



CONSTITUTIONAL NORMS IN SERBIAN MEDIEVAL LAW

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ABSTRACT

Serbian medieval law had no documents such as Magna Carta of 1215 in England and Bulla Aurea of 1222 in Hungary, but some provisions from the codification of Stefan Dušan contain the ideas which even today would have belonged to a constitution. Those ideas penetrated in medieval Serbia under the strong influence of Byzantine law.

The fragments of Dušan's Codex Tripartitus (Syntagma of Matheas Blastares, so-called „Justinian's Law“ and Dušan's Law Code) which, from the modern constitutional-legal view, are of the utmost validity are: 1) Chapter B – 5 of the Syntagma of Matheas Blastares, translated and accepted in Serbia from Byzantium precisely in Dušan's time, entitled On Emperor, which expresses solemn ideas about the Emperor's rule.

2) Articles of Dušan's Law Code, which restrict the prerogatives of the Tsar as a supreme organ of power, and put the law above Emperor, are 171, 172, and 105, which is connected with them. Although the provisions of these articles are relevant for the judiciary, they are, from constitutional-legal aspect, of great importance.

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Serbian medieval law had no documents such as *Magna Carta* of 1215 in England, and *Bulla Aurea* of 1222 in Hungary, but some provisions from the codification of Stefan Dušan contain the ideas which even today would have belonged to a constitution. Those ideas penetrated in medieval Serbia under the strong influence of Byzantine law.

The reception of Byzantine law in any Slavonic country culminated with a great work of Serbian legal tradition, codification of the Emperor (Tsar) Stefan Dušan (1331-1355). This was realized in 1346, when King Dušan proclaimed himself *the true-believing Tsar and Autocrat of the Serbs and the Greeks* (Стефанъ въ Христа Бога благовѣрни царь и самодръжць Сръблякъмъ и Грькомъ). Educated as a young man in Constantinople, Dušan knew very well that if his State pretended to become an Empire, it should have, *inter alia*, its own independent legislation. Accordingly he began preparations for his own Law Code immediately after the establishment of the Empire. In a charter of 1346, in which he announced his legislative programme, he said that the Emperor's task was to *make the laws that one should have* (закони поставити такоже подобаетъ имети).¹ These laws are, without a doubt, of the type which Byzantine Emperors had, namely general legislation for the whole of the State's territory. In the social and political circumstances, the Serbian Tsar had to accept existing Byzantine law, though modified in accordance with Serbian custom. A completely independent codification of Serbian law, without any Byzantine law, could not be produced and therefore the Serbian lawyers created a special *Codex Tripartius*, codifying both Serbian and Byzantine law. In the old manuscripts Dušan's Code is always accompanied by two compilation of Byzantine law, translated into Old Serbian language: the abbreviated (*Epitome*, Ἐπιτομή) *Syntagma kata Stoicheion* (Σύνταγμα κατὰ στοιχείον) or *Alphabetical Syntagma* (nomocanonic miscellany put together in 24 titles, each title has a sign of one of Greek alphabet letter) of Matheas Blastares, a monk from Thessalonica and so-called

¹ Charter was preserved only in a late Rakovac (small village and monastery on the right bank of Danube, near Novi Sad) copy from 1700. Novaković, 1898, p. 5.

„Justinian’s Law“, a short compilation of 33 articles regulating agrarian relations. Dušan’s Law Code, in the narrow sense (**ЗАКОНЪ БЛАГОВѢР-НАГО ЦАРА СТЕФАНА**), is the third and the most important part of the larger Serbo-Byzantine codification, and it was issued at State Councils (**СЪБОРЪ**) held in Skoplje (Скопје) on 21 May 1349 (first 135 articles) and in Serres (Σέρρες) five years later (articles 136-201).

1.

The fragments of Dušan’s *Codex Tripartitus* which, from the modern constitutional-legal view, are of the utmost validity are:

1) Chapter B – 5 of the *Syntagma* of Matheas Blastares, translated and accepted in Serbia from Byzantium precisely in Dušan’s time, entitled *On Emperor*, which expresses solemn ideas about the Emperor’s rule..

