical objections to Lukić's concept of philosophy of law at the time. It is far more important to draw attention to the fact that his youthful argument in favor of sociology of law, which remains unreproachable even some fifty years later, avoided the extreme of denying both legal dogmatics and legal philosophy. Not only was his advocacy of sociology of law not against legal dogmatics and legal philosophy, but it actually entailed and even expressly pointed out the

necessity of their cooperation on the joint task of learning law. And it is a point of view that is both moderate and modern, and which many authors conform to today[49].

Besides advocating sociology of law, Lukić's work in question also contains views on some of the key legal and philosophical questions. That is where his contemplation of the relationship between ideals and reality certainly comes into play [Лукић 1941: 185], but also his general view of law as a process which because of that eludes the complete knowledge of its rules. He says: "The law is, therefore, a process that lasts before us and which is not done, and we cannot know at what point of its development we are. Accordingly, we cannot determine the laws of its development, because in order to fully be able to do that, we need to have the entire process, complete, before us. That, however, means the end of evolution, i.e. death, i.e. the inability to learn. Therefore, what lies in the importance of law itself as a living process is that it will never be completely given to us." [Лукић 1941: 195–196].

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Lukić's youthful support for sociology of law, behind which there is no anti-philosophical stance but which inspires a considerably greater confidence in science than in philosophy, marks in both temporal and symbolic terms the end of centennial development of legal philosophy at the Belgrade Faculty of Law. That U-turn toward legal sociology, observed in retrospect (a privilege of subsequent generations!) simultaneously meant completion and indication: completion of centennial movement of legal philosophical thought at the Faculty of Law in Belgrade and different transformations the idea of law went through, and an indication of a time in which there would, unfortunately, be little (or none at all) understanding for the matter of legal philosophy at the Faculty, in which it would long be suppressed and nearly forgotten.

III

Based on the previous presentation of the historical development of legal philosophy at the Belgrade Faculty of Law in the time span of a century, therefore in a period that represents a complete whole, and so it was methodically possible to give it systematic and complete consideration, several conclusions stand out. We will point them out in separate items.

1. From the very founding of the Faculty of Law in Serbia, in Belgrade, legal philosophy always had a prominent role and an important place at the Faculty, albeit not in a formal disciplinary sense of the word. It can be freely said that, once conceived, in time it not only kept alive but also fortified awareness of the indivisible connection between law and philosophy. And not only that. Out of that awareness came the knowledge of the need for legal philosophy for a

[49] Among them is Arthur Kaufmann, one of the best known names in modern legal philosophy. Cf., for example, his introduction to the book: *Einführung in Rechtsphilosophie und Rechtstheorie der Gegenwart*, hrsg. von Arthur Kaufmann und Winfried Hassemer. 4. völlig neubearbeitete und erweiterte Auflage, Heidelberg 1985, 1–23.

complete education of Serbian jurists. Albeit not always evenly, nevertheless the idea gained ground that legal philosophy was the only one capable of giving juristic education the highly necessary spiritual and cultural content, without which it would be stripped of broader views, without which it would remain imprisoned in the tight boundaries of positivism, formalism and dogmatism. Thus it is quite understandable that in the observed period legal philosophy gave a noticeable mark to the entire intellectual and scientific habitus of the Belgrade Faculty of Law.

2. Although legal philosophy in Serbia was not only cultivated at the Faculty of Law in Belgrade, and although there were important authors outside of it, it can still be reliably claimed that it was the true hotspot of legal philosophical thought, its development and enhancement in our environment. As a whole, the history of Serbian legal philosophy was for the most part written precisely at the Belgrade Faculty of Law. Without its messengers who operated there, it would have been much poorer and would not have deserved as much attention as it otherwise does.

3. The development of legal philosophical thought at the Faculty of Law in Belgrade was not always continuous, nor did it unfold evenly and gradually. After the initial momentum, there was a period of stagnation in the second half of the 19th century, the causes of which largely lie in the *Zeitgeist*, i.e. in the victorious quest of scientific positivism which, coming from European university centers, also affected Serbian legal thought. Uncritical faith in the epistemological value of the positive knowledge based on checkable facts, having possessed the representatives of Serbian legal science at the time, left little room and even less understanding for legal philosophy, and so the very awareness of it barely stayed alive. Everything changed for the better at the beginning of the 20th century, and between the two world wars philosophy of law at the Belgrade Faculty of Law, mostly thanks to Toma Živanović and Đorđe Tasić, reached the summit of its development, stepped onto the international stage, attracted attention there and earned recognition. Neither before nor after that was it at that level and with such results; that is why the interwar period is the most important and most fruitful period in the existence and development of legal philosophy at the Faculty of Law in Belgrade.

4. Its important characteristic is that it, sometimes more and sometimes less, followed the mainstream in European legal philosophy. That means it followed thematically and methodologically in the footsteps of the prevailing orientations, which of course should not be taken like it was always and without any difference on an equal footing with them. It just means that it bore the undisputed mark of European legal philosophy, oriented toward it and drew incentives from it.

5. If the entire legal philosophy nurtured at the Belgrade Faculty of Law between 1841 and 1941 is covered by a single look, in its complete diversity, and is a common trait is sought in the process, i.e. that which is usually called the red line that connects different authors and their concepts, it will turn out to be a certain axiological perspective in which law – of course, not always in the same way – appears as a value, as an integral part and, furthermore, as a condition

of possibility of human culture, as an irreplaceable factor not just of the common life, but also a life of people in society that is organized, peaceful, free and above all imbued with justice. That perspective persevered despite (or exactly thanks to!) all the transformations the legal idea went through during the aforementioned period. The notion that the essence of law does not lie in force and authority, that law deals with peace and order, freedom and justice, which it is called to serve and in which its highest purpose is reflected – that is the permanent legacy and binding heritage of the centennial development of legal philosophy at the Faculty of Law in Belgrade. That is why it is an unavoidable fact in Serbian legal culture. That is also why it is worthy of an important place in Serbian entire culture.

ABBREVIATIONS

ed. = edition, edited, editor
p. = page; pp. = pages
Russ. = Russian
Serb. = Serbian
SFRY = Socialist Federative Republic of Yugoslavia

АПДН / ALSS = Архив за правне и друштвене науке / Archive for Legal and Social Sciences
АПФБ / AFLB = Анали Правног факултета у Београду / Annals of the Faculty of Law in Belgrade
Д+ГГ / D+GG = Досије + Гутенбергова галаксија / Dosije + Gutenbergova galaksija
ДСС / SSLW = Друштво српске словесности / Serbian Society of Letter and Wisdom
ЗМСДН / MSJSS = Зборник Матице српске за друштвене науке / Matica Srpska Journal for Social Sciences
МС / MS = Матица српска / Matica srpska
САНУ / SASA = Српска академија наука и уметности / Serbian Academy of Sciences and Arts
СКА / SRA = Српска краљевска академија / Serbian Royal Academy
СКЗ / SLC = Српска књижевна задруга / Serbian Literary Cooperative
СУД /SLS = Српско учено друштво / Serbian Learned Society

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МОРАЛНАЯ
ФІЛОСОФІА,

Image 1. *Efrem Lazarović*

Image 2. *Dositej Obradović*


УСТАВЪ
КНЯЖЕСТВА
СЕРБІЕ.
1835.

Image 3. *Božidar Grujović (Teodor Filipović)*

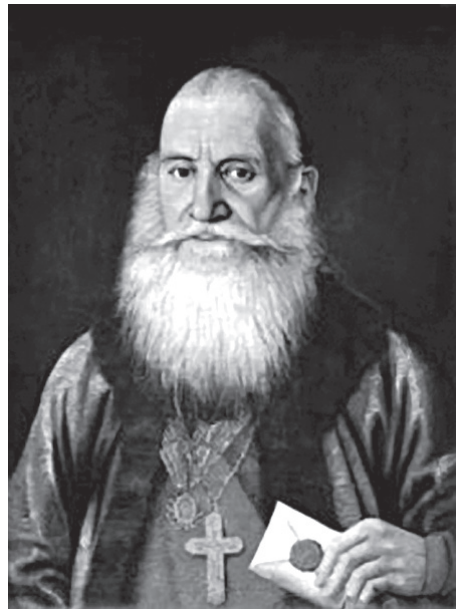
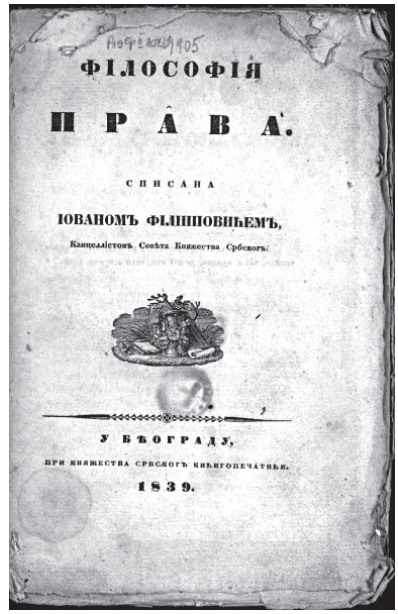


Image 4. *Matija Nenadović*



ФІЛОСОФІЯ

ПРАВА.

СПИСАНА

ІОВАНОМЪ ФІЛИПОВИЋЕМЪ,

Канцелістомъ Совѣта Княжества Сербскогъ.

У БѢОГРАДУ,

ПРИ КНЯЖЕСТВА СРБСКОГЪ КЊИГОПЕЧАТЊИ.

1839.

Image 5. *Jovan Filipović*

Image 6. *Jovan Stejić*

Image 7. *Mihailo Hristifor Ristić*

Image 8. *Dimitrije Davidović*

Image 9. *Jovan Sterija Popović*

Image 10. *Dimitrije Matić*

Image 11. *Živojin Perić*

Image 12. *Jovan Rajić*

Image 13. *Toma Živanović*

Image 14. *Giga Geršić*

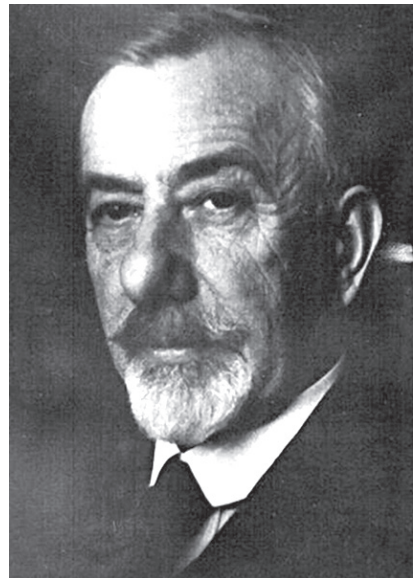


Image 15. *Živan Spasojević*

Image 16. *Božidar S. Marković*

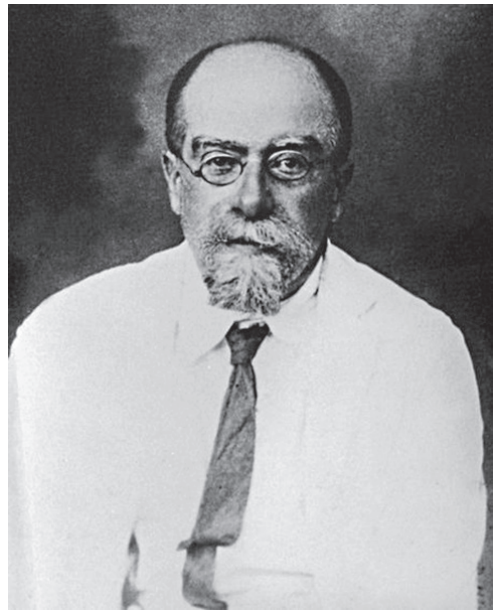


Image 17. *Evgeny Spektorsky*

Image 18. *Đorđe Tasić*

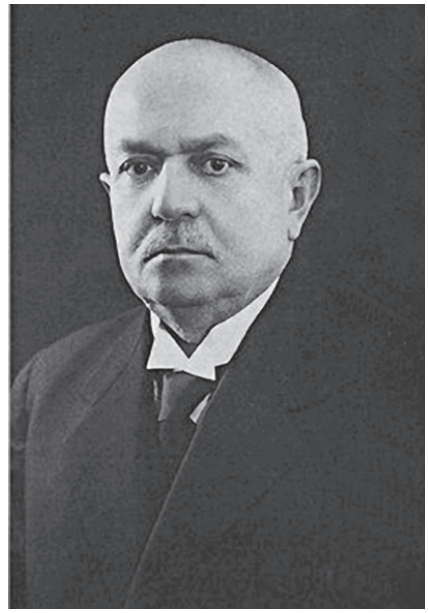


Image 19. *Fyodor (Teodor) Taranovsky*

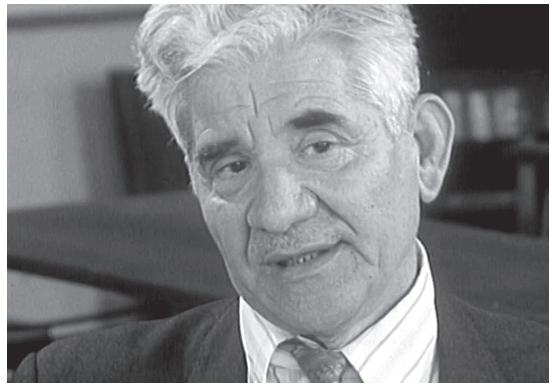


Image 20. *Radomir Lukić*

EMIGRATION FROM ROMANIA

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SUMMARY: Emigration from the European Union periphery, from Central and Eastern Europe, especially from the Baltic States and the Balkans, has been intense and is resulting in depopulation of these countries. This paper examines the case of Romania. After making an overview of the population dynamics after the Second World War, the paper proceeds to discuss the transition to a market economy that was too rapid and created major difficulties, changing Romania's industrial structure drastically. In spite of the country's economic growth, its cities could not create sufficient jobs to absorb the surplus labor force from both rural and urban areas, which led to massive and continuous emigration. Remittances by Romanians working abroad have contributed to the country's economic development, reducing its foreign trade deficit and improving the standard of living, but have also led to excessive investment. Although emigration contributed to the reduction of unemployment rate, its negative aspects such as brain drain should not be neglected. Depopulation of rural areas is extremely high, and the government measures to remedy the situation are not bearing fruit. Such a situation is untenable and requires reexamination of the EU's regional policy.

