

JUDGES' ASSOCIATION OF SERBIA

two centuries
of the first
court in serbia

*???? Posve}eno 200-godi { wi ci
osni vawa prvog suda u Vaqevu ????*

Belgrade, May 2004.

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Organi zaci ja za evropsku bezbednost i saradwu (OEBS)



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Mission to Serbia and Montenegro

**TWO CENTURIES
OF THE FIRST COURT IN SERBIA**

Posve}eno 200-godi}wici osnivawa prvog suda u Vaqevu

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Ovaj broj biltena Društva sudija Srbije posvećujemo, sa velikim ponosom i poštovanjem, 200-godišnici ustrojstva prvog srpskog suda u Vaqevu, osnovanog 5. maja 1804. godine, na skupštini Vaqevske nahije na Reqinom poqu u Krnoj glavi. Ovo je bila i prva zakonodavna skupština u oslobođenoj Srbiji, pa je njen značajt ime još veći.

Sve tekstove u ovom izdavanju je priredila gospođa Snežana Radi, višarhivistka u Međunarodnoj inspekciji arhiva u Vaqevu, koristeći autentičnu i neprocenljivu literaturu i arhivsku građu, na čemu joj srdačno zahvaćujemo.

Takođe, zahvaćujemo i kolegi Ivanu Negiću, predsedniku odeljenja u Vaqevu i predsedniku tamog Trgovinskog suda, na inicijativu da Društvo sudija Srbije na ovaj način doprinese obeležavanju ovog značajnog jubileja naše istorije i sudstva.

DRUŠTVO SUDIJA SRBIJE



^lanovi Vacjevskog suda koji su u-est vovali u slu-aju „Bojovi }“, 1825. godi na

A SHORT HISTORY OF JUDICIARY IN SERBIA

In the Serbian feudal state, in the period between 12 and 15 century, the legal relations were regulated by the norms of common law. By the beginning of 12 century, charts started appearing, as well as the rulers' orders, international agreements, and by the end of 13 century, the first laws. A few information



Tsar Dusan



*„Proglawe Du{anovog zakoni ka“,
slika Paje Jovanovi{a*

were saved on legislative work of Serbian rulers before Tsar Dusan, in the field of civil law. Those sources show that legal life in Serbia of those times was regulated by unwritten common law and the norms taken from the translated Byzantine codes, as well as monastery charts and international agreements. From the judicial aspect, all decisions had individual character, and were not generally significant for the whole state.

The rule of Tsar Dusan was hegemony of Serbs in the Balkans. He acted very wisely in his conquests and creation of a big Orthodox state. He appointed his men at the head of administration and church, but everywhere left legal order behind him. Big conquests requested legislative order. During the first years of his rule, he used to apply Byzantine legal codes („Syntagm of the Monk Matija Vlastar“ and „Justinijan’s Code,“). At the synod which took place on 21

May 1349 in Skopje, undertaking the role of a legislator, with the help of Patriarch Cir-Janicije, all the bishops, priors and monks from Sveta Gora, Emperor Stefan, the Empress, King Uros and all the Serbian and Greek landowners, Dusan proclaimed the legal code under the name of „The Code of the Faithful Emperor Stefan“, better known as „Dusanov zakonik“ (The Code of Tsar Dusan).

The Code of Tsar Dusan has 135 Articles and mostly deals with the state law, but it also regularizes some other questions, such as the court procedure. The Code has a number of criminal law provisions and procedures in which discrimination of certain classes exists and is legally protected. The cruel Byzantine system of

bodily and death punishments was implemented almost totally. The cruelty was alleviated „by the Emperor’s mercy“. Amendments to the Code were being added during the following five years, 66 articles altogether, so that the Code had, as generally accepted, 201 Articles. The amendments were mainly reflecting the spirit of care for social equality, for equal status of all provinces before the court, etc. Taken as a whole, the Code and its contents do not relate only to one particular set of problems, but Dusan tried to regularize, in a unique way, all current problems.