Greek text: Περί Βασιλείως. Βασιλεύς ἐστὶν ἔννομος ἐπιστασία, κοινὸν ἀγαθὸν πᾶσι τοῖς ὑπηκόοις· μήτε κατὰ προσπάθειαν ἀγαθοποιῶν, μήτε κατ’ ἀντιπάθειαν τιμωρῶν, ἀλλ’ ἀναλόγως ταῖς τῶν ἀρχομένων ἀρεταῖς, ὥσπερ τις ἀγωνοθέτης, τὰ βραβεῖα ἐξ ἴσου παρεχόμενος, μηδὲ κενὰς εὐεργεσίας εἰς βλάβην ἄλλων τισὶ χαριζόμενος.

Σκοπὸς τῷ βασιλεῖ τῶν τε μενόντων καὶ ὑπαρχόντων δι’ ἀγαθότητος ἢ φυλακῆ καὶ ἀσφάλεια, καὶ τῶν ἀπολωλότων δι’ ἀγρύπνου ἐπιμελείας ἢ ἀνάληψις, καὶ τῶν ἀπόντων διὰ σοφίας καὶ δικαίων τρόπων καὶ ἐπιτηδεύσεων ἢ ἐπίκτησις.

Τέλος τῷ βασιλεῖ, τὸ εὐεργετεῖν· διὸ καὶ εὐεργέτης λέγεται· καὶ ἡνίκα τῆς εὐεργεσίας ἐξατονήσῃ, δοκεῖ κιβδηλεύειν κατὰ τοὺς παλαιοὺς τὸν χαρακτήρα.

Ἐπισημότετος ἐν ὀρθοδοξίᾳ καὶ εὐσεβείᾳ ὀφείλει εἶναι ὁ βασιλεὺς, καὶ ἐν θέῳ ζήλω περιβόητος.²

Old Serbian translation: Царь ксть законѣнок прѣдстателство, ошѣте благо вѣсѣмь послочишникомь; ни же по пристрастїю благотворе, ни же за соупротивофрастїе мочче, нь противь кожде добродѣтели

2 Text was edited by Ράλλης and Πότλης (Ralles and Potles), 1859, p. 123. The fragment was taken from *Epanagoge* (Greek Ἐπαναγωγή, „Return to the Point“), more correctly *Eisagoge* (Greek Ἐἰσαγωγή τοῦ νόμου, „Introduction to the Law“), Byzantine law book of Emperors Basil I, Leo VI, and Alexander, promulgated in 886 (II, 1, 2 and 3). Zepos, 1931, pp. 240-241.

обладакмыихъ, такоже нѣкы подвигоположникъ, почести равно подак а не тыштаа благодѣаніа на врѣдъ другымъ нѣкымъ дароукъ.

Мысль ксть цароу прѣвываюштихъ же и соуштихъ силъ благостію хранкніе и оутвержденіе и погыбшіихъ въдростнымъ прилежаніемъ въсприктие, и не имѣкмыихъ прѣмоудростію и праведными нравы и хитростми притежаніе.

Конць цароу кже благодѣати; тѣмъ же и благодѣатель глаголкть се; и кгда отъ благодѣаніа изнеможеть, мнить се погоубывша по древныхъ царскок начрътаніе.

Нарочить въ православыи и благочестіи длѣжнь ксть быти царь, и въ рвеніи вожій прослоуть.³

English translation: *The Emperor (Tsar) is the lawful ruler, the common good of all subjects; he does not do good out of partiality, nor does he punish out of antipathy, but according to the virtues of the subjects, and like a judge at the trial, gives the awards equally, and does not give the benefit to any one to the detriment of others.*

The Emperor's goal is to preserve and foster existing values, and to re-establish with care those lost, and to acquire by wisdom and righteous means and enterprises those which are missing.

The task of Emperor is to do good, for which he is called a benefactor; when he stops doing good, then, according to the opinion of the ancients, it is considered that he has perverted the Tsar's mission.

The Tsar must distinguish himself in orthodoxy and in piousness and be renowned in his favour before God.

2) Articles of Dušan's Law Code, which restrict the prerogatives of the Tsar as a supreme organ of power, and put the law above Emperor, are 171, 172, and 105, which is connected with them. Although the provisions of these articles are relevant for the judiciary, they are, from constitutional-legal aspect, of great importance.

Article 105, promulgated 1349, in the first part of the Code:

рѣ ѿ потвороу книжномъ. Книге цареве кокъ приносѣ прѣдъ соудіе за цю люво, тере ихъ потвори законикъ царства ми, цю сьмъ записаль кою люво

³ Edited by Novaković, 1907, pp. 127-128.