KEYWORDS: Romania, EU, migration, population outflow, depopulation
JEL Classification: J61, P51, 52

Romania and Bulgaria joined the European Union (EU) in January 2007, two years and eight months after the eight countries of Central and Eastern Europe that became EU members in May 2004. Immediately after the system change at the end of 1989, many Romanians began migrating to the West. The migration was further spurred by the country's accession to the EU as the people could move more freely than before. While at the end of the socialist era Romania had about 23 million inhabitants, in 2018 the country's population numbered about 19.6 million, meaning that within a short period of some 30 years there were about 3.4 million less Romanians living in their home country. In the 2000–2015 period Romania had the second highest increase of the diaspora. Syria ranked the first, with an average annual growth of citizens living abroad by 13.1%, and Romania held second place with 7.3% of the population

living outside the country[1]. In view of the fact that the Syrians, unlike Romanians, headed for Europe mostly as refugees, the growth rate of the Romanian diaspora is exceptionally high. In the case of postwar Japan, for example, especially during the period of high economic growth (1955–1972), there had been a mass migration from the north-eastern San-in region, etc. of Honshu (mainland) to the metropolitan areas and a concomitant depopulation of these regions, but the process was not so rapid as in present-day Romania. Migrations characterize all new EU member states. People are emigrating from all Central European countries as well as from Slovenia, although the number is not that high in the latter case. But, there are also people immigrating to those countries, meaning that the number of their inhabitants is not changing significantly. It is the Baltic States, especially Lithuania and Latvia, and the Balkan EU member states, Romania and Bulgaria, where a massive emigration is causing a significant decrease in population.

What has caused such a rapid and massive emigration from Romania? This paper aims firstly to clarify the causes of this phenomenon. Secondly, it will consider both the positive and negative implications of emigration for the Romanian economy. This paper is structured as follows: After making an overview of the population dynamics after the Second World War, the paper will consider the impact of the transition to a market economy on the Romanian society and people. The actual emigration situation will then be presented in greater detail, with both its positive and negative aspects and the government's countermeasures examined. Of course, some closing conclusions will also be offered.

POPULATION DYNAMICS IN ROMANIA

Generally speaking, societies go from a situation of high birth rate and high death rate through a high birth rate-low death rate condition to a situation of low birth rate and low death rate, which is called demographic transition. Apparently, Romania had experienced a demographic transition in the mid-1960s.

Incidentally, looking at Table 1, we find a strange phenomenon. The total fertility rate decreased to 2.74 in 1960, jumping to 3.06 in 1965 and remaining at a higher level for a while. This phenomenon apparently had to do with the state policy of 'Give births and increase the population' (along with measures prohibiting abortion) which was pursued in the Ceausescu era. The largest population of Romania was recorded in 1990 – 23.5 millions, when the crude birth rate, the crude death rate and the rate of natural increase were 13.6, 10.6 and 3.0, respectively. The crude birth rate began to decrease in 1990 to 13.6 from 16.0 in the previous year, dropping further to 9.8 in 2005. It was probably due to the revoking of the law prohibiting abortion in 1990, and economic difficulties of the 1990s. Since then, the crude birth rate has remained steady at 9.0 per mil plus. The death rate increased slightly after 1991, reflecting a relative increase of the elderly in the population total.

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[1] The 3rd place and the 4th place are held by Poland (5.1%) and India (4.5%), respectively [United Nations 2016: 19].

In 1992 the rate of natural increase turned to negative (-0.2). Since then it continued to decrease and reached -2.5 in 2017. The fertility rate decreased substantially to 1.84 in 1990, reaching a record low level of 1.32 in 2005. Although the fertility rate recovered slightly later on, it remained at a low level of 1.49 in 2017.

Table 1 *Population Dynamics in Romania*

Year	Population	Total fertility rate	Crude birth rate (per 1000)	Crude death rate (per 1000)	Natural change (per 1000)
1955	17,483,935	3.06			
1960	18,613,939	2.74			
1965	19,379,568	3.06			
1970	20,548,911	2.87			
1975	21,665,643	2.65			
1980	22,611,971	2.55			
1985	23,103,646	2.26			
1990	23,489,373	1.84	13.6	10.6	3.0
1995	22,965,111	1.34	10.3	11.8	-1.5
2000	22,128,128	1.34	10.3	11.2	-0.9
2005	21,382,354	1.32	9.8	11.6	-1.8
2006	21,257,016	1.42	9.7	11.4	-1.7
2007	21,130,503	1.45	9.5	11.2	-1.7
2008	20,635,460	1.60	9.8	11.2	-1.4
2009	20,440,290	1.66	9.9	11.4	-1.5
2010	20,294,683	1.45	9.4	11.5	-2.1
2011	21,199,059	1.47	8.7	11.2	-2.5
2012	20,095,996	1.52	9.0	11.4	-2.4
2013	20,020,074	1.46	9.6	11.2	-2.6
2014	19,953,989	1.56	9.1	11.5	-2.4
2015	19,875,542	1.48	9.3	11.8	-2.5
2016	19,760,585	1.49	9.1	11.6	-2.5
2017	19,644,350	1.49	9.3	11.8	-2.5
2018	19,530,631				

Source: Population in 2005–2018, crude birth rate and crude death rate are based on the data provided by the Romanian Institute for Statistics (http://statistici.insse.ro:8077/tempo-online/#/pages/tables/insse-table]. Population in 1955-2000 and total fertility rate are based on Worldometers data [www.worldometers.info/world- population/romania-population]. However, as total fertility rates in 2006–2009 and 2011–2014 are based on Croitoru [2015, pp. 142–143], it is obvious that the data slightly lacks consistency. Natural increase rates were calculated as the difference between the crude birth rates and the crude death rates.

A study by Andrei et al. [2015: 22–23] addressed the contribution of the natural decease and emigration to the overall population decrease. According to it, the decrease in population during 11 years – from 2002 through 2012 – was 1,73 million, to which the negative natural population increase contributed

23%, with the external migration contributing 77%. This shows to what extent the emigration is affecting Romanian society.

THE SYSTEM CHANGE

Negative Legacy from the Past and Lack of Capable State

Until the mid-20th century Romania's industrial development has been slow, with agriculture playing an important role. During the socialist era, the county was expected to serve as a basis for food supply within the Comecon system. In the first half of the 1960s the leadership of communist Romania embarked on industrialization despite the Soviet Union's objections. Its symbolic example was the construction of ironworks in Galati with the aid from West Germany. Unlike other Central and Eastern European countries, Romania had abundant oil deposits. In order to make a good use of them, the Romanian leadership tried to enhance the capacity of crude oil refinement. Therefore, the country not only utilized domestic crude oil, but also imported huge quantities from the Arab countries. This practice, however, resulted in a huge foreign debt due to a sharp increase in oil prices worldwide. In the 1980s, the Romanian leadership hastened to repay the accumulated debt. In order to come by the foreign currency, the export of many goods (including fresh vegetables) was increased even at the expense of the living standard at home. "Romania has succeeded to a certain extent in industrialization with the large-scale heavy ("compartment I") industries as the core, but failed in the development of a high-tech (sophisticated) machine industry, which was its original goal." [Uegaki 1995: 230] In this way, politically and economically, the Romanian socialism came to a deadlock and finally collapsed, with a system change, which Romanians call Revolution, taking place in December 1989.

It seems that the negative legacy from the Ceausescu era, as well as a lack of democratic tradition in the period preceding the socialist phase left a deep mark on Romania's contemporary society. The state played an important role in the transition to a market economy and the accession to the European Union. What was amiss, however, was that there was no 'capable state', a term coined by two Hungarian researchers Bohle and Greskovits [2012], and that is what Romania and Bulgaria have in common. According to Bohle and Gerskovits, after the economic and political chaos of the 1990s, Romania and Bulgaria became neoliberal market societies. As opposed to the the situation in the Baltic States, a low level of political participation in Romania and Bulgaria does not reflect political suppression but rather a lack of large social groups. In both countries industrialization and political mobilization were not developed before the advent of communism, while they have failed in constructing a bureaucratic formal state apparatus during the communist era. Instead, "patrimonial communist" rule relied on the extensive network of patronage and clientelism and "vertical chains of personal interdependence of state leaders and party apparatus and their entourage." This kind of legacy was passed on to the post-communist period. In this way, there appeared the opportunities for party elites to "prey on the state", further undermining its capacities [Bohle and Greskovits 2012: 193–194].

At the time of the system change in Romania no groups that could assume leadership in further political change or the transition to a market economy existed. Immediately after the December 1989 collapse of the Ceausescu regime, the National Salvation Front took power. As all dissident intellectuals and civic movements were mercilessly suppressed by the regime, the communist elite, who had been coldly treated toward the end of the old regime, came to the forefront of political life. Unlike Poland, where the change of government occurred as a result of grass roots civic movements, in Romania the shift in power was only horizontal. Also, there was the issue of endemic political corruption in Romania, much like in Bulgaria, that was often raised in the EU. For this reason, both countries were not granted EU membership in 2004. They were admitted to the EU only in 2007, and conditionally at that: even after their EU accession, the EU was to monitor the areas such as agriculture, anti-corruption fight, the judiciary reform, intellectual property protection and border control, as in all these sectors the two countries were lagging far behind the other EU states and their standards.

TRANSITION TO A MARKET ECONOMY

Since there were no groups capable of running a market economy, transition to it within a short period was quite difficult. Consequently, the country experienced a transformational recession twice – in the first half and at the end of the 1990s. In 2000 the situation in the economy improved, mostly thanks to an increase in exports (i.e. demand in foreign countries) and an increase in foreign direct investment (FDI). The capacities of metallurgy and chemical industry were reduced. Clothing and footwear industries, which were leading exporters, were detrimentally affected by competition from China. These industries were developed in cooperation with Italian companies, but the Italians transferred a part of the production to China. Instead, the automobile industry and the home appliances industry, in which multinational enterprises had invested, came to play a leading role in the economic development and exports.

Agriculture

At the beginning of the communist era after the end of WWII farmland whose owners had more than 50ha was expropriated and distributed to landless peasants [Moldovan, et al. 2016: 439]. According to Rusu and Pamfil [2005], after the system change in 1989 a land reform was implemented on the principle of restitution. As a result, the private sector came to account for an overwhelming share of the total farmland. The most significant problem, however, is that the farms were not only small, but were also fragmented, i.e. its parts located in different places [Valentin-Mihai and Sebastian 2015]. In this way, a situation similar to the one in Bulgaria became characteristic of Romanian agriculture as well [see Koyama 2018]. Along with large-scale agricultural farms (agricultural commercial enterprises, agricultural cooperatives and large-scale family farms) numerous small-scale individual farms also appeared. Most

of the latter serve only to meet the needs of individual households. Romania used to produce food for the entire Comecon countries during the communist era, but today it imports food[2].

FUNDS FROM OUTSIDE

Support from the EU

The EU has been providing the member states with economic support via the Structural Funds and Cohesion Fund financial tools. Embezzlement scandals involving local politicians and government officials and conflict of interest instances in public procurement procedures (for example, politicians helped companies close to them or their relatives and friends to obtain funds and implement projects), however, have led to the suspension of EU funding. That is why the EU funds absorption rate was rather low, despite its increase in recent years. A high level of political corruption appears to be a result of the previous, communist period.

Incidentally, the concept of the EU funds absorption rate we Japanese people find very difficult to understand. In the case of Romania, the absorption rate (the ratio of the of allocated funds and those that are made available) has been very low. The system of allocation of EU funds is quite different from how it is done in Japan, where the central government in Tokyo allocates the predetermined amounts of funds to local projects. In the case of the EU, however, at first the governments of member states propose projects, then the European Commission (i.e. the EU), after assessing the proposals, determines the amount of funds to be allocated. Besides, the European Commission does not allocate the whole approved amount at once, but does that in installments after having checked the progress at each stage of the project. In addition, the funds allocation by the European Commission require co-financing by each member state. Therefore, unless the government of Romania has funds for co-financing, the EU will not assist its projects, which often results in quite low absorption rates[3].

Both Romania's parliament and judiciary have been reluctant to fight corruption.[4] In order to get rid of the problem the government established in 2002 the National Anti-Corruption Directorate, but complete independence of this institution was not guaranteed. The Social Democratic Party (PSD), which won

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[2] Romania's food and energy self-sufficiency in 2004–2009 was 91%. [Sadowski and Bauer-Nawrocka 2016: 410].

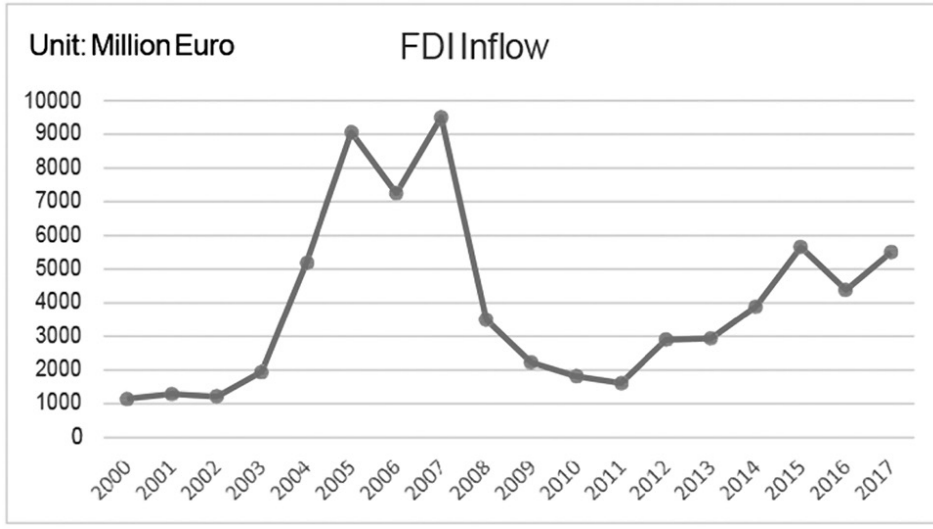
[3] In the programs related to the basic infrastructure such as transport and environment the EU funds absorption rates were 54% and 51%, respectively, at the end of July 2015 [Dragan 2016: 167]. According to the latest information, Romania's funds absorption rate by the end of 2016 was 90.44%. https://cohesiondata.ec.europa.eu/dataset/Romania-Total-Absorption-Rate/tv2f-prhk. Accessed on 02/26/2019.