The biggest contribution of the Code is the fact that it had pointed out that a written law is stronger than the will of one person, requests of the classes, old fashioned practices and Emperor’s self-will. He inspired many rulers with their legislative work, as well as with opening universities in Europe where law was read.

In the old Serbia, two basic kinds of power functioned: church and civil. State power was divided into legislative, judicial and administrative. The most organized was the judicial power, which was completely independent. The principle of independence of judiciary was proclaimed in Articles 171 and 172: „All

the judges should judge according to the Code, just as it is written in the Code, and not in fear of my emperorship“. The Code contained criminal deeds and court procedure (petition, summons, representation, investigation of the punishable offence, evidence and judgment). The judgment was the end of a court proceedings and it was always „written“, because the judges had to keep records entering the cases and judgments. One copy of the record was given to the party which had won the case.

During wars, the military court was in function.

By conquering Serbian lands by the Turks, the Ottoman system of rule and legislation was introduced. Rights and obligations were regulated by „Serijat“ law (Muslim law). The sultans were passing laws which were compatible with the Serijat law. Turkish criminal law was not burdened by the class affiliation, and there was no difference between punishing Muslims and non-Muslims. Nevertheless, when conducting court trials for conquered people, there was a lot of self-will; there is a well-known saying which illustrates this: „The quadi takes you to court, the quadi sentences you“.



The „Praviteljstvujusci“ Synod, founded in 1805, was executing, among other things, the judicial power. On its second assembly, held on 15 July 1805 in Bork, summoned upon Karadjordje's initiative, the first advisors were established. From 25 April 1806, the judicial power in Serbia was executed by military commanders, up to 26 October 1807, when a court was founded in each region („nahija“), upon the Synod's order. Those courts consisted of three judges, usually two peasants and one priest. In principalities, the principals used to act as judges, helped by a peasant, but only in minor disputes. Each magistrates' court (in „nahija“) was in charge of the first degree cases and second degree appeals, including principalities. Everybody could come to a court and sue anybody, even the dukes, if they had wronged them. The appeals against decisions of magistrates' court were decided by the Synod.*

By a new reorganization of power, in January 1811, at the Assembly of Heads, the new „Praviteljstvujusci“ People's Synod was founded,

* „The History of the States and Legislation of Yugoslav peoples“, Belgrade University, 4th edition, „Naucna knjiga“, Belgrade, pages 205-208

comprising of six ministers (military, foreign and interior, education, finance and the great people's court). In the country, magistrates were founded, chosen by dukes in agreement with principals of their region, and those magistrates were comprised of three judges and one notary. The magistrates were at the same time continuously conducting administrative and police duty. Out of advisors of the „Praviteljstvujusci“ Synod, the People's Court or the Great Court in Belgrade was formed, which was deciding appeals to magistrate's decisions, and which was chaired by the minister of justice, as the great, people's judge.

It can be said that the Synod, from its foundation up to the ruin of the First Uprising state, was conducting the judicial, administrative and legislative power and that it was a central organ, but that it had never become the chief agency of the state and that the heads had never succeeded in limiting Karadjordje's supreme power.

After the failure of the uprising, Serbian courts were failed too, and the Turkish courts were once again established. During the period between 1815 and 1830, in the Belgrade pashadom (domain of a Pasha) there

were both Turkish and Serbian state agencies. According to the agreement between Principal Milos and Marshli Ali-pasha, Serbs were tried by the Principles in their mutual disputes, but what they could not decide upon, was decided in the National office in Belgrade. The National office was consisted of 12 Principals, one from each region („nahija“). In the disputes with Turks, vizier's assistants were judging, but the presence of a Serbian Principal was obligatory. The role of the National Office was gradually declining and it finally disappeared, at the same time when the Belgrade court was founded, in 1817, together with special offices of the Principal. Three years upon con-



Knez Miloš

clusion of peace with the Turks, in 1815, Principal Milos overtook the supreme judicial power into his hands, in 1818, while the subordinate judiciary in „nahije“ was left to the magistrates. The pashadom was divided into „nahije“, principalities and villages. The „nahije“ had the character of administrative units, while the „nahije“ principals were appointed and dismissed by Milos. They were his personal and executive agencies, in subordination to him, who conducted duties in the domain of administration and judiciary.