книгоу, шнезїи книзе кок потвори соудѣ, тезїи книзе да оузмочу соудїе и и да их принесѣ прѣд царство ми.⁴

Article 105, *On the Contradiction of Charters: Imperial charters which are produced before the judges in any matter, which my Code contradicts, and which the court find invalid shall be brought and submitted to me.*⁵

In article 105, where Tsar's writs clash with the law, the judges have instructions to refer the matter back to him. But experience showed that this procedure was unsatisfactory and in 1354 Tsar amended it, in article 171, where he issues direct orders to the judges that the Code itself is final and authoritative and overrides any separate deeds or enactments issued separately by the Tsar.

рогъ ѿ законѣ. Еше повелѣва царство ми. аще пише книгѣ царство ми, или по срѣчѣѣ, или по любѣви, или по милости за нѣкого, а шнази книга разара законникъ, не по правдѣ и по законѣ како пише законникъ, соудїе тоузи книгѣ да не вѣроую, тѣкмо да соуде и врше како к по правдѣ.

Article 171, *On the Law: A further edict of my Majesty. If I the Tsar write a writ, either from anger or from love or by grace for someone and that writ transgress the Code, and be not according to right and the law as written in the Code, the judges shall not obey that writ but shall adjudge according to justice.*

Article 172, as a type of guarantee of judiciary independence was based on the Byzantine tradition *princeps legibus alligatus*.⁶

родъ ѿ соудїахъ. Всаке соудїе да соуде по законникѣ право како пише оу законникѣ, а да не соуде по страхѣ царства ми.

4 Critical editions of Dušan's Law Code were done by Novaković, 1898; Radojčić, 1960, and Bubalo, 2010. Serbian Academy for Science and Art has edited all manuscripts of Dušan's Law Code: vol. I, Codd. Mss. Strugensis et Athoniensis, Beograd 1975; vol. II, Codd. Mss. Studeniciensis, Chilandarensis, Hodosensis et Bistriensis, Beograd 1981; vol. III, Codd. Mss. Baraniensis, Prizrensis, Šišatovacensis, Rakovacensis, Ravanicensis et Sofiensis, Beograd 1997; vol. IV, Codd. Mss. Patriarchati, Bordiosiensium, Popinciensis, Tekelianus, Sandicianus, Koviliensis, Belgradensis, Rezeviciensis, Caroloviciensis, Verseciensis, Gerbliensis, Bogisicianus et Jagicianus, Beograd 2015. Numeration of the articles is according to the edition of Stojan Novaković.

5 The English text of all the articles quoted in the paper is according to the translation of Burr, 1949–50, pp. 198–217 and 516–539.

6 Cf. Bury, 1910, pp. 7, 9, 29–30

Article 172, Of Judges: *Every judge shall judge according to the Code, justly, as written in the Code, and shall not judge by fear of me, the Tsar.*

How those articles came into the Law Code of Stefan Dušan? Were they the result of the independent development of Serbian medieval law, or were they taken from somewhere else? The majority of the researchers of the Code of Stefan Dušan from 19th century were firmly convinced that the articles 171 and 172 were independent.⁷ However, according to the researches of Nikola Radojčić,⁸ most probably they were taken directly from the *Basilika*, (Greek τὰ Βασιλικὰ, „the Imperial [Laws]“), an extensive collection of Byzantine laws, begun under Emperor Basil I and completed in the first years of the reign of Leo VI (probably 888).

The text of the *Basilika* which corresponds to the article 171 is VII, 1, 16 and reads: Πᾶς δὲ δικαστής... τηρεῖτω τοὺς νόμους καὶ κατὰ τούτους φερέτω τὰς ψήφους, καὶ, κἂν εἰ συμβαίῃ κέλευσιν ἡμετέραν ἐν μέσῳ κἂν εἰ θεῖον τύπον, κἂν εἰ πραγματικός εἶη φοιτήσας λέγων τοιῶσδε χρῆναι τὴν δίκην τεμεῖν, ἀκολουθεῖτω τῶ νόμῳ. Ἡμεῖς γὰρ ἐκεῖνο βουλόμεθα κρατεῖν, ὅπερ οἱ ἡμέτεροι βούλονται νόμοι...