[4] The Senate has shown reluctance to pass stricter anti-graft laws, voting against proposed measures on July 1, 2010. In addition, on July 19, 2010 the Constitutional Court rejected a law to further empower the National Integrity Agency reasoning that the measures requiring public figures to declare their financial interests would represent a violation of their right to privacy. [*EEM*, September 2010]

election in December 2016, formed a coalition government with center-right Alliance for Liberals and Democrats in January 2017. After less than a month in office, the new coalition government softened the penal code with an emergency decree[5]. This triggered "mass public protests on a scale unseen since the collapse of the Communist Ceausescu regime in 1989" [*EEM*, May 2017]. The general prosecutor and the chief anti-corruption prosecutor both criticized the decree. Criticism also came from several EU institutions, European governments and business organizations [Hunya 2017: 104]. In order to use funds from the EU effectively, it is necessary for the Romanian people to strengthen their fight against corruption and reinforce the rule of law, which is essential for improving the investment climate.

Foreign Direct Investment (FDI)

In the 1990s the amount of the per capita FDI inflow into Romania was much smaller compared with Central Europe and the Baltic States. Only in the second half of the 1990s did the FDI inflow increase, which was related to the privatization of state-owned enterprises. In the early 2000s, when the prospects for the EU accession became more likely, the amount of FDI inflow went up. During the 2001–2006 period Romania received US$26 billion in FDI. Foreign businesses were attracted by the country's skilled labor force and low salaries [Frunza et al. 2009].



Source: Prepared by the author based on the data from *wiiw Research Report*; *Current Analyses and Forecasts* and *Forecast Report*, various issues.

[5] Specifically the government's decree was aimed at decriminalizing abuse of public office in cases where damages amounted to less than RON200,000 (EUR45,000). No doubt, this decree was an attempt to save an influential leader of the PSD Liviu Dragnea from prosecution [*EEM*, May 2017].

The area which has attracted the largest amount of FDI as of 2016 is manufacturing, accounting for 32.0% of the total FDI stock, followed by retail, wholesale trade and automobile repair (12.8%), financial intermediary and insurance (12.6%), electricity and gas (8.9%), real estate (7.6%). Looking at manufacturing in greater detail, transport equipment (i.e. automobiles) holds the first place (21.0%), followed by rubber, plastics, other non-metal, mineral products (14.0%), basic metals, processed metal products excluding machine and equipment (12.8%), food products, beverages and tobacco products (10.6%), machines and equipment (7.2%), etc. Looking at the general FDI stock by country, the Netherlands holds the first place (24.3%), followed by Germany (13.2%), Austria (11.9%), France (6.9%), Cyprus (6.5%), etc. [Hunya 2018: 106–108].

A lack of 'a capable state'is linked to the type of direct foreign investment. Transnational companies may invest 'patient', i.e. long-term, or 'impatient' or 'hyper-mobile' foreign capital. The former, i.e. those willing to settle more permanently in a national economy – in particular capital-intensive complex-manufacturing[6] investors – require from the host countries a variety of resources and services that cannot be efficiently delivered by a weak state. In contrast, transnational companies that massively invested in Romania (as well as in Bulgaria and Croatia), especially since the late 1990s, were those with 'impatient' foreign capital. It is in the traditional and labor-intensive, low-wage/low-skill 'sweatshop' industries that the three laggard countries were able to attract more foreign capital than Slovenia [Hunya 2018: 206–207]. If Romania wants to develop capital-intensive complex manufacturing and increase employment in such areas, the country would need to attract investment from transnational companies in these areas and at the same time train qualified workers. In addition, as the country has an ambition to develop the services sector, it also needs to attract investment from transnational companies in this area[7]. The necessity for the development of complex manufacturing and services sectors means that the country will have a 'viable state' in the long-run.

ECONOMIC GROWTH

Internal Migration

According to Moldovan, et al. [2016], under the communist rule the internal migration was rather controlled. Towards the end of the communist era migration to the cities whose population exceeded 100,000 was strictly limited. As a result of the lifting of this restriction, the record high migration from rural to urban regions (over 2/3 of the total migration) was registered in 1990. The study provides us with the information about the percentage of permanent

[6] "Complex-manufacturing" is a term coined by Bohle and Greskovits [2012: 203], and it specifically means "physical and human capital-intensive industries, such as the chemical and pharmaceutical industries, and those producing machinery, automobiles and electronics."

[7] According to Profiroiu et al. [2008: 108–109], services sector companies in this country do not have a very high technological level. They expect that operators from the communication fields will enter the Romanian service market, and stress the necessity to attract international competitive players which use the latest technologies.

residence change (see Figure 2). From here we can understand how intense the internal migration in 1990 had been. The migration in opposite direction also took place. As mentioned above, the farmland reform based on the principle of restitution was implemented in 1991. In order to use the right to benefit from the restitution, many inhabitants of urban regions who had connections with rural regions moved to the homes where their parents or grandparents lived.

A study by Guran-Nica and Rusu [2015] explains every years' internal migration from 1991 through 2011 by four patterns of migration: rural–urban, rural–rural, urban–urban, and urban–rural. It is interesting to see the proportion of these four patterns of migration presented in the study. In 1991, 50% of the internal migration was from the rural to urban regions and 19% from rural to rural. Later on, the former proportion was gradually decreasing reaching 20% in 2011, presumably because the cities could not absorb the potential surplus work force from the rural areas. That year the ratio of the urban-rural and rural-rural internal migration patterns was 30% and 20%, respectively [Guran-Nica and Rusu 2015: 65].

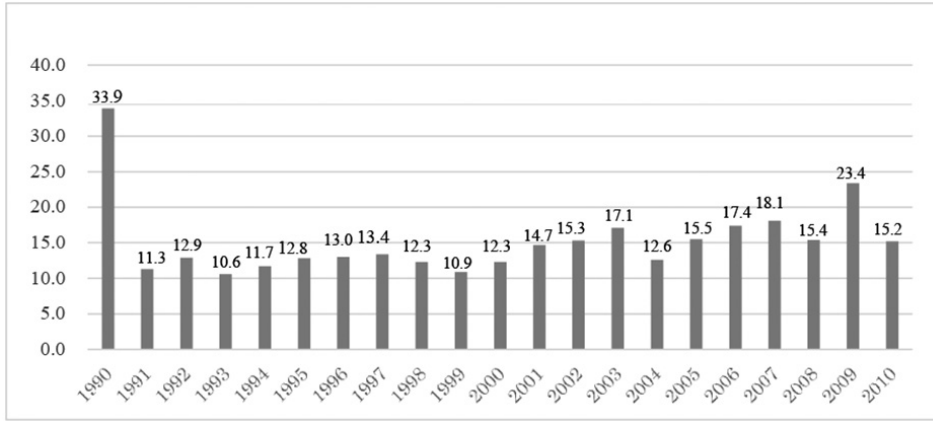


Figure 2. *Internal migration in Romania by permanent residence change 1990–2010:* Rates per 1000 inhabitants

Source: [Moldovan et al 2016: 441]

Employment

According to Steliac [2015], currently Romania's employment rate is around 60%. During the 1998-2013 period, the total number of employed decreased from 8,812.600 to 8,530.600. By region, the employment rate decreased in all except the Bucharest-Ilfov and western regions. The highest decrease was recorded in the country's northeast (the poorest area) with over 204,000 less employed. The growth in employment was registered in the Bucharest-Ilfov region – over 376,000. Where the three major sectors – agriculture, industry and construction, and services – are concerned, in the same period employment in

agriculture decreased in all the eight regions, while the number of newly employed in the services sector went up. Still, however, in the northeastern region (40.06%) and the southwest of the country (38.86%) employment rate in agriculture is around 40%. As for the industry and construction sectors, the employment rate decreased more or less in all regions except in the western region (where an increase of 1.92% was registered), while the greatest decrease was recorded in the Bucharest-Ilfov region (13.52%), with a simultaneous most remarkable increase of employment rate in the services sector by 16.25%, to 71.28%.

Economic Growth and Unemployment

In spite of the *transition recession* of the 1990s and the global financial crisis of 2008–2009 and the subsequent recession in Europe, during the 26 years, i.e. from 1991 through 2016, Romania fared rather well. In the said period GDP per capita at purchasing power parity increased 4.4 times from 3,900 Euros to 17,300 Euros.

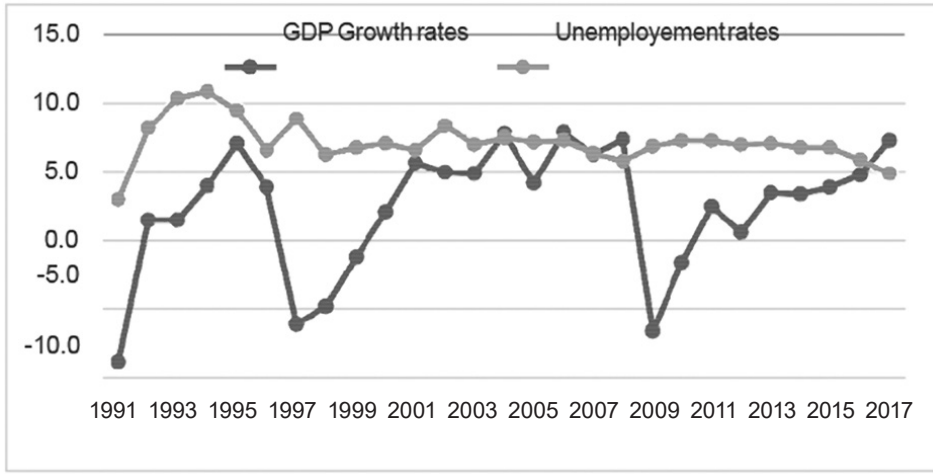


Figure 3 *GDP Growth rates and Unemployment rates*

Source: Prepared by the author based on the data from *wiiw Handbook of Statistic*s and wiiw, *Current Analysis and Forecasts*, various issues.

As for the unemployment rate, it peaked in 1994, reaching 10.9%. Although it increased somewhat in the recession period, it tends to decrease and was at 4.9% in 2017 (see Figure 2). It seems that the unemployment rate in this country is not as high as in other post-socialist countries, but the situation is not that simple. After mentioning the 3.46% unemployment rate in August 2018, Gabriela Baicu [2018] argues that Romania's low unemployment rate is only formally so. According to her, due to the restructuring of enterprises during the process of transition to a market economy in the 1990s, almost three

million jobs had disappeared in the declining industries (mining, metal processing, chemical and rubber, agricultural machinery, trucks, heavy equipment industries). Only one million jobs mostly in trade, agriculture and services replaced the lost ones. What happened with the remaining two million workers? A part of them left the country to work abroad, reducing the unemployment rate at home. Others had left the labor market. The government failed to do anything to remedy the situation. And the situation was tragic especially for the people in their forties and fifties. Due to a lack of proper infrastructure, the high cost of transportation and low salaries, commuting to neighboring towns in search for a job was not a practical option in the absence of any governmental support. Presumably a substantial number of them were forced to work in the informal economy[8] (specifically in the services and the construction sector in particular). Baicu points out to the problem of young people (aged 20 to 34) who are NEET (not in education, employment or training). Their percentage was among the highest in the EU – at 21.4% compared to the EU average of 17.2%. Many unemployed people who are of working age but lack skills are not not included in statistics. In addition to efforts in reducing the school dropout rate in parallel with improvement of PISA results, she emphasizes a pivotal role of local authorities in enabling young people to find jobs by providing them with temporary work in order to hone their skills and supporting their return to full-time education or integration in the private job market.

It is said that the population has decreased even in capital city of Bucharest in recent years[9]. In spite of the economic growth, the metropolitan area and local cities could not provide sufficient jobs to absorb the surplus work force from the rural and urban areas.

EMIGRATION

Causes and Proportions of Migration

After the system change a full-scale emigration began,[10] as it became much easier to cross the border. According to Anghel, et al. [2016], during the

[8] The informal economy as of 2000 accounted for around 30% of GDP [Baicu 2018].

[9] Information provided by Dr Vasile Ghetau, Director of the Center of Demographic Research, on October 31, 2018.

[10] There was migration even in the socialist period. According to Anghel, et al. [2016], international migration was tightly controlled, passports were deposited with the authorities, and contact with foreign citizens was under strict surveillance. It was mainly ethnic migration – that of Romanian Jews, Germans, and Hungarians – that was officially allowed. After the Second World War there were around 300,000-350,000 Romanian Jews. As they experienced anti-Semitism of the interwar Romanian politics and oppression under the communist regime, after the war initially clandestinely and legally after 1948, numerous Jews migrated to Israel. Romanian Hungarians who lived mostly in Transylvania migrated to Hungary after 1980 with tacit approval by the authorities. After the Second World War roughly 350,000 Germans remained in Romania. It was relatively difficult for them to migrate after the 1950s until 1977, when the government of West Germany persuaded both Poland and Romania to allow them to leave for West Germany. The Romanian and West German governments signed an agreement allowing a yearly quota of 11,000 ethnic Germans to migrate based on family reunion provisions. Romania received significant financial benefits from West Germany, which offered compensation (a kind of ransom) for every visa issued to

period 1990 through 1993 there was intense ethnic and asylum seekers' migration. Especially in 1990 about 97,000 people and in 1991 about 44,000 people left the country for good (see Table 2).

There was relatively low emigration of Romanians at that time. The remaining Germans migrated to Germany in this period. About a half of political asylum seekers in Germany were Roma who cited increasing discrimination in Romania when applying. In 1993, however, Romania was considered a safe country and further applications were denied. Germany signed a bilateral repatriation agreement with Romania in 1992. Romania agreed to take back 60,000 Roma and about 40,000 Romanians, while Germany agreed to cover the transportation costs. In this way, a large number of asylum seekers had "disappeared" [Anghel et al. 2016: 8–9].

During the period 1990–2002 Romanians had to have a visa to enter the EU. At that time only people of good financial standing were able to emigrate [Pociovalisteanu 2012b: 70]. In 2002 when visa requirements for Romanian citizens were lifted, the people felt the first fundamental benefit of the EU – the freedom of movement between member states [Baicu 2018]. "Overnight, the queues before embassies of EU countries in Bucharest disappeared, with new ones being formed at the doors of the regional employment agencies where interviews with Spanish or Italian employers interested in having Romanians take temporary jobs in agriculture were held" [Baicu 2018]. However, it did not mean that Romanian people have gained direct access to the labor market in the EU; they had to wait until the country's accession to the EU in January 2007.

Aside from political and ethnic reasons, the following factors acted as push factors:[11] i) low salaries, the lowest in the EU; ii) poor medical care (for example, high infant mortality rate); iii) lack of jobs, and iv) malfunction of institutions in Romania (unfavorable especially for the youth). Pull factors[12] included: i) higher salaries in more advanced EU member states[13]; ii) higher living standards; iii) individual freedom and possibility of finding a better job, and iv) a higher level of social security and medical care.