By a gradual independence in administrative matters, conditions were being made for foundation of courts. Beginning with 1820, special Serbian „nahija“ courts were formed - the magistrates.

Court in Kragujevac has become in 1823 the second degree court for all courts, with the name of The National Court, and from 1825, the National (Great) Court used to work under the names: „Sud obštenarodni Serbski“ and „Sud narodni Serbski“ (translation for both names is: National Serbian Court). The Principal was the highest, cassation authority in all disputes, and sometimes he was the judge himself. On court organization in that period, Vuk

Karadzic says: „The first court for a village is with the senior peasant... from the village it goes towards the „nahija“ magistrate, from the magistrate toward the Great Court, from the Great Court to Milos, and whatever he finds right, right shall it be.“ This organization of judiciary was



Sretenje's Constitution

complemented by decrees in 1827, 1828, 1829 and 1833. Hatisherif from 1830 was especially important, particularly the provision No. 6, in which it says that the Turkish power will not interfere with the internal administration of the country, „nor with the judges' decisions“.

The operation of courts and regulation of the legal system are closely connected with the most important document of the state, the Constitution.

After the Miletin uprising, Milos could not any longer oppose the requests of the principals and people, and he was compelled to pass the constitution, the creator of which was Dimitrije Davidovic. The Constitution was passed at the Assembly on Sretenje (religious festival) on 15/3 February 1835 in Kragujevac. The State Serbian Synod was the highest authority in Serbia, next to the Principal, and was comprised of 6 ministers and non-specific number of state advisors. One Ministry belonged to Judiciary. According to the Constitution, there were regional courts as first degree courts, and the Great Court as the second degree court, while in the third and the final degree the State Council would pass judgments, and „establish one department as courtroom“. The courts were independent in passing judgments and obeyed the law. By provisions of 11 chapter of the Constitution, certain rights of citizens were proclaimed. According to those provisions, citizens were equal before the law, nobody could be arrested against the law, the arrested people were to be

interrogated within 3 days from the day of arrest, and the punishment was to be executed in accordance with the judgment of the relevant court.

By establishment of the State Council in 1835, which comprised of the Administrative and Judicial departments, the Judicial department examined decisions of lower courts. An appeal was lodged against the judgments of the Judicial department to the State Council, which would examine it then on the general meeting of both departments, while certain cases were examined the Principal himself.

By the „Law on the Duty of Military Commanders, Civil Offices and the district principals“ dated 11 November 1836, the military power was established, apart from the civil one, in the local administration. The Civil Offices represented the civil power, while the authority was that of the police, administration and judiciary. Judicial power started being executed by the district principals with two chosen peasants, and the second degree body was the Civil Office, on the regional level. Civil Offices started being called magistrates again in 1837.

Reorganization of the court administration was done in accor-

dance with the 1838 Constitution, the so-called, Turkish Constitution (22 December 1838), when in the vilages the „settling“ courts were established, in each of 18 principalities there was one first degree court, while in the capital there was the Court of Appeal. The judges' rights were protected by the provision that no judge could be dismissed without his guilt being proven by court.

Under the pressure of the „defenders of the constitution“ (opposition to Milos), Milos abdicated in June 1839 and his under-age son Mihailo came to the Principal's throne. After the Vucicev uprising, Principal Mihailo left Serbia in September 1842, while the „defenders of the constitution“ brought Aleksandar Karadjordjevic to the throne. The defenders of the constitution fought principally for maintaining and expansion of constitutional liberties in economic relations, especially for the free press and

trade. The general characteristic of their regime, which lasted from 1842 to 1858, was a bureaucratic and



police administration. They thought that the people were „absolutely incapable of solving public, state affairs“, while the police had authority to punish people even by bodily harm. The supreme power belonged to the oligarchy council, comprised of 17 members, who were representatives of bureaucracy and the richest tradesmen.