The text which corresponds to the article 172 is VII, 1, 17, and reads: Θεσπιζομεν... κατὰ τοὺς γενικοὺς ἡμῶν νόμους τὰς δίκας ἐξετάζεσθαι τε καὶ τέμνεσθαι· τὸ γὰρ ἐπὶ τῇ τῶν νόμων κρινόμενον ἐξουσία οὐκ ἂν δεηθεῖη τινὸς ἔξωθεν διατυπώσεως.⁹

7 See Šarkić, 1988, pp. 43-55, especially 46-48.

8 Radojčić, 1923, pp. 100-139.

9 *Basilicorum Libri LX, series A, volumen I, textus librorum I-VIII*, edd. H. J. Scheltema et N. Van der Wal, Groningen 1955, p. 303. Although the content of the above mentioned provisions from the *Basilika* was identical with a content of articles 171 and 172 of the Code of Stefan Dušan, the Serbian translator did not translate the Greek text literally. This fact led Marko Kostrenčić to develop a hypothesis in a paper on Radojčić's treatise, *The Strength of the Law According to Dušan's Code*, that such provisions might have originated independently in Serbia as a result of Serbian legal development (*Narodna starina*, 7, pp. 100-102). To support this thesis Kostrenčić wrote that the position of a ruler in Byzantium, and especially his attitude towards laws, was different from the position of a ruler in Serbia, which, according to him, was more similar to the position of a ruler in Hungary. He especially draws attention to some provisions of the *Bulla Aurea* of Andrea II from 1222, in which the similarities with articles 171 and 172 could be found. That text from the *Bulla Aurea* says (XXX): *...ita, quod ipsam scripturam pre oculis semper habens nec ipse deviet in aliquo in predictis nec regem vel nobiles seu alios consentiat*

2.

Besides articles 171 and 172 the Code insists in many of its provisions that duties are executed in accordance to the law and that nothing is done against the law. First, articles regulating the relations between social classes.

1) Article 42 determines the duties of the noble landowners:

МѢ БѢЩИНЕ СВОБОДНѢ. И БѢЩИНЕ ВЪСѢ ДА СЪ СВОБОДНѢ, УТЪ ВЪСѢБЪ РАБОТЪ И ПОДАНЫКЪ ЦАРСТВА МИ РАЗВѢ ДА ДАЮ СОКЪ, И ВОИСКΟΥ ДА ВОЮЮ ПО ЗАКОНУ.

Article 42, Of Free Hereditary Estates: And all hereditary estates¹⁰ are free of all works¹¹ and tributes to my majesty, save that they shall pay the corn-due¹² and provide soldiers to fight, according to the law.

2) Article 68 equalized the duties of all villeins in the Empire, and article 139 protects the dependent inhabitants from the noblemen's despotism and determines the villein's duties towards their masters if the lords violate their authority as prescribed by law:

ѦЗѢ БѢ МЕРОУХЪ. МЕРОУХОМЪ ЗАКОНЪ ПО ВЪСОИ ЗЕМЛИ ОУ НЕДЕЛК ДА РАБОТАЮ ДВА ДЪНИ ПРОНИАРЪ; И ДА МЪ ДАВА ОУ ГОДИНЕ ПЕРЬОЕРЪ ЦАРЕВЪ;

— *deviare, ut et ipsi sua gaudeant libertate ac propter hoc nobis et successoribus semper existant fideles et corone regie obsequa debita non negentur.*

Statuimus etiam quod si nos vel aliquis successorum nostrorum aliquo unquam tempore huic dispositioni contraire voluerint, liberam habeant harum auctoritate sine nota alicuius infidelitatis tam episcopi quam alii iobagiones ac nobiles regni nostri universi et singuli presentes ac posteri resistendi et contradicendi nobis et nostris successoribus in perpetuum facultatem. Text was quoted according to the edition Besenyei et al., 1999, p. 29.

10 Serbian word is *baština* (бащина), which comes from the old Slavonic word *bašta* (баща) = father, and indicates the hereditary estate (*očevina*), with reference to the real estate which passes from father to the heirs of his body (analogous to the Latin term *patrimonium*, derived from the word *pater* = father, as well).

11 The term used in Serbian text is *rabota* (работа), the general Slavonic word for compulsory, usually unpaid, day labour for the State or for one's lord (*corvé*), Greek ἀγγαρεία.