It is very difficult to determne the exact number of Romanian migrants because there are various types of them: i) people who settle in a destination permanently; ii) people who stay in a destination for a long period, but intend to eventually return to their home country; iii) people who make a short or medium--migration to a destination with intention to return to the home country after a while; people who repeatedly leave their home country and repeatedly return, and people who do not return to their home country, but migrate further to yet another country. In addition to these, there are people who migrate for non-economic reasons, for example, young people who migrate to a destination in a foreign country for educational purposes, as malfunction of institutions in Romania is

Romanian Germans. About 180,000 ethnic Germans had thus migrated to West Germany between 1977 and 1989 [Anghel et al. 2016: 3–5].

[11] I have summarized the description taking into account Professor Sandu's opinion.

[12] I have summarized the description taking into account Moldovan et al. [2016].

[13] In 2016 the average monthly gross wage in Romania was 626 Euros while in Austria it was 3,630 Euros, the ratio being 1: 5.8. wiiw, *Forecast Report*, Autumn 2017, p. 139, p. 142.

unfavorably affecting their career prospects. I would like to add that the migrant networks have been important for latecomers [Pociovalisteanu 2012b: 75].

Table 2 *Estimates of temporary and permanent emigration from Romania*

Country	Total recorded inflow of Romanian imigrants in other countries OECD (1)	Temporary emigrants from Romania (2)	OECD-NIS estimation (1) – (2)	Temporary emigrants from Romania of 15–39 y.o.estimated by NIS (3)	Permanent emigrants from Romania, NIS (4)
1990	88091				96929
1991	73051				44160
1992	120196				31152
1993	92105				18446
1994	38687				17146
1995	40915				25675
1996	34894				21526
1997	33402				19945
1998	45063				17536
1999	54888				12594
2000	87720				14753
2001	100238				9921
2002	123783				8154
2003	188983				10673
2004	229188				13082
2005	211605				10938
2006	227925				14197
2007	556922				8830
2008	336597	302796	33801	201078	8739
2009	265270	246626	18644	156257	10211
2010	276726	197985	78741	123872	7906
2011	299926	195559	104375	121064	18307
2012	287679	170186	117493	100611	18001
2013	298050	161755	136295	92985	19056
2014	386883	172871	214012	107430	11251
2015	421260	194718	226542	135696	15235
2016	418683	207578	211105	136024	22807
2017		242193		156602	23156

Source: Data aggregated by Professor Dumtru Sandu in January 2019.

Note: OECD estimates the total number of Romanian immigrants (temporary and permanent ones) in different countries, using different sources. OECD figures (http://dx.doi.org/10.1787/data-00342-en] include not only emigrants from Romania but also Romanian-born population emigrating from other countries. Comments by Professor Dumitru Sandu.

Table 2 was compiled by Professor Dumitru Sandu (University of Bucharest). According to him, the number of permanent migrants is available from the National Institute of Statistics (NIS) in Romania, but it is difficult to determine the exact number of temporary migrants. There are big differences between their numbers published by host countries (OECD data) and those published by Romania. He says that the most reliable way is aggregation of data of host countries, which he actually did.

Table 2 shows us first that the number of permanent migrants was extremely high in 1990. Then, although the numbers slightly decreased, remaining at a high level until 2000, with some fluctuation; second, the number of short-term migrants was very high in 1992. Then the number went down while slightly fluctuating at several tens of thousands. It soared to 100,000 in 2001 and to 123,000 in 2002, whereas the number of permanent migrants decreased in 2001. Presumably such changes reflected brighter prospects for Romania's accession to the EU. After 2002 when the no visa regime was introduced for Romanian citizens for the Schengen area, the number of temporary migrants kept rising until 2007; third, the start of the 2008–2009 global financial crisis negatively affected the migration flow leading to a decrease in the number of both permanent and temporary migrants. Due to the recession in the more advanced EU member states, there was an increasing number of migrants returning home and of those migrating further to other countries; fourth, after 2013 the number of temporary migrants tended to go up. This could have been a result of the government of Romania being forced to implement austerity measures, slashing salaries in the public sector by 25%; fifth, in addition to an increase in the number of temporary migrants, the number of permanent migrants has also been increasing after 2015. These are unexpected trends because the Romanian economy is showing signs of recovery, with the GDP growth rates being 3.9%, 4.8% and 7.3% in 2015, 2016 and 2017, respectively. I suspect that factors other than economic ones might be at work here.

Destinations of Migrants

Preferred destinations of Romanian migrants changed over time. According to period, they were as follows: in 1990–1995 it was Germany; in 1996–1997 the USA and Canada; in 1998–2001 Hungary; in 2002–2006 Spain; in 2007–2010 Italy; in 2011–2012 the destinations varied, but the preferred ones were in the Nordic countries, and in 2013 they were Germany, the United Kingdom and other northern countries [Sandu 2018].

Although migration to Hungary was constant, in 1998–2001 it gained more importance. In this period, when Romania was undergoing the second transitional recession, not only Romanians of Hungarian descent but also many Romanians living along them left for Hungary, some of them traveling even farther to other, more advanced countries [Sandu 2018]. From 2002 (the year when the Schengen space was opened to Romanians) through 2006 (a year before Romania's accession to the EU), Spain attracted the largest number of Romanians. At that time, the demand for construction workers increased due

to a construction boom it that country. A number of Romanian migrants, however, left to work in the agriculture sector as well.

Immediately before accepting the eight countries of Central and Eastern Europe as members in May 2004, the EU member states introduced transitional measures so as to regulate the inflow of workers from the newly admitted countries fearing their arrival in the EU labor market in large numbers. The UK, Ireland and Sweden, whose economies at the time were performing well, did not apply these measures. In January 2007, when Romania and Bulgaria joined the EU, Finland and Sweden, as well as all new EU member states of Central and Eastern Europe except Hungary, also decided to forego the said labor market restrictions. Most EU member states (EU-15) introduced sector specific quotas for Romanian workers. While allowing for an unlimited arrival of highly skilled workers, the UK, on its part, introduced an annual quota of 19,750 only for blue-collar workers in specific sectors [Frunza et al. 2009: 41].

There has always been migration to Italy, too, but in the period 2007–2010 Italy as a destination gained more importance for migrant Romanians. At the present, the largest number of Romanian migrants are in that country, followed by Spain and Germany. A study by Mara and Landesmann from the Vienna Institute for International Economic Studies [wiiw], the net migration rate, i.e. the difference between the number of immigrants to and emigrants from a country or region, from the new EU member states from Central and Eastern Europe to EU-15 during 16 years, from 2000 through 2015, supports this. According to them, the net migration from Romania to EU-15 is 2,144,838. Most of them headed for Italy (902,877), followed by Spain (649,643), Germany (267,267), the UK (82,023), and so on. The study, however, did not include migration to North America, Asia and other places. Also, migrations between the new EU member states, for example migration from Romania to Hungary, was not taken into account either. In this regard, Sandu's study, which covered migrations to other new EU member states in Central and Eastern Europe, is of great significance.

According to Sandu, there were several reasons why Italy became the most favorite destination for Romanian migrants. First of all, due to a construction boom in the mid-1990s in Italy, the demand for construction workers increased; also there was an increase in the number of elderly people in need of care, though this was not the case in Italy alone, but Italy was specific insofar as there the need for such care involved the people who stayed at their homes and not in specializing facilities, and female Romanian migrants were ready to satisfy that type of growing demand. The third reason was the linguistic proximity of Romanian and Italian,[14] both being Romance languages. This also goes for Spanish and French.

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[14] Anghel, et al. [2016] compares the situation of Romanian and Ukraine female migrant workers: the Romanians' knowledge of Italian improves relatively quickly, and they are more capable of finding new jobs and housing. Although they initially intend to stay in Italy for a short time, they extend their stay and later on bring their children. In contrast, it is not so easy for Ukraine women speaking a Slavic language to learn Italian. Ukraine women leave their children at home and use their savings for their children's education back in Ukraine [Anghel, et al. 2016: 15].

Types of Job in Destination

According to a study by Mara [2012], who took a survey questionnaire among Romania migrants in three large cities in Italy (Rome, Milan and Turin), the majority of migrants were employed, i.e. four-fifths of them worked full-time, part-time or were self-employed. Men mostly worked as extraction and construction workers (47%), drivers and mobile plant operators (9%) and as workers in the metal and machinery industry (6%). One-third of women worked in sales and services as elementary workers, in personal care and related jobs (27%) and in housekeeping and restaurant services (8%) [p. 92]. Those who were employed in highly qualified jobs were very few. This suggests that most Romanian migrants held lower-skilled and under-qualified positions [Mara 2012: 2]. Most of men had a regular work contract, while 16% worked without a contract. Informal employment was more common among women: 25% said that they did not have a work contract. Moreover, 60% of those working without contract had a part-time job [p. 39].

POSITIVE AND NEGATIVE ASPECTS OF MIGRATION

Positive Aspects[15]

Remittances from foreign countries. According to Andren and Roman [2014: 21], the sharply increasing remittance inflow after 2004 placed Romania among the top recipients of remittances in the world. It held the fourth position in respect to the absolute level of transfers in 2008, and this type of inflow accounted for 3.3% of GDP. It should be kept in mind, however, that it is very difficult to determine the exact amounts of such remittances. As in most developing countries, in Romania too the official data on them is below the actual amount reaching the country. It is believed that approximately 40% of all the transfers were made through informal channels. Be it as it may, the remittances have contributed to the reduction of the current account deficit and to modernizing the country. Most of the remittances were used for consumption. Specifically, the money was used for purchasing home appliances (50%), expansion and modernization of homes (37%) and byuing automobiles (16%). Just a portion of the funds sent from abroad were deposited in banks [Anghel et al. 2016: 25).

Table 3. *Remittance Flows to Romania* (Unit: Million Euros)

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
	17	80	89	153	237	436	456	623	535	861	1,031	1,612	2,028
Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
	3,100	3,900	5,530	6,172	6,610	4,360	3,810	2,300	2,200	2,336	2,547	3,200	

Source: [Anghel et al. 2016: 24]

[15] Pociovalisteanu [2012a] mentions dissemination of technical knowledge and modern work methods as well as acquirement of a European way of thinking as positive results of the migration.

After 2009 the amount of remittances decreased, never reaching its highest level from 2008, not only because the host countries' economies suffered from the 2008–2009 global financial crisis and the subsequent recession in Europe but because many Romanian migrants eventually took their families with them to their host countries [Baicu 2018].

Decline in unemployment rate. Emigration of many Romanians to work abroad has contributed to a decline in the country's unemployment rate. In recent years there appeared even a shortage of workers[16] in several areas such as construction, textile industry, hotel and catering, tourism, wood processing and furniture manufacturing [Pociovalisteanu 2012a: 29]. In 2016, in order to stimulate immigration, the government began to consider shortening the procedure for issuing work permits and visas and simplifying the visa regime for citizens of neighboring countries that are not EU members [Hunya 2016: 99].

Negative Aspects

Situation in rural areas. The rural areas account for 87.1% of Romania's territory. Although the rural population is decreasing, there are still some 9.24 million people living outside cities, and they account for 46% of total population as of 2015 [Christina et al. 2015: 39]. A World Bank 2018 report [WBR 2018] describes Romania's transformation as "a tale of two Romanias – one urban, dynamic, and integrated with the EU; the other rural, poor, and isolated," pointing to widening disparities in economic opportunities and poverty, across regions and between urban and rural areas [WBR 2018: 1]. According to the report, the provision of social services that involve social protection, employment, education, and healthcare is fragmented and sparse, especially in rural areas where the need is the greatest. Improving access to public services remains an urgent priority, as 22% of the population still lack access to potable water and 32% live without a flush toilet [WBR 2018: 4].

Carmen Paun, a reporter for a Brussels-based electronic journal Politico, reported on the case of Intorsura, a village surrounded by hillsides covered with vineyards and pastures in Romania's southeast. According to her, due to the pasing away of older residents and moving of the younger ones abroad, the population of the village decreased from 1,786 in 2002 to 1,470 in 2018, leaving every fourth house abandoned. The only asphalt-covered road in the village is the one leading to neighboring villages, while others are dirt roads turning into mud in poor weather like years ago. At the time the report was written, they were being covered with gravel. Paun offered a story about a younger couple who make living as seasonal workers picking fruit and vegetables in Germany. They work one to two months at a time and return home with up to 4,000 Euros – an amount they could not earn in the village in a year. Paun added that their parents are fortunate because their children are around, as they leave for

[16] According to Posirca [2017], "Romania's private sector is registering demand for employees across the board, from welders and electricians to IT experts and agriculture and construction specialists." In recent years Romania accepted a certain number of immigrants from neighboring countries. As of 2015 the number of immigrants is 226,900 [UN 2016: 30].

Germany for only a few months during one year and always return. In contrast, their neighbor has a 31-year-old son who had left for Italy more than 10 years before and never came back. The neighbor had sold some of his land and used the money to visit his son [Paun 2018].

Dumitru Sandu says that disparity between the cities and rural areas can be seen in the infant mortality rate, which is several times higher in rural areas, as well as in life expectancy.[17] Previous governments could not narrow the gap due to highly centralized administration.

Brain drain. Emigration of highly skilled people such as specialists in high technology and medical professionals continues. As Romania has the fewest number of practicing medical doctors per capita in the EU, the brain drain in this area has become an "issue of national concern" [Anghel et al. 2016: 20]. It seems, however, that their departure was not necessarily been motivated by egotism. Andren and Roman [2014] point out the inadequate working conditions, a lack of reasonable incentives, and an unsatisfactory career development system, as well as the overloading of the existing personnel with extra tasks as factors influencing the rapid increase in brain drain in the health care sector. Moreover, in 2010 the government which had to adopt austerity measures, slashed medical professionals' salaries by 25% and reduced the number of staff, additionally discouraging them [Andren and Roman 2014: 25]. The number of Romanian physicians working abroad exceeded 14,000 after 2013, the figure representing one- third of the country's total number of medical doctors. Meanwhile, the national health system survives on meager resources [Paun 2018: 4]. This is why the medical services in the country are quite poor, which is reflected in the highest infant mortality rate in the EU. This is one of the major reasons why young Romanians want to emigrate [Sandu 2017: 18].