From the 1838 Constitution, in accordance with Article 30, the Decree on Administration of District Courts ensued, as well as of the Court of Appeal, and the procedure was proscribed for investigation and judging. By the New Decree from 1846, the Supreme Court was established, as the highest and final degree.

When, in the 1851 within the Principal's office the Judicial Department was founded, the Principal became the cassation power, but only to 1855, when the Cassation court was founded and its administration established.

One of the most important laws passed in this period was the Serbian Civil Law of 25 February 1844. It was a shortened translation, with minor changes and amendments, of the Austrian General Civil Code, which was founded on Roman law. In it, certain elements of Serbian common law were incorporated, especially in the part which regularized the law of inheritance and the relations within an extended family group. A significant provision is the inviolability of private property. Also, the law confirmed abolition of feudal relations, which attributed to a faster development of the country.

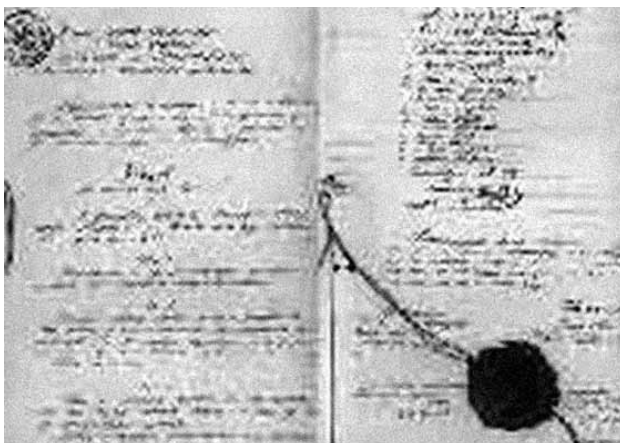
Permanent clashes between the Principal and the council brought to the summoning of the St Andrei Assembly on 12 December 1858, at which it was decided that Aleksandar Karadjordjevic is to be dethroned, and Milos Obrenovic be brought back to throne again. After less than two years he died and Mihailo Obrenovic came to the throne. Upon advice of great powers, he did not pass a new constitution, but through passing a number of laws of constitutional character, changed the situation in the country and concentrated the power in his own hands.

From this period, the new Law on Court Organization should be particularly mentioned, which was passed on 20 February 1864. According to this law too, there were district courts (courts of the first degree), Court of Appeal (court of the second degree) and the Cassation Court.

Passing of the Law on Legal Representatives (28 February 1862) influenced a more efficient work of courts. According to this law, the right to represent before a court could be obtained from the Ministry of Justice by those persons who had a degree in law and passed the bar exam, while in the amendments to

this law from 1865 a „legal representative did not have to have a university degree in law, it was enough if he passed the bar exam“.

The following laws are specifically underlined: Criminal Law for the Principality of Serbia (29 March 1860), Commercial Law (26 January 1860; it is interesting that Principal Milos firstly founded the Commercial Court by the Establishment



Namesni-ki ust av iz 1869. godine

of Commercial Court on 12 December 1859, and only then the Law was passed), Law on Judicial Procedure in Criminal Proceedings (10 April 1865).

After the murder of Principal Mihailo on 29 May 1868, underage Milan Obrenovic, the grandson of Jevrem Obrenovic, was pronounced

Principal. The deputy's office comprising of three members was formed. The first task was to change the constitution, so that the development of capitalist social-economical relations in Serbia in the second half of 19 century could be legally supported. The Constitution was passed on 29 June 1868 at the Great National Assembly in Kragujevac. According to this Constitution, the State Council

is no longer a legislative body. The courts were „independent in passing judgments,, but the judges could be transferred. By this, the so-called, „Deputy's Office Constitution“, certain citizens' right were proclaimed: the right to work, right to personal freedom, the right to ownership, inviola-

bility of the place of residence, freedom of speech, freedom of press, etc. The free gatherings and associations were not envisaged by this law, but in the cases of danger to the public security, depending on the government's estimate, some proclaimed personal freedoms could have been temporarily stopped.