12 Serbian word is *soće* (сокъ), the basic and general tax in the medieval Serbian State. The meaning of the word is unclear. Maybe it comes from Latin *soca*, *soccus* = plough, or *saccus* = purse, or Byzantine tax called τῆς σακέλλης. In Byzantine sources *soće* was always translated as *σιτοδοσία*.

и заманицомь да мѸ сена коси днь єдинь, и виноградь днь єдинь; а кто не има виноград, а шны да мѸ работаю ине работѣ днь; и що оур-абота меропьхъ тозїи вѣсе да стежїи; а ино прѣзаконь нишо да мѸ се не оузме.

Article 68, Of Villagers:¹³*The law for the villager on all land. He shall work for two days in the week for the fief-holder¹⁴ and let him pay one imperial perper¹⁵ in the year and let him cut his [lord's] hay with all his household one day and his vineyard one day; and if there be no vineyard, let him do other work for one day. And what a villager do, let him store it all and according to the law nothing else shall be taken from him.*

(In the manuscript the article has no number) Мѣропїхомь вѣ земли царства ми да нѣсть волнь господарь оучинити прѣзаконь ниша; развѣ що ксть царство ми записало Ѹ законїце, този да мѸ работа и дава; ако ли моу оучини що безакона, повелѣва царство ми, вѣаки меропїхъ да ксть волнь прѣти се своимь господаромь, или сѣ царствоми, или сѣ госпождомь царицомь, или сѣ црьквомь, или сѣ властѣли царства ми; и с кымь люво да га нѣсть волнь никто дръжати wt соуда царства ми; развѣ да мѸ соудїе соудѣ по правдѣ; и ако Ѹпри мѣропїхъ господара, да оуемчи соудїа царства ми, како да плати господарь мѣропїхъ вѣсе на рокь; и потомь да нѣсть волнь шнзи господарь оучинити зло мѣропїхъ.

Article 139: *No master may do to a serf within the territories of my Empire aught that is contrary to the law, save only what I have written in the Code. That shall they do and give. And if he do aught to him against the law I enact, every serf is free to lay plaint against his master, be it I the Tsar, or the Lady Tsaritsa, or the Church, or my lords or any man. No man is free to withhold a serf from my Imperial Court, only the judges shall judge him according to*

13 Serbian word is *meropsi* (меропси, singular = *meropah*, мѣропѣхъ). The term *meropsi* became common in the 14th century for all dependent villagers, but the meaning of the word could not be precisely defined. It comes probably from the name of Thracian tribe *Meropes* (Μέροπες) who lived in Rodope mountains (today in Greece).

14 *Pronijar* (пронїарь), after the Greek word *pronoia* (πρόνοια), meaning *care, foresight, forethought, administration*, and in Church terminology *Providence*.

15 The *perper* (перльперь) was the Serbian money of account, Byzantine *hyperpiros* (Greek ὑπερπυρος, meaning gold „tried in the fire“).

right. And if the serf win against his master, let my judge give warranty that his master pay all to the villein at the appointed time, and that his master do no evil to the villein after the sentence.

3.

Provisions about judiciary:

1) Article 30 (second part) prescribes that no one should be persecuted without a trial:

ки̃ ѿ ако ли кто комѡ кривѣ, да га ищѣ соудомъ и правдомъ по законѡ; ако ли оурѣѣ без соуда, или комѡ забави, да плати самосеѡмо.

Article 30, second part: ...*And if anyone be guilty towards another let him sue him through the court and by suit according to law. And whoso shall molest or damage anyone without judgment, let him pay sevenfold.*¹⁶

2) Article 182 regulates the competence of the judges, who, each in his region, decides according to law.

рпд̃ ѿ позовѡ неволнѣмъ. Кто кетъ оу власти конх соудѣи, вѣсакъ чловѣкъ да нѣстѣ волнѣ позвати оу дворѣ царства ми, или камо инамо; тѣкмо да гредѣ вѣсакъ прѣд свога соудѣю; оу чиен боудѣѣ власти да се расоудѣи по законоу.

Article 182, *Of Unlawful Suits: No man who is in the district of judges may bring an action in my Imperial Court, or anywhere else. He may appear only before his own judge in whose district he is, that the matter may be tried according to the law.*

3) The absence of a plaintiff before the court frees the defendant of any responsibility if he spent the time determined by law at the court (article 89).