GOVERNMENT'S COUNTERMEASURES

As already mentioned, labor shortages were even felt in some sectors in Romania in the mid-2000s. In order to resolve 'the labor crisis', the government introduced measures intended to encourage Romanians not to leave and return to the country. Thus in 2007 salaries in the healthcare and education sectors, paid from the budget, were increased 20– 24% [Frunza et al. 2009: 59]. In 2008-2009, however, Romania was hard hit by the global financial crisis, falling into recession, which subsequently caused a rise in the budget deficit. Following EU regulations for handling the excessive deficit, the country was obliged to introduce austerity measures reducing public sector salaries by 25% along with the reduction in subsidies and an increase in the VAT rate (from 19% to 24%). Thus bound by policies of the European Commission and the IMF, the government was unable to pursue a consistent recovery policy. Only in March 2018 could the government propose a series of salary increases for medical doctors (more than doubling them) and teachers (by about 20%), which was approved by the

[17] Information provided by Dr Dumitru Sandu, professor of Sociology at the University of Bucharest, on October 31, 2018.

Parliament. So far, however, these measures has proved ineffective in stopping brain drain.[18]

Sandu argues that as motives for migration are changing over time, those deciding on migration policies should take this into account, but if they ignore these changes, their policies would not bear results. In his opinion, it is impossible to stop emigration because the gap between the salaries in Romania and those in more advanced EU member states is wide and lasting. Instead, he raises a question of how to reduce or optimize the Romanian emigration and adds that it is possible to reduce or optimize it if adequate policies are implemented.

Sandu also argues that it is necessary to have a more decentralized administrative structure in order to successfully promote the return of Romanian migrants. The present administrative structure (the central government, county and other local administrative units), which inherited the structure of the communist era, enables for the central government's high degree of freedom and low efficiency. Without decentralization of the administrative structure, sandu says, it will be impossible to adequately respond to local people's needs[19]. In 2013 the government tried to decentralize the system by setting up an intermediate level between the central authorities and county authorities. It was a good idea, but, this attempt at reform failed due to strong opposition of some local power circles and some political forces at the central level. Sandu says that sooner or later the process will have to be re-started[20].

CONCLUSION

In summarizing this overview, it should first be said that no domestic groups of people capable of leading Romania's transition to a market economy existed at the time of the system change in 1989. As there was also no 'capable state' either, it was very difficult, in conditions of open economy, to carry out the necessary economic transition within a short period. Endemic political corruption did not allow for an effective use of EU funds. In the 21st century an increased FDI inflow contributed to Romania's economic development. Due to a lack of 'a capable state', however, the country has failed to attract FDI from multinational capital-intensive and complex manufacturing companies.

Secondly, farmland reform based on the principle of restitution was a just but economically not a reasonable solution. Its result was the forming of numerous small-scale individual farms producing only for their owners. Thus from the point of view of increased productivity, the reform proved counterproductive as it failed to create new jobs in the rural areas, but only numerous potentially unemployed people.

Further on, the industrial structure has drastically changed since the 1989 system change. Romania's heavy and other industries of the communist era gradually ceased to operate, without new industries being sufficiently developed.

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[18] Information provided by Ms. Carmen Paun in an e-mail (February 24, 2018) and the following website: https://www.romania-insider.com/romanian-doctors-teachers-salaries-go-today

[19] For more on local government see [Teodorescu et al. 2007].

[20] Professor Sandu's reply of January 16, 2019 in an e-email to my inquiry.

Manufacturing and services industries in the urban areas could not absorb the potentially surplus population from the rural areas, forcing many people from both rural and urban regions to leave the country.

Fourth, remittances by Romanian migrants contributed to the reduction of the current account deficit and to improvement of the living standard of their families left in Romania by enhanced consumption, but they have not led to a significant expansion of investment in Romanian economy. At the same time emigration of Romanian workers contributed to a decline in the unemployment rate. Its negative aspects, however, such as brain drain and depopulation of the rural areas cannot be neglected.

Fifth, the government's countermeasures against depopulation of the rural areas proved entirely insufficient. The investment in the rural areas has been insufficient. Due to a highly centralized administrative structure, the government has not succeeded in creating new jobs in the rural areas. Migration of young people from the rural areas to cities and foreign countries has been remarkable, while those who remained behind are aging. 'Ghost villages,' settlements where nobody lives any more, are appearing. Strengthening the powers of local administrative bodies and implementing rural development policies with financial support is necessary.

Sixth, in order to develop the Romanian economy it is necessary to invite Romanians living abroad to return to Romania and make use of their own money, knowledge, networks and entrepreneurship, as the government's efforts in this respect have so far been insufficient. Although several policies aiming to improve the situation have been launched, a tangible outcome is yet to appear. The role of the younger generation, especially highly educated young people, is quite important in the sense that they should shoulder the future economic and social development. It is understandable and good that they may work in a foreign country because they can experience a different culture, acquire advanced knowledge and master the latest techniques, which can be quite useful in developing their own country. If, however, most of them decide not to return home and stay abroad, the future of Romania will not be so bright.

Seventh, population outflow from the periphery of the EU including Romania continues with the core EU member states, such as Germany, developing by using the migrant work force. Such a situation, however, is not sustainable in the long run and requires reexamination of the EU's regional policies.

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OF HEROES AND MEN

MOMČILO SELIĆ

(The Afterword and Endnote to the English translation of Marko Miljanov Popović's *Of Heroes and Men*, Balkanija, Novi Sad 2019)

The recently published English translation of Marko Miljanov Popović's *Of Heroes and Men* (translated, edited, annotated and commented upon by Momčilo Selić) offers to a foreign reader – but most of all to a younger generation of expatriate Serbs – an insight into the world long gone, and increasingly suppressed in the very land where it was born to the respect and awe of many.

Marko Miljanov Popović (Medun, 1833 – Herceg Novi, 1901), a Serb from the Kuči (Kutchi) tribe did not need to know how to read and write to become one of the noblest and bravest defenders of the freedom of his people, in their incessant battle with the Ottoman Turks and Albanians. A *voivode* (duke) and a senator equally recognized for his valor and courage by his own people as by his foes, in 1882 he retired from public life to his native Medun after a fierce dispute with Prince Nikola. Then 50 years old, he decided to learn to write, explaining in a single sentence in a letter to a friend what battle he was going to join, now that he had laid his sword aside: "Dear brother Serb, if you but had a chance to see the heroes I've seen, your heart would give you no peace until you follow their example, of men who die as gladly for their own honor, as they do for the reputation and liberty of our people as a whole."

He was equally laconic in explaining to a Czech journalist his personal credo of *čojstvo i junaštvo* ("nobility and courage") – the gist of Serb national ethics:

"Mettle (*junaštvo*) is proved by defending oneself from others, but manhood (*čojstvo*) only by guarding others from oneself."

Marko Miljanov has written several books, but his examples of *čojstvo* and *junaštvo* presented in this translation are best known in his homeland. And though this is not their first translation into English, his recollections of heroes and men he had met during his lifetime are rendered into equally concise and corresponding English – itself nowadays suppressed by global and impoverishing Newspeak of political correctness.

Writer and translator Momčilo Selić, himself a Serb of Montenegrin descent, who has, in his own words, "covered entire Montenegro on foot, avoiding roads by sticking to mountain trails and pathways," added to this translation

a book-length study of the history, traditions, and customs of his people, as well as an invaluable list of literature for those who might decide to embark upon a similar journey. Researching for years the ethnic development of Serbs and other neighboring or kindred nations, and relying "on what his eyes had seen, and what he could learn from the living people, especially those who revere their lore," in his *Afterword* and *Endnote*, herein presented, he also offers us a summary of his own, experience-generated credo.

MORLOCK MOUNTAIN

Branching out from the Alps, curving along the Dalmatian coast and dipping into the Mediterranean at the tip of the Peloponnese, looms the Mountain, one of the six major highland wellsprings of all European nations, heroes, and legends.

Humpbacked, barren, here and there bristling with limestone peaks and crags, it runs with clear waters – sometimes submerged for miles before reappearing as bottomless springs, or as spouts out of sunbleached cliffs.

To the Hellenes and Romans, the entire Balkans were known as Haemus, "The Mountain" (*Stara Planina*, "Old Mountain" in Serb and Bulgarian). Neither in Greek nor Latin does *haemus* mean "mountain," but, in ancient Serb *hum* does. *Hum* is also "earth," akin to Latin *humus*, whereas *aimos* in Homeric Greek meant blood, as did *haima* in the Classical.

And, a Mountain Drenched in Blood the Balkans may well be, *Balkan* representing only a late, Turkish translation of that. In a crescent stretching from the Caucasus, the World Mountain snaked its way across the Anatolian Highlands and over the Balkans, to join the Carpathians, short – but for the Ukrainian Plain – of becoming a full circle of the Ouroboros, a Serpent that Devours its Own Tail.

For, not out of whim did the 19th century anthropologists call the entire White Race "Caucasian," though they might have also named it "Balkan" – except for their dislike of the peoples of its north-western reaches, known to the Venetians and, until the end of the 19th century, to the Austrians as Illyrians. Mysterious and unresearched like the Thracians and the Dacians, along with them they remained an epitome of barbarism – the ultimate putdown by the Greeks, the Romans, and all Western Europeans. But, that the *barbaroi* could have willfully stayed cultured by declining the imminent entropy of civilization, Western science has refused to consider ever since the *civitas* became the only accepted paradigm of enlightened living. The inhabitants of the enchanted, merciless, timeless High Country were thus consigned to millennial disdain by urbanities, busy with inventing ever new ways of engaging in, as they saw it, "The Game of Life."

So, to lessen their own pain, and embarrassment, the Venetians called the Dinarics "Morlachs" (*Maurovlachi*, *Morlachi*, *Nigri Latini*, "Black Vlachs"), or simply "Vlachs" (*Vlachoi*, in Greek, *Vlasi*, sing. *Vlah* in Serb). That label covered, and still does, a much wider territory than the people formally associated with it: Ukrainians and Russians deride the Poles as "Leh, Lyeh," the

Germans dismiss all Romance peoples as "Wallach," the Celts of southwestern Britain are known as the "Welsh," the Croats, Slav Muslims, and Slovenes taunt Orthodox Christian Serbs as "Vlachs" (*Lahi* in Slovene), while the larger part of Romania is a "Wallachia" (*Vlashka* in Serb) to this day. Not to be outdone, the Greeks still disparage their mountaineers as "Vlachos" – while, in Serbia, its Romance-speaking minority is accepted as "Vlasi" without any derision or odium. For, until the beginning of the 20th century, all highlanders of the Balkans were classified by most Western travelers as "Vlachs," though many were not that.

It took, however, a 20th century Slovene professor of ethnology, Niko Županić (*Zhupanitch*, of Bela Krajina, a Serb enclave in Slovenia) to sort out this confusion of names, misconceptions, imputations, ignorance, and ill-will by proposing a theory that in antiquity the entire rim of the Mediterranean was peopled by the "Iberians," a race he so named after the most important river in each region they inhabited. For, an Ibar (Ebro) runs through the Basque country on the Iberian Peninsula, in Italy (T)iber flows through Rome, in Serbia another Ibar divides Serbs from the Albanians, and in Georgia (Iberia until the Late Middle Ages) Ipari comes down from the Caucasus to join Mtkvari, emptying into the Caspian Sea.

Županić did not examine the quick, dark, courageous, and mercantile Iberians' racial characteristics, or their maritime orientation, nor did he qualify the stolid, rational, and cautious Aryans, who avoided the sea which they called *mor* in Celtic, *more* in Serb and Slav, *Meer* in German, *mare* in Romance – all etymologically derivative of *death*. A Serb by descent, he did not ponder why his ancestors never became sailors, or why the Aryans in general took to the sea only after – following the retreating glaciers of the last Ice Age – they settled north of the Alps. Županić was a scholar of the Old School, and it took our contemporary, Professor Klyosov of Harvard, to claim that DNA research confirms that Western Europe was populated by pioneers from the Balkans, the Mediterranean, and present-day Russia and Ukraine.

But, as Serbs say: "Upon becoming king, a Gypsy first kills his father!" And, though Voivode Marko Miljanov Popovic was no upstart, ethnographer, or geneticist, like all Montenegrins he was keenly interested in genealogies – if, at least, to be able to discern between king and knave. Neither, however, was he a politician to expect Herbert Gordon Wells, the leader of Victorian London's Bloomsbury Circle, to come up with "Morlocks" as cannibals in his novel *The Time Machine*. Illiterate until his fifties, Marko Miljanov, a Montenegrin Serb, was completely unaware of how common the horror stories about the Morlachs of the Dinaric Alps were in Western Europe since the High Middle Ages. For, of Venetian origin, they provided the educated classes with an opportunity to distance themselves from their own, to them unseemly, un-Nordic or un-Classical ancestry.

And though it took a German, Oswald Spengler, to insist on the difference between culture and its substitute called civilization, and though felons were publically drawn and quartered in Elizabethan London, and heretics burned at the stake in genteel Venice and pious Rome, and transgressors broken at the wheel in stiff-collared German lands – while lords and ladies of those parts

deplored Morlach and Uskok acts of raging retribution for Turkish atrocities – Marko Miljanov held nothing against "Europe." His childlike belief in goodness limited his anger at European duplicity to Austrian opportunism. To him, Western indifference to Ottoman punishment by impalement or by casting living men into viper pits was unfathomable, as was Civilization's ire against the herders of the Balkans, for standing up for human dignity.

For, Marko Miljanov and his Kutch tribesmen were thoroughly cultured – that is, able to tell right from wrong, virtue from vice, and good from evil with extreme precision – not by consulting any writ, or code of law, but the tradition handed down from father to son through acts of heroism, or wisdom witnessed by self-sacrifice. To him, oral transmission of knowledge was the mainstay of culture, though he never heard of Druids or Brahmins, and their twenty years of mnemonic training before ordination into the wisdom-guarding ("intellectual") class. He knew nothing of the *Mahabharata*, recited identical from Nepal to Ceylon until written down under the British, when it began varying from Bombay to Calcutta. Instead, he listened to the bards of Montenegro, Morlach Dalmatia, Illyrian and Vlach Hercegovina and Bosnia, Pelasgian Kosovo, Celtic, Illyrian and Vlach Raška (Rashka) and Brda, and other Serb lands, also unaware that the Assyrians chiseled their laws in stone not to immortalize *them* as much as their view of reality, as did civilizations through the ages.