A number of laws which were complementing the Constitution were passed in the years to come. The Law on Ministerial Responsibility (21 October 1870) stood out with its contents. By this law, a special state court was established for taking ministers to court, the members of which were chosen by dice out of the members of Cassation and Court of Appeal, and the Members of Parliament. This court could have sentenced the ministers to be deprived of position, or to be pronounced incapable for official posts.

By changes and amendments of the Law on Judicial Procedure in Criminal Proceedings from 1865 (passed in 1876), certain guarantees were offered to the citizens regarding their personal security and protection from police self-will.

By the Law on Judges from 9 February 1881, a permanence and non-transferability of judges was established, so that a judge could not lose his judicial post without the decision by regular courts before his old age pension, and at the same time he could not have been transferred against his will. This was not applicable to the members of municipal courts, because by changes and amendments of the Law on Municipalities (passed in 1866), executed

in 1884, one of the most conservative changes took place: members of municipal courts could have been not only financially punished by the state authorities, but also „removed from duty, even relieved of their title“. Also, they had to keep the decision of the court „until execution“.

For 1888 Constitution it is said that it has been passed for the „sake of Obrenovic Dynasty“. King Milan wanted for all the parties to participate in creation of the new constitution, so that the political agreement could be achieved. By the Constitution, not only the legislative power was expanded, but also the financial power of the Parliament, a number of constitutional rights of citizens was proclaimed (free gathering and association, freedom of press), criminal and political responsibility of ministers were included, court's independence was proclaimed as well as the non-transferability of judges, the foundation of extraordinary courts or court-martials was forbidden as well as the trial committees, bases of district and municipal self-management were established. 1888 Constitution was a liberal, bourgeois-democratic act. Supremacy of the legislative power over administrative power was established.

By the second putsch, on 9 May 1894, King Aleksandar Obrenovic prohibited the 1888 Constitution, and brought back the 1869 Constitution, justifying his action by saying that during his minority age, many laws were passed against the provisions of 1869 Constitution. All the laws which had been passed in accordance with 1869 Constitution became valid again. When the government of Vladan Cerdjevic fell, the King established a personal regime on 11 October 1897. The ministers were simple executors of King Aleksandar's decisions and those of the former king, Milan, in whose hands laid the military administration. After the death of King Milan in 1901, Russians requested Aleksandar to abandon that „personal regime“ and pass a new constitution. He passed the so-called „Oktroisani“ Constitution on 6 April 1901 (this was done in agreement with the party leaders who were faithful to the King, without participation of the Parliament, that is, the representatives of people). According to this Constitution too, the independence of courts and non-transferability of judges was guaranteed.

The atmosphere of general dissatisfaction in the state compelled King Aleksandar to, in order to pro-

tect his regime, dismiss the Senate and the Parliament in March 1903 and elect presidents of all courts (apart from the Cassation Court). A putsch ensued on 29 May 1903, in which the King, Aleksandar Obrenovic, was murdered. On 2 June 1903, Petar Karadjordjevic was pronounced King. Immediately afterwards, on 5 June, the new constitution was passed, which, as a matter of fact, was the 1888 Constitution, with some changes and amendments. The most important changes related to the limitation of kingly powers. By this, bourgeois aspirations were realized and parliamentarism was introduced into Serbia, according to the Western model.

The judiciary was finally organized through changes and amendments of the Law on Organization of Courts dated 20 February 1865, and the laws from 1890 and 1903, when the following courts were established in Serbia: municipal (in charge of civil proceedings of small value), district (one for each district), Court of the City of Belgrade, Commercial Court in Belgrade and The Court of Appeal and Cassation Court in Belgrade.

After the Balkan wars and the First World War, „Vidovdanski“

Constitution was passed on 28 June 1921, when the foundations of a modern organization of judiciary were laid. Article 109 of the Constitution proclaimed the independence of judiciary: „The courts are independent. In administering justice they are not under any power, they judge according to laws“. Also, the establishment of special courts was prohibited, and permanence and non-transferability of judges was guaranteed. It was envisaged that there should be only one Cassation Court for the whole Kingdom, with the head-office in Zagreb, while there were more courts of appeal and first degree courts. For election of judges a „direction“ was provided for the Cassation