пѡ ѿ позванѣи кривѣца. Кто позовѣѣ кривѣца прѣд соудѣе позвавѣ и не поидѣ на соудѣ, нѣ сѣди дома; обѣзѣи кои кетъ позванѣ ако прѣидѣ на рокъ прѣд соудѣе и штетои се по законѡ, тѣзи да кетъ простѣ шт тогазѣи дльга за кои ѣ бытѣ позванѣ, ерѣ внѣ позвавѣ дома сѣдѣи.

16 Formula „let him pay sevenfold“, used in six articles of Dušan’s Law Code, means to increase to seven times the amount of fine.

Article 89, *Od Summoning Offenders*: *If a man summon an offender before the judges and then do not come to court himself, but sit at home, the party summoned, if he come at the appointed time before the judges and remain according to the law, is discharged from that debt for which he was summoned, inasmuch as he that summoned him sitteth at home.*

4) For the village boundaries the witnesses are determined by law (article 80).

о.ѡ. ѿ мегк селскои. За мегк селске, да дадѡ ввои кои ищѡ свѣдоке, онъ половинѡ, а онъ половинѡ по законѡ; да коудѣ рекѡ сведоции, тогов-ази да ест.

Article 80, *Of Village Boundaries*: *Touching village boundaries, let both claimants bring witnesses, one a half and the other a half, according to the law. And whom the witnesses shall name, his shall it be.*

5) Article 132, 152 and 154 regulate the jury by law (*porota*, *porota*).¹⁷

рмд ѿ пленоу. Шо кто коупи шт плена изъ тоугк землек, шо воудѣ плѣнкено по царевѣ земли, да ксть воонь коупити шт тогазій плена, колико ѡ тѡгви земли; ако ли га кто потвори говорѣ внозї є мое, да га шправи порота по законоу, ере к коупиль оу тѡждон земли, а не моу ни тать, ни проведчїа, ни вѣстникъ, такози да си га има како свое.

Article 132, *Of Booty*: *If anyone in the Imperial dominions buy aught from booty taken on foreign soil, it is free to him to buy that booty provided he do so not within the territories of my Empire, but on foreign soil. And if someone accuse him, saying: "That is mine," the dispute shall be settled before a jury according to the law, whether he bought it on foreign soil and is not a thief nor a receiver nor an abettor: and such let him hold as his own.*

рмд ѿ законѣ. Како ксть виль законѣ оу дѣда царства ми оу Светаго краля; да сѡ велимъ властѣлом, вели властѣле, а срѣдним людемъ противѡ дружина ихъ, а себрьдїамъ ихъ дружина да сѡ поротници, и да нѣст оу пороте родима, ни пизмѣника.

¹⁷ Serbian word *porota*, usually translated as jury, was not jury in English sense of the word – a certain number of men and women selected according to law, and sworn (*iurati*) to inquire of certain matters of fact, and declare the truth upon evidence to be laid before them. In Serbian medieval law *porota* was collective name for members of jury, who were conjuratores or compurgators – one who swears or is sworn with others (from *rota*, *рота* = oath).

Article 152, Of the Law: *As was the law under the Sainted King my grandfather,¹⁸ so let great lords be jurors for great lords, for middle persons¹⁹ their peers, and for commoners their peers. And on the jury there may be neither kinsman nor enemy.*

рнѣ ѿ поротницѣхъ. Кои се поротници кльнѣ и вправѣ, вногази по законѣ, и ако се о тоузѣ вправѣ полиціе вврѣте истинно оу вногази вправіе когано к вправила порота; да оузме царство ми на техъзи поротницехъ по тысѣщѣ перьперь; а векк потому да несѣ тызіи поротници вѣрваній; ни да се кто отъ нихъ ни моужѣ ни женій.

Article 154, Of Jurymen: *When jurors acquit on oath according to the law, and after acquittal guilt be proved against him whom they have acquitted, I shall fine those jurors one thousand perpers each and in future those jurors shall not be believed and they may not take either husband or wife.²⁰*

4.

In the administrative area should be mentioned articles 63, 187 and 176.

1) Article 63 regulates the income of the *kephalia* (kefalió, kepalía, from Greek κεφαλῆ, literally „headman“, the governor of a city).

ѡв ѿ дохѣдоу. Кепаіе що соу по градовѣхъ, да оузымаю свои дохѣдыкъ закономъ; и да имъ се продаваю жита и вина и меса за динарь що иномѣ за два; нѣ граганинѣ този да мѣ продава, а инѣ никто.