But Balkan peoples knew that "paper (or stone) suffers anything," and relied on what their own lives told them, transforming that into legend and myth. In Hum's center they kept alive their pre-diluvial connection with Caucasian lore, Serbo-Vlach Marko Kraljević (*Kralyevitch*, the King's Son) taking the place of Sarmatian Batradz (in Montenegro his name lives as *Batritch*), Titanic, Slavic Narts battling both Heaven and Earth, forever. Among the Greeks, Odysseus the Trickster remained a reminder of Iberian (Pelasgic, Pelast) Nart Sosrique, Vlach (Thracian) Pan became a Hellene Goat-God playing his pipes, and among Christian Orthodox Serbs the Cosmic War of Milton and Njegos (*Nyegosh*) was transposed into the 1389 Battle of Kosovo.

To Marko Miljanov (the Kuchi of Afghanistan still exist as part of an Aryan, Pushtun nation), as to the other Morlachs, legends sufficed, but, after being exposed to European press during the 1876–1878 Serbo-Turkish Wars, the necessity of conveying the narrative of the Morlock Mountain in writing weighed ever more upon him... Basques, Caucasians and Pelasgians, Rhaeti, Morlachs, Cincars and Wallachians, "barbarians" of the ark from the Olympus to the Carpathians, the Aryans of Anadolia, Iranian highlands, Hindu Kush and the Altai, Celts and Illyrians, all haunted him – unnamed, untold, and inescapable. Entwined with the Slavs since time immemorial, they all lived in a symbiosis of cattle raids, feuds, vendettas, tribal and village wars – and, of intermarriage and kinship.

Born above Lake Scutari (called "The Bog" by the locals) in the rugged hills of Malesia (*Mal-i-zi*, "Black Mountain," Albanian for Crna Gora, or Venetian Montenegro), Marko Miljanov must have also squinted at Mount Velebit of the Morlach Alps, and the Dinara Mountain further south, viewed from an Austrian steamship as he traveled in search of a doctor for his cancer. He may have suspected, even known, that his was an illness of the entire self, an outcome

of an age needless, and even scornful, of heroes. Still, he had no choice but battle Death itself, for as long as he could.

From his ship he could not see Mount Durmitor, but could mull on the fate of Voivode Momčilo (*Momchilo*), betrayed by his wife. He may have thought of his winged horse Jabučilo (*Yabuchilo*), "offspring" of the winged Avsurg of the Nart legend (taken over as Pegasus by the Greeks, themselves immigrants from eastern Pontus, the Black Sea), as he longed for his own horse, Arnaut ("Albanian"), whom only he could ride. And though he had lost his only, infant son to illness, his tragedy was neither familial nor matrimonial but lurked in the future. For, his granddaughter, Ivana Lazović (*Lazovitch*) became a dancer with the Greek-Armenian occultist and an agent of the Russian secret police, George Gurdjiev, anglicized her name to Olgivana and, after marrying American architect Frank Lloyd Wright, was feted as the grand-dame of intellectuals who emulated London's Bloomsbury Circle.

But her grandfather had lived in the shadow of the Prokletije ("Mountains of the Damned"), not far from the Šar Mountain (*shar*, or *shara* meaning "world" in Persian) along the Serb-Albanian ethnic merge, and was inured to woe, danger, and misfortune. For even had he known her husband's name was Welsh, Marko detested magic – "white" as much as black – as well as all subterfuge, surveillance, or secret police. He probably never danced (the Kutchi shuffle in a circle, like the Caucasian Laz), whereas Serb women were not supposed to be public figures, least of all in the performing arts, and changing one's name meant apostasy, while contemplating – let alone building – a New World Order was ever a supreme sacrilege.

For, it has come down to us that the Illyrian women gave birth leaning upon a tree, and would leave any child less than perfect to the beasts, whereas the Dinaric Spartans threw their malformed infants off Mount Tygetus, the southern reach of the Morlock Mountain. Perhaps that is also why the Morlachs of Glamoč (*Glamotch*) in Bosnia dance their Kolo thumping their feet to an unheard, internal rhythm and tune. We may rest assured that Marko Miljanov Popović: a Kutch, a Serb, a Balkanian, a European, and a Man above all, breathed along with The Mountain, knowing that Velebit means "Great Being," that the Dinara recalls a coinage linking Balkans and ancient Middle East, that Durmitor ("The Sleeper") slumbers like King Marko, that Prokletije are an outpost of the Land of the Dead, that Šara is one of the Upper Reaches bejeweling the East, the West, and the Center, whereas Maina, the larger area of Tygetus, is a toponym that can be traced throughout the Dinaric chain.

For, everything lives and nothing dies, but sheds its guise to keep its self, as the Balkanians have done to this day.

ENDNOTE

It's been over a hundred years since Marko Miljanov Popović died in the Adriatic town of Herceg Novi. A warrior and a sage, he survived countless duels, battles with Ottoman Turks and Albanians, but could not overcome Modernity. Not yet seventy (it was R.G.D. Laffan, a British doctor, who wrote

that Serbs reach their prime in their mid-forties, retaining it into their eighties), the scion of a long line of "Dragons," as one could translate "Drekalovići," Marko succumbed to a disease emblematic of our times.

But, there was nothing frenzied about the great Serb hero and author in his search of honor over security. Known as a calm man, eyes flashing only at the faintest hint of meanness among his Kutchi, weakness he could understand, but not guile. "Whoever cannot bear the truth might as well be dead!" he had said, and even Westerners wrote about him: Gerhard Gesemann, the German ethnologist, authored *The Heroic Way of Life* (*Heroische Lebensform*), Czech journalist Josef Holeček witnessed him picking himself up and dusting himself off after being thrown to the ground by an exploding shell, to go on commanding his troops, upright in full view of the advancing enemy. Mary Durham praised the manliness and courage of his Montenegrins, before changing her name to Edith and switching her affections to the Albanians, who forthwith declared her their national heroine. (Marko would not fault them for that: his mother Borika was part Shqiptar, as were many of his tribe, his *The Life and Ways of the Albanians* was an homage to Balkan kinship. But, though they respected Marko immensely, they understood only his pluck, not his empathy.)

That is why, in a way, he even chose the time of his demise: the wrangling over Ottoman Succession was fast evolving into the Great War of European dishonesty, inhumanity and pettiness. A seer, but never to play the prophet, he believed in God whom the Serbs honor by standing upright during liturgy. Yet, he never flaunted his faith: of the Serb-speaking Muslims and Roman Catholics, or Albanianized Serbs he never talked as of renegades, as both his writing and his life confirmed his readiness to confront any injustice with valor and restraint – his belief in the sanctity of life being tempered only by an even greater reverence for dignity. Dying from a wasteful affliction in a resort town, he must have pined for his native crags to alleviate some of the shame of living under a foreign occupation, and domestic autocracy.

Today, his books and works about him can still be found in bookstores and libraries, but few read them – least of all the "Montenegrins," nurtured as an "ethnicity" by the West. They, as if unmindful of their legend of Prince Marko, seem to forget that it was he who, emerging out of a cave after centuries of sleep and seeing a pistol, said: "Now a nonentity can kill the greatest hero!" And though Marko Kraljević (*Kralyevich*, "King's Son") was of Vlach descent (his family name being Mrnjavčević (*Mernyavchevitch*, wherein neither *Mrnja* nor *Mrnjo* are Serb), he is said to have forthwith gone to sleep again – to be, like Voivode Marko, recognized by the Serbs as a man after their own heart. For – also as his latter-day namesake would have done, after learning that he had bested an Albanian not fully prepared for battle – it was Marko the King's Son who said: "Woe is me for slaying a man better than myself!" (On the other hand, Gjergj Kastriota Skanderbeg no Serb ever mentioned as a compatriot, though his mother was Vojislava, *Voyislava*, a Serb, and his father Gjon, *Dyon*, a half-Serb. They let the Albanians claim him as their national hero, for his military victories after going back on his Islamization and becoming a Roman Catholic, instead of returning to Orthodox Christianity.)

Marko Miljanov believed, and bore witness to, what Prince Marko's mother Jevrosima (*Yevrosima*) said, when she told her son not to be "swayed by family ties, but mind God's Justice!" in a royal succession dispute. Perhaps it was such entreaties, known by heart by every Serb boy until recently, that moved a Sorb Prussian officer, Paulus Sturm, to find himself as Pavle Jurišić Šturm (*Pavleh Yurishitch Shturm*), and reclaim his ancestry by becoming one of the greatest Serbian voivodes of World War I. Similar kinship of soul inspired the Jews Stanislav Krakov and Stanislav Vinaver to distinguish themselves as Serbian officers, then as writers. For, it was Vinaver who guided Rebecca West through the Kingdom of Yugoslavia, when she fell in love with the Serbs. "Constantine," as she renamed him in her *Black Lamb and Grey Falcon*, held back, however, from attempting to change her mind about the naiveness of the Serb choice of the "Heavenly Kingdom" over an earthly one. For, it took another "war to end all wars" for her also to conclude that – upheld by deed, word and thought upon this Earth – the Realm of Probity is the only one that matters.

Tall look-alikes of the Ossetes of Caucasus – the remnants of the Alans who defied Tamerlane, to be reduced to a few thousand women and children for that – the Serbs are downtrodden again, this time by Western quest for bodily comfort and material gain. But, like the Ossetes, who managed to regain some of their population over the centuries, they are relearning how to wait despite their historic disregard for the "right moment." Marko Miljanov, after all, was a knight of the kind European minstrels sang about, but only the best of their countrymen emulated. To the Westerners, as they praised the Lord as they heeded the Devil, smug to have found a way to endless profit, Voivode Marko and his people must have looked like throwbacks. And though the "Will to Power" seemingly contradicts the Koran's "Man is always at a loss," the East and the West are united in their disdain for the Serb Kosovo Ethics, as expressed by Mother Jevrosima's words to her son, a Prince and later King: "You may forfeit your head, but never your soul!"

And that is why the Serbs – swayed by neither loss nor gain, but intent on doing "The Right Thing" – are viewed by all Principalities and Powers as a "virus," to be expunged from history. But, besides conveying experience and ideas, language is a giveaway: the very abundance of the word "thing" in Western speech would have conveyed much to both Serb champions, especially to Marko the Kutch, who took pains to call everything as it is, regardless of common usage or scholarly stricture. That is why, when asked whether the Turks too are not a courageous nation, he said: "Yes, but not as men, minding as they do only themselves." For, Eurasia was always divided into warring camps: the Nordics, the Aryans, and the Iberians of the West, the Turkics and Sino-Mongolians of the East, the Indians and Semites of the South, all set off from each other not by their color, but by their spirit. But, to define that as an aspect of the *mind*, disregarding the Being beyond and above anything we can see and study, the Serbs have never done. Even during the Anti-Serb Wars of 1991–1999, instigated by the West, they still recognized the intangibility of Trueness, tested only by self-sacrifice of the body.

The "software" triad, therefore, that ruled Marko Miljanov and his tribesmen and compatriots was that of the Spirit, the Soul, and the Mind – the last being the least, subdivided as it is into perception, analysis, and ratio. Thus, the Montenegrins of his age used their Austrian-made Gasser six-shooter revolvers with great effect, but truly trusted only themselves and their homemade *yatagans*. And, if the genesis of the United States confirms the universality of the sequence: hunter, herder, grower, townsman – reflecting human decline through search for safety and sloth – then the Serb Montenegrins' effort to stay true to their herdsmen's legacy may only be interpreted as prescience. For, a "tame" Serb is an oxymoron like a "tame Apache," as the Austro-Hungarians and Nazi Germans were to discover to their chagrin. For, it was the 1918 Salonica Breakthrough that sealed the fate of the Central Powers, despite all the claims that the Great War was decided in the West, after four years of shameful inaction. Also, the Serbs' triumphs in the Balkan Wars of 1912–1913 were what finally drove the Ottomans out of a cradle of European history and culture. And just as the Turkish centuries of genocide of Balkan Christians were all the while tolerated by the "International Community" of the period, so will a repetition of such a "success story" in the West suffer the same fate.

And, Marko Miljanov will only then be recognized as a true saint of the Serb Orthodox Christian Church, like the other holy warriors painted on the walls of its temples, for reminding the Serbs to fight and forgive but never forget, least of all insult, or gross injustice.

Image 1. Marko Miljanov

IN MEMORIAM

SLOBODAN ŽUNJIĆ

(Priština, October 20, 1949 – Belgrade, March 9, 2019)

Slobodan Žunjić, a prominent Serbian philosopher of hermeneutic-dialectic orientation, passed away at the age of 69. A gifted painter, he was initially uncertain of which career path to follow. He eventually enrolled in the School of Philosophy, where he simultaneously studied philosophy and classical sciences, thereby at the outset calling attention to his impressive educaton and exceptional philosophical culture. His graduate paper in philosophy titled *The Eleatic Theory of Being* (1972) received the October Prize for the best graduate paper at the Belgrade University. He obtained his master's degree from the same school in 1980 (*Heidegger and Pre-Socratics*, 2015), and his PhD in 1986 (*Aristotle and Henology*, 1988), with both papers following the highest research standards not only in studies of ancient philosophy. He spent some time on topical research in Germany (Freiburg, 1978 and Tübingen 1982/83) and in the U.S. (Philadephia, 1997/98).

For twenty years (1977–1997) Žunjić taught Ancient Philosophy at the Belgrade School of Philosophy, and, as a visiting lecturer, at the Novi Sad School of Philosophy as well. He was the first to introduce – in 1990 – the courses on Byzantine Philosophy and Hermeneutic Philosophy into Serbian

university curricula. His students had a privilege of learning from an unparalleled erudite, who in his analyses would critically and pertinently link the most relevant topics by a masterful use of both the primary sources and secondary literature. His undisputed philosophical gift, his command of the classical and contemporary languages and his unrelenting work enabled him to successully embark upon projects that did full justice to the extremely demanding nature of philosophical thought. From 1997 to 2012 he taught philosophy in the U.S., first at the University of Pennsylvania, and then at the University of Rhode Island.

Žunjić presented his understanding of philosophy in his two keystone books – *Modernity and Philosophy* (2009) and *Philosophy and Postmodernity* (2013). For him, philosophy represented the critical consciousness of its times and served to form and butress meaning. Žunjić viewed his time from the vantage point of enlightened humanism, taking into account the accomplishments of modernity and believing in its emancipatory project. This leftist perspective marked his entire opus – almost 200 publications in Serbian, German, English and French, including 20 books – as it formed the foundation for his engagement and his heated polemics in connection with analytical, praxis, postmodern and Byzantine philosophy (*Services to Mnemosyne*, 2007). Guided by such convictions, he worked as the editor of the new series of the *Theoria* magazine, quite influential on the Serbian philosophical scene during the 1980s, and the *Gledišta* (*Viewpoints*), a university magazine for social critique and theory.

A particularly important segment of his work was research of national philosophy. He tied its greatness to „the extent of its success in critically and conceptually processing the experience of its environment and its people." Žunjić saw Serbian philosophy primarily as receptive. His most significant discoveries in this area concern Serbian medieval and 18th century philosophy, which had culminated in his monumental *History of Serbian Philosophy* (2009, ^{2}2014), awarded the Stuplje Prize at the 2015 Book Fair in Banjaluka. In 2018 the Academy of Sciences and Arts of Republika Srpska organized a round table discussion on this study in Banjaluka, publishing a collection of works on it titled *Serbian Philosophy or Philosophy of the Serbs*. A monumental four-volume study *The Predicate and Being. The History of Conceptual Logic of the Serbs* (2013) earned him the Nikola Milošević Prize, the City of Belgrade Prize, and the Prize of the Novi Sad Book Fair.

A more thorough and a more objective assessment of Žunjić's contribution in the field of philosophy, and of its significance for Serb thought will, however, be given only after the highly demanding research of his published works, as well as of his numerous unpublished papers, is eventually completed.

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In preparation:

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Америчка предавања II. Курс модерне филозофије [*American Lectures II. The Modern Philosophy Course*]
Америчка предавања III. Егзистенцијалисти [*American Lectures III. Existentialists*]
Историја српске филозофије I. Од IX до XVI века [*The History of Serbian Philosophy I. From the 9th to 16th Century*]
Историја српске филозофије II. XVII и XVIII век [*The History of Serbian Philosophy II. The 17th and 18th Century*]
Историја српске филозофије III. Прва половина XIX века [*The History of Serbian Philosophy III. First Half of the 19th Century*]
Историја српске филозофије IV. Друга половина XIX и XX век [*The History of Serban Philosophy IV. Second Half of the 19th Century and the 20th Century]*
Занемарена и осветљења филозофска баштина. Разговор Ђорђа Малавразића са Слободаном Жуњићем [*The Neglected and Revived Philosophical Legacy. Slobodan Žunjić's interview with Đorđe Malavrazić.*]

BOOK REVIEW

THE ILLUSTRATED HISTORY OF VOJVODINA'S UNIFICATION WITH THE KINGDOM OF SERBIA, 1918

(Drago Njegovan, *The Unification of Vojvodina with Serbia in 1918*, the second, illustrated, edition, The Museum of Vojvodina and Školska Knjiga NS, Novi Sad 2018, 700 pages / Драго Његован, *Присаједињење Војводине Србији 1918*, друго, илустровано издање, Музеј Војводине и Школска књига НС, Нови Сад 2018, 700 стр.)

The monograph titled *The Unification of Vojvodina with Serbia in 1918*, by Drago Njegovan, a museum counsellor, senior researcher, and author and editor of numerous books and scientific papers, initially was published in 2004 by the Museum of Vojvodina. The second, illustrated edition was brought out in 2018 in cooperation with the Školska Knjiga NS publisher from Novi Sad. The second edition appeared not only because of the interest of the expert public and the fact that all the copies of the first edition were sold, but also to mark the 100th anniversary since the unification of Vojvodina's regions of Banat, Bačka and Baranja with the Kingdom of Serbia on November 25, 1918, and their subsequent joining the Yugoslav state on December 1, the same year.

The monograph presents the history of the Serbs in the territory of Vojvodina from their arrival in the Balkans in the 6th and the 7th centuries, until the adoption of the Vidovdan Constitution in 1921, with the main focus on political events and processes, while also analyzing various relevant economic, social, cultural and demographic factors.

In addition to a preface (pp. 11–14), introductory considerations (pp. 17–35) and concluding observations (pp. 645–654), the book includes five chapters: Historical grounds of the policy of unification. The Serbs in the Pannonian and Balkan areas until the Great Turkish War (pp. 37–162); The struggle of the Serbs in the Habsburg monarchy for political and territorial autonomy since the Great Migration (1690) until the First World War (pp. 163–348); The First World War and the concepts of establishing a South Slavic state (pp. 349–441); Realization of the politics of unification in Vojvodina at the end of 1918: neither Pest nor Zagreb – but Belgrade! (pp. 443–558), and Political processes in Vojvodina from The First December Act in 1918 to the Vidovdan Constitution (pp. 559–643).

In the first chapter, the author presents an overview of the history of the Serbs in today's Vojvodina and Serbia during the Middle Ages, their migration into and settling in the territory, the increase in their numbers and the strengthening of their position, concluding with the Serbian uprising in Banat in 1594 against the Ottoman Turks.

In the second chapter, Njegovan deals with the Great Turkish War (1683–1699), the Great Migration of Serbs in 1690 and their mass immigration into the Habsburg Monarchy, where they received imperial privileges guaranteeing their rights and political and social status, which contributed to the preservation of the idea of Serbian statehood. The author paid special attention to the various Serbian national programs of the time, the revolution of 1848–1849, the proclamation of the Serbian Vojvodina, and the formation of the Serbian Dutchy (Voivodship) in 1849 as a form of Serbian autonomy within the Austrian empire.

In the third chapter, which deals with the First World War, Njegovan analyzes the war aims of the Austro-Hungarian monarchy in the Balkans; political, economic and social modernization of Serbian society at the beginning of the 20th century, as well as the concepts for the Yugoslav unification considered during the war.

The fourth chapter covers the events related to the disintegration of the Austro-Hungarian Empire, along with an analysis of the demographic and social conditions in Vojvodina, i.e. the regions of Banat, Bačka and Baranja, where the Serbs were a majority population. In addition to presenting in detail the several parallel processes that took place during October and November of 1918, Njegovan offers a comprehensive account of the National Council in Ruma and the Grand National Assembly in Novi Sad, which resulted in the far-reaching state-legal decisions on the secession of Banat, Bačka and Baranja from Hungary and their unification with Serbia.

In the fifth chapter, the author analyzes in detail the final demarcation between the Kingdom of Serbs, Croats and Slovenes, Hungary and Romania at the Peace Conference in Paris 1919–1920.

In his thorough research, the author used a very diverse and so far unpublished archival material from the Archives of Vojvodina, the Matica Srpska Manuscripts Department, the Museum of Vojvodina, the Archives of Yugoslavia and the Historical Archives of the City of Novi Sad, the press of the time (*Branik*, *Zastava*, *Jugoslovenski Dnevnik* etc.) as well as other relevant literature.

The monograph also comprises a list of literature and sources, an index of personal and geographical names, and a summary in Serbian, English, German, Hungarian and Romanian.

In addition to its effective design, a special value and novelty in this edition are 358 illustrations, 350 photographs, 52 double photographs and 12 maps, eight of which are originals. It also offers numerous paintings of some historical events and personalities, facsimiles of important documents, cover pages of the magazines and newspapers of the time, as well as a collection of 23 portraits of the most prominent participants in the process of unification in 1918, among them King Petar Karađorđević, Regent Aleksandar, Jaša Tomić, Blaško Rajić and Milica Tomić.

Njegovan's monograph offers an informative, clear and substantial historiographic analysis of the history of the Serbs in Vojvodina, presenting the dynamic, turbulent and complicated events related to the unification with the Serbian/Yugoslav state, as well as different concepts, orientations and conflicts of political parties in Vojvodina ahead of the adoption of the 1921 Vidovdan Constitution.

This monograph is also an example of how studies dealing with complex historical events and processes, if written clearly and in fine style as the one at hand, can easily communicate with and be appealing to the non-expert, wider public.

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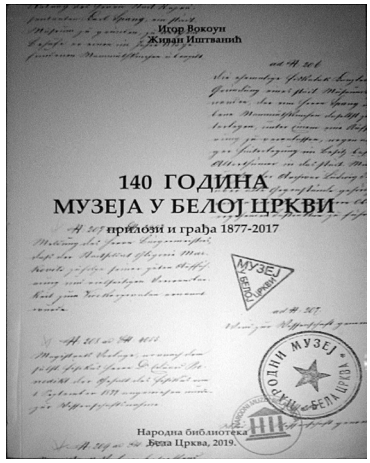
NEW CONTRIBUTIONS TO THE HISTORY OF THE CITY MUSEUM IN BELA CRKVA

(*/1877–2017/*, Народна библиотека, Бела Црква 2019, 158 стр. / Igor Vokoun and Živan Ištvanić, *140 Years of the Museum in Bela Crkva: Contributions and Material for the Museum's History* /1877–2017/, National Library, Bela Crkva 2019, 158 pages)



Given the lack of a comprehensive study illustrating the long history of the City Museum in Bela Crkva, the first and oldest city museum in today's Autonomous Province of Vojvodina, the authors have taken upon themselves a serious task: to give a survey of the museum's founding and development over its 140 years of existence and operation based on the facts from the available archival material, as well as literature and a few articles published in the German and Hungarian press of the time, as well as some collections of works. To that end they have carried out a comprehensive research in the Historical Archives in Bela Crkva and the City Museum in Vršac, the latter holding most of the archeological and library material stored up until 1941 in the pre-war Bela Crkva City Museum. They gathered and checked the various data via correspondence with the kindred museums and libraries in Belgrade, Pančevo, Zrenjanin, Novi Sad, Reşiţa and Timsoara, thereby completing their proposed goal.

Their efforts resulted in a rich, well-organized, well-documented and thorough study about the Bela Crkva City Museum that was ready to be printed in 2017. The book should have been printed immediately and presented to the public in September 2017, on the occasion of 140 years since the museum's founding. The institutions in charge of that endeavor, however, unexpectedly gave up the idea, and the book eventually appeared in its final form only two years later.

This first comprehensive and thorough monograph about the Bela Crkva City Museum is introduced by the authors' foreword (page 7), followed by Igor Vokoun's chapter entitled "Social circumstances and general conditions for the founding and emergence of the museum" (pages 9–14). The first part of the book begins with Živan Ištvanić's study "The City Museum in Bela Crkva 1877–1947" (pages 15–54). It deals with the initial steps and further development of the first city museum in that part of Europe, Banat region and today's Autonomous Province of Vojvodina up to 1914, then tackles the period between 1919 and 1941, and finally offers a survey of the museum's operation from 1944 until 1947. It also provides the biographies of its curators for the entire surveyed period (pages 51–53).

The other, much longer part of the book (pages 55–144), authored by Igor Vokoun, is dedicated to the museum's operation from 1954 until 2017. According to Vokoun's data, the museum experienced numerous transformations in this period, for a while operating as a unit of the Bela Crkva Culture and Education Center (1979–2003),

while in 2003 becoming a part of the National Library. Vokoun also provided a list and biographies of the museum's administrators and directors from 1954 until 2017, its holdings (101–134) concluding remarks (pages 135–136), contributions (137–144), thematic exhibitions, data on the exhibitions in which the museum's artifacts were displayed, and its publications. The book ends with the list of sources and literature (pages 145–149), and a summary in the Serbian (pages 151–152), English (pages 153–154) and German (pages 155–156) languages. Abbreviations used in the text are explained at the very end of the book.

It should be noted that the authors provided the data on all the buildings the Bela Crkva City Museum had been located in, either only temporarily or for longer periods, about which not much has been known so far. They also managed to clarify and correct numerous erroneous and uncorroborated claims that have persisted for decades in certain publications outside Bela Crkva concerning the museum's founders and the date of its founding.

In this book Igor Vokoun and Živan Ištvanić offered a significant number of new and so far unknown data, rare photographs, documents, newspaper reports and archival material. All this has contributed to a new insight into the emergence, founding and the activity of the City Museum in Bela Crkva in the context of the former Austro-Hungarian Dual Monarchy's wider territory.

Edit Fišer
Bela Crkva

SERBIAN MINING AND GEOLOGY IN THE SECOND HALF OF XXTH CENTURY

(*Српско рударство и геологија у другој половини XX века*, ур. Слободан Вујић, Академија инжењерских наука Србије, Матица српска, Рударски институт, Београд – Нови Сад 2014)

After more than five years of research, gathering, analysis and processing of source data, writing and preparation, the Academy of engineering sciences of Serbia, Matica srpska and the Mining institute of Belgrade, published a capital book on the subject of Serbian mining and geology. The monograph *Serbian mining and geology in the second half of the 20th century* (editor Slobodan Vujić) represents a unique and extensive research and publishing endeavor. It is not only a testament to the mining and geology science, school, engineering and industry in the second half of the 20th century, but is also a valuable factual source for broader studies of Serbian economic and social development.

The complexity and demands of this publishing endeavor is unmatched in Serbian mining, illustrated by the following data: 2370 pages of source material, 592 printed pages, 617 graphical illustrations, 530 terms in the key word index, 214 abbreviations, 350 printed copies, 15 members of the editorial board, 75 authors, 12 reviewers, 4 lectors, 88 years of age of the oldest author, 30 years of age of the youngest author, 13 institutions which financially helped with printing.

Having in mind the complexity and diversity of information and data of the jagged area of Serbian mining and geology, it can be understood why the birth of the Monograph took five years in how much of the creative effort, research energy and specific expert knowledge was needed. In front of the bearers of this task was a forest of diverse, often hidden and barely obtainable data in numerous sources, monographs, books, engineering-project, technical and photo documentation, in statistical reviews, archive materials, internet sources, personal documentation, which first had to be found, then checked out, processed, and adequately and accurately displayed. In this sense, the book is a work of research whose value and significance will only grow over time.

In eight thousand years of mining and geology on our territory, the greatest development and rise of mining and geology happened in two periods, in the time of abundance of the medieval Serbian state and in the second half of the XXth century. Immediate comparisons between these periods are not possible, there are no explicit metrical data about the mining of the medieval times, but this fact does point out the significance of the dilemma about a possible similarity of motives which have influenced that these specific periods have such and attributive similarity. The answer lies in understanding of mining and geology as a sub- structure of all civilizations, a substructure which has shared in mankind's fate and had its ups and downs.

The Monograph is integrated through four logically connected chapters: Roots; Scientific, educational and other institutions; Geology; and Mining; encompasses factual and analytical elements which precisely present the rise, development, accomplishments and the fall of Serbian mining and geology in the second half of the XXth century.

The first chapter ("Roots") presents the history of mining and geology in Serbia, lasting about eight thousand years, from the Neolithic, Roman era, the Middle Ages, XVIIIth and XIXth centuries, to the first and second half of the XXth century.