Article 63, Of Incomes: *Governors who are in the cities shall take their income according to law, and let corn and wine and meat be sold to them at*

18 King Stefan Uroš II Milutin (1282-1321), Dušan's grandfather.

19 The expression “middle persons” seems to indicate for the first time a definite recognition of an intermediate class, which presumably included the lesser barons, the merchants, the townsfolk and tradesmen, superior craftsmen, who were not of aristocratic rank, but superior to the rank and file of the commoners and countryfolk in general.

20 The Serbian verb for a man to marry is *oženiti se*, a reflexive verb from the word *žena* = woman. The word for a woman, in the modern language is *udati se*, literally, to give oneself up, but the old verb we have here is, *mužiti se*, from the word *muž* = a husband.

one dinar²¹ which is sold to others for two; and citizens alone may sell to him and none other.

2) Article 187 regulates some police measures taken when the Emperor and Empress travel.

(The article has neither title, nor number; it is found only in the Athos and Bistritsa texts) **КѡУДѢ ГРЕДЕ ЦАРЬ И ЦАРИЦА ИЛИ СТАНОВѢ ИЛИ КОНИ ЦАРЕВИ, ОУ КОМЪ СЕЛѢ ПРѢЛЕЖЕ, ПОТОМЪ НИ КДИНЬ СТАИНИКЪ ДА НЕ ПРѢЛЕЖИ ОУ ТОМЪЗИ СЕЛОУ; АКО ЛИ СЕ КТО ШВРѢТЕ И ПРѢЛЕЖИ ОУ ТОМЪЗИ СЕЛѢ, ПРѢЗЪ ЗАКОНЪ И ПОВЕЛѢНИКЪ ЦАРЕВО, ШИЗИ КОИ К СТАРѢИ ПРѢД СТАНОВИ, ДА СЕ ДА СВѢЗАНЪ ШНОМДИ СЕЛѢ; ШО ВОУДЕ СТРѢВЕНО ВСЕ ДА ПЛАТИ СЕМОСЕДМО.**

Article 187: Wheresoever the Tsar and Tsaritsa travel, or the herds and horses of the Tsar, in whatsoever village they rest, in that village no herdsmen may rest. And if there be one who rest in that village contrary to the law and Tsar's command, the elder of the shepherds shall be delivered bound to that village and shall pay sevenfold the damage done.

3) Article 176 determines the regulations of the towns.

РОИ СѢ ГРАДОВѢХЪ. ГРАДОВЕ ВЪСИ ПО ЗЕМЛИ ЦАРСТВА МИ, ДА СѢ НА ЗАКОНѢ Ш ВЪСѢМЪ КАКО СѢ БИЛИ ОУ ПРЪВЫХЪ ЦАРЬ; А ЗА СОУДОВЕ ШО ИМАЮ МЕГЮ СОВОМЪ, ДА СЕ СОУДЕ ПРѢД ВЛАДАЛЦИ ГРАДСКЫМИ, И ПРѢД ЦРЪКОВНЫМЪ КЛИРОСОМЪ, А КТО ЖОУПАНИНЪ ПРИ ГРАЖДАНИНА, ДА ГА ПРИ ПРѢД ВЛАДАЛЦЕМЪ ГРАДСКЫМЪ, И ПРѢД ЦРЪКВМЪ, И ПРѢД КЛИРОСОМЪ ПО ЗАКОНУ.

Article 176, Of Towns: All towns which are in my dominions shall be in relation to the law in all things as they were in the days of the first Tsars.²² For suits which citizens have between themselves, let them be judged before the prefects of the towns. Or before the Church courts. And if a man from the country have a case with a citizen let him sue before the prefect of the town and before the Church and the clergy. According to the law.²³

In a more detailed analysis probably some additional provisions could be found which belong to constitutional law, but we consider that even the above will suffice as a proof of the existence of some elements of

21 One golden perper was settled accounts as 24 dinars. In the first half of 14th century the rate was 1:30, and in the first half of 15th century even 1:40.

22 I. e. Byzantine Emperors.

23 The first sentence amplifies the confirmation of the urban rights which was granted to the Greek (Byzantine) towns in article 124, and is now extended to all towns in the Empire.

constitutionality in Serbian medieval law, especially in the Code of Stefan Dušan.

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