The second chapter deals with scientific, school and other institutions important for mining and geology. Thirty-two sections include

school, scientific, research and development, project and logistics institutions, development and application of computer-aided technologies, museums and collections, publishing, exhibitions, scientific and professional events, scientific and professional associations, mining glory and miners' day.

The third chapter refers to geology and includes: regional geology, economic geology, geology of mineral deposits, hydrogeology, engineering geology, geophysics, mineralogy, crystallography, petrology, geochemistry, ecology and environmental protection, geology in media and culture of Serbia, geology of Republika Srpska.

The fourth chapter is dedicated to mining, the content includes: exploitation of energy mineral raw materials, exploitation of metallic mineral raw materials, exploitation of non-metallic mineral raw materials, mining exploration and investment underground works, preparation of mineral raw materials, accidents in mines. The last section is dedicated to the mining of Republika Srpska.

In addition to factography, the analytical views in the monograph fundamentally change some erroneously rooted views, e.g. the illogicality of the dilemma of the interaction of geology and mining, such as the question of which is older, the chicken or the egg? In this review of the history of mining and geology in Serbia, from perhaps the greatest human discovery that a piece of rock in fire turns into metal, to modern computer-integrated mining technologies, the monograph shows that mining and geology combined represent and will represent not only the mainstay of economic, cultural, scientific, technical-technological and general social development, but have already laid the foundations and spawned classical engineering disciplines, metallurgy, mechanical engineering, construction, mining measurements – geodesy, organizational engineering, mechanics, materials engineering, and significantly contributed to the birth and affirmation of electrical engineering. Numerous facts confirm this, the best example is great Serbian-American scientist Mihailo Pupin. It is little known that he graduated as the best in class 1883 from the Faculty of Mining (School of Mines) at Columbia University in America. The example of academician Ljubomir Klerić is similar, he is one of the founders of the Serbian Royal Academy, as a mining engineer he made a significant contribution to Serbian mining in the XIXth century, founded the school of mechanics and mechanical engineering at the Great School in Belgrade, founded the Department of Descriptive Geometry with Projective Geometry and Graphostatics, constructed computer devices based on principles of mechanical analogy, etc.

By preserving the truth about the golden age of the great rise and development of Serbian mining and geology and their fall at the turn of the two centuries, Monograph sets a mark between oblivion and memory.

[Ed.]

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Research area: political and legal philosophy of German idealism, tradition of natural law and the problem of freedom.

Major works: *Poreklo i svrha države u Kantovoj političkoj filozofiji*, Filozofske studije, 1973, 71-138; *Johan Gotlib Fihte i Francuska revolucija – Ispunjenje novovekovnog prirodnog prava u Fihteovoj ranoj političkoj filozofiji*, Belgrade 1980; *Pravo pod okriljem utopije – Ernst Bloh i tradicija prirodnog prava*, Belgrade 1988; *Pravo i sloboda – O perspektivi slobode u stranoj i našoj pravnoj filozofiji*, Novi Sad 1994; *Neodoljiva privlačnost istorije,* Belgrade 1999; *Večni mir i carstvo slobode – Ogledi o Kantovoj i Fihteovoj praktičkoj filozofiji,* Belgrade 2001; *Pet likova Slobodana Jovanovića*, Belgrade 2003.

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books (monographs, textbooks, collections of assignments). Participated in several scientific gatherings in the country and abroad with written contributions. Published nearly 200 papers and a large number of translations of texts from Russian and German in domestic and foreign journals and proceedings. Winner of the award of the Ministry of Education, Science and Technological Development for achieved scientific research results (2005), Memorial Medals on the occasion of the 300th anniversary of M. V. Lomonosov (2012). In 2015, received the Memorial Medal 200 years of M. Yu. Lermontov. A member of Matica Srpska (since 2000), WEA (since 2011); of the Committee for Economic Sciences of SANU (since 2009); editor of the Serbian Encyclopedia for the field of Economy and Finance. Was a member of the Editorial Board and the editor-in-chief of the Belgrade magazine *Ekonomika* (later *Ekonomika preduzeće*); initiator and editor-in-chief of the *Monthly Agroeconomic Analysis Journal*; member of the Editorial Board of the Niš magazine *Ekonomika*. Member of the Editorial Board of the *Zbornik Matice srpske za društvene nauke* (2009–2019) (editor-in-chief 2017-2019). Honorary professor at the Nizhny Novgorod Engineering-Economic University (Russia).

Major work: *Privredni razvoj Kosova i Metohije*, Belgrade 1991 (co-autrhor and co-redactor); *Development and Crime. An Exploratory Study in Yugoslavia*, Rome 1992 (co-author); *Osnove programa i politike razvoja sela, poljoprivrede i prehrambene industrije Srbije – agrarni program Srbije*, Belgrade 1995 (co-author); *Prostorni i etnički aspekti populacione politike (sinteza)*, Belgrade 1996; *Anti monopolska politika u SR Jugoslaviji – Analiza postojećih tržišnih struktura i antimonopolskih institucija*, Belgrade 2002 (co-author); *Nova antimonopolska politika: predlog rešenja*, Belgrade 2003 (co-author); *Unapređenje korporativnog upravljanja,* Belgrade 2003 (co-author); *Revitalizacija i unapređenje proizvodnje cveća*, Belgrade 2005 (co-author); *Principi i planiranje investicija*, Belgrade 2009; *Tržište i konkurencija*, Belgrade 2012; *Рынок: конкуренция и монополия*, Княгинино 2015; Географија Србије, Belgrade 2017 (co-author); Корпоративно управљање као део пословне стратегије компанија, Belgrade 2017 (co-author); Сто година пољопривреде Србије 1918–2018, Belgrade 2018; Украјинска криза 2013–2019., Belgrade 2019 (co-author); Европа и мигрантско питање 2014–2020., Belgrade 2020 (co-author).

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Research areas: history of the Serbian Orthodox Church, canon and state-church law – the area of the state's relations with churches and religious communities, etc. Published over 100 papers in church and national magazines.

Major wors: *Ustaški zločini nad srbskim sveštenicima*, Perun, Podgorica 1995; *Golgota Mitropolita Crnogorsko-Primorskog Joanikija 1941—1945,* Svetigora, Cetinje 1996; *Mučeništvo Srpskog Patrijarha Gavrila,* Kraljevo 1997; *Stradanje Srbske Crkve od komunista*, Svetigora, Cetinje 1997—2003; *Sveti Vladika Nikolaj i Ava Justin Ćelijski o Evropi i zlu zapadnom,* Kragujevac 1993; *Sekte, satanizam i lažni proroci*, Eparhija Žička, Kraljevo 1994; *Ranjena Srbija*, Trebinje 1999; *Pečat večne sramote Stupovi*, Podgorica 2000; *Crnogorska lažna crkva*, Orfej, Udruženje književnika Crne Gore 2008).

EDIT FIŠER – (Bela Crkva, Serbia, 1948)

A descendant of one of the oldest German families in Bela Crkva, was born into a musical family. The Fišer family was present in the music and concert life of the city of Bela Crkva for 180 years, and her father was the founder and leader of three art orchestras. Graduated from the Higher Pedagogical School in Belgrade (1968-1970), and from the Lower Music School (piano department) in Zrenjanin (1958-1961) and Kikinda (1962-1963). Was a member of the choir of the Roman Catholic Church of St. Anne in Bela Crkva (1974-1979), and from 1995 until today is an organist in the same church. Was engaged in pedagogical work and raised numerous music students who are today some distinguished musicians. In 1996, began to study local history. Published over 20 papers on the subject. One of the greatest connoisseurs of Bach and Haydn.

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Graduated from the Faculty of Philosophy in Novi Sad, the Department of History in 2010, where he also earned his MA (2011), and PhD (2016) degrees. Since 2012 to 2016 he was scholarship holder of Ministry of Education and Science. Since 2017 he has been employed in Museum of Vojvodina.

Research areas: history of Vojvodina in the 19th and 20th centuries, theories of nationalism, history of national identities in Vojvodina. Has published papers and reviews in the following journals: *Zbornik Matice srpske za društvene nauke*, *Istraživanja*, *Kultura*, *Scrinia Slavonica*, *Rad Muzeja Vojvodine*, etc.

Major works: *Baranja 1918-1922*, Novi Sad 2013; *The Day Worth a Century: 1. XII 1918*, Belgrade 2019 (co-author).

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Major works: *The Eurozone enlargement: prospect of new EU member states for euro adoption*, New York 2016.

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Graduated from the Faculty of Philosophy in Belgrade, the Department of History in 2009, and earned MA (2010). Submitted PhD thesis titled *Hilandar Monastery and Bulgarians in the 18th Century: Cultural and Economic Ties* at the Faculty of Philosophy in Novi Sad. Since 2013, works at the Institute for Balkan Studies SASA in Belgrade.

Research areas: history of the Ottoman Balkans in the 18th century, social and cultural history of the non-Muslims in the Ottoman Empire, eighteenth-century history of the Mount Athos and Hilandar monastery. Published 6 reviews and 10 papers in different journals (*Istorijski časopis*, *Zbornik Matice srpske za istoriju*, *Zbornik Matice srpske za društvene nauke*, *Hilandarski zbornik*, *Antropologija*) and edited volumes. Participated at various scientific conferences both in Serbia and abroad.

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Major works: *Seoba u maticu: Optiranje Srba u Mađarskoj 1920-1931., knj. I*, Novi Sad 2010; *Seoba u maticu: Spiskovi srpskih optanata u Mađarskoj 1920-1931., knj. II*, Novi Sad 2010; *Kraljevina Srba, Hrvata i Slovenaca i pitanja optanata na Konferenciji mira u Parizu 1919-1920*, Istorija 20. veka, br. 18, 2000, 29-48; *Optiranje Srba u mađarskom delu Baranje 1920-1931*, Baranjske sveske=Baranyai Szerb füzeter, Pečuj 2016, 10-37; *Optiranje i iseljavanje Srba iz sela Lovre (Mađarska) u Vojvodinu 1921-1924*, Zbornik Matice srpske za istoriju, br. 63/64, 2002, 111-155; *Srpska zapažanja mađarskih kulturnih dostignuća između dva svetska rata*, Zbornik Matice srpske za društvene nauke, br. 149, 875-900; *Mađari u očima Srba između dva svetska rata*, Zbornik Matice srpske za društvene nauke, br. 132, 7-23; *Vojna nadležnost nad ratnim vojnim invalidima u Jugoslaviji 1945-1948*, Vojno-istoriski glasnik, br. 1, 2011, 114-166; *Rodljubiva, kulturno-prosvetna udruženja, društva, ustanove i dobrotvorne zadruge Srba u Hrvatskoj, Slavoniji, Dalmaciji, Dubrovniku i Baranji 1918-1941.: po podacima iz fondova i zbirki u Arhivu Srbije i Crne Gore*, Zbornik o Srbima u Hrvatskoj, br. 5, 2004, 329-354; *Savez agrarnih zajednica – zadruga u Vojvodini između dva svetska rata*, Istraživanja, br. 19, 2008, 211-253; *Zeleni kadar – samosvojna muslimanska vojska u sjeveroistočnoj Bosni (1943-1945)*, Procedings from Scientific conference: *Uticaj ideologija na historiografiju Bosne i Hercegovine 20. stoljeća* (Tuzla), 2017, 101-148.

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Research areas: history of Serbian, Russian and Byzantine philosophy, history of physics and the philosophy of science.

Major works: *Platon i moderna fizika*, Nikšić 1997; *Filosofija na istoku Evrope*, Belgrade 2002; *Filosofija na Velikoj školi*, Belgrade 2003; *Uspon srpske filosofije*, Belgrade 2004; *Filosofska delta*, Belgrade 2009; *Stara fizika i fizika kod Srba*, Belgrade 2013; *Između metafizike i dijalektike*, Belgrade 2014; *Novi početak srpske filosofije*, Belgrade 2017.

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and visiting lecturer in Germany and Italy, and participates in several domestic and international projects.

Research areas: history of the Ottoman Balkans in the 18th century, social and cultural history of the Ottoman Empire, status of the non-Muslims in the Ottoman Empire, theory of history. He published 9 reviews and critiques and 15 papers in different journals (*Letopis Matice srpske*, *Zbornik Matice srpske za istoriju*, *Zbornik Matice srpske za društvene nauke*, *Istraživanja, Glasnik Etnografskog instituta, Antropologija, Spomenica Istorijskog arhiva "Srem"*). He participated at various scientific conferences both in Serbia and abroad.

Major works: *Smederevski sandžak 1739-1788. Vojno-administrativno uređenje,* Novi Sad 2017.

MOMČILO SELIĆ (Belgrade, Serbia, 1946) – Serbian writer.

Graduated (1971) from the Faculty of Architecture in Belgrade. In 1968, published first story in Belgrade's newspaper *Student*. For the self-published magazine *Časovnik* (*Clock*) (conceived under the name *Vremekaz*) published in 1979, was sentenced to probation for illegal publishing. It was the first Yugoslav self-published magazine. In 1980, Selić was sentenced to a sentence of seven years in prison for the article *Sadržaj* (*Content*). In 1983 went into exile. In 1984 was granted political asylum in Canada. From 1983–1990 was a member of *Amnesty International*, associate of the New York *Freedom House* and *Helsinki Watch*, co-chairman of the *Committee for The Defense of Democratic Dissidents in Yugoslavia* in New York and the Steering Committee of the *Serbian National Defense* for America and Canada until 1990. From 1987 to 1989, was the assistant editor-in-chief of the American literary-political magazine *Chronicles*. Returned to Belgrade in 1990 with wife and four children. With the novel *Izgon* (*Expulsion*), was shortlisted for the NIN Award. Although the novel was without competition in 1992, the award was given to the writer Milisav Savić, which encouraged Selić to write the polemical text *Fear* published in the 1992 weekly NIN. Because of that text, the winner of the NIN award for novel of the year returned the recognition. Since 1968 publishes literary criticism, literary history, religious essays and studies, literary and political polemics, essays on Serbian spiritual heritage, as well as poetry since; texts and studies in history, ethnology, folklore, political commentary and geopolitical analysis.

Major works: *Zamor materijala*, Belgrade 1979; *Izgon*, Dečije novine, Belgrade 1991; *Napad na Gornji Klak* – war stories, Belgrade 1994; *Ratni krst*, novel „Tersit", Belgrade 1996; Tarin lug, novel, 2001; *Špijunka*, novel, 2008; *Pont*, novel – travelogue about modern Caucasus, Žagor, Belgrade 2001.

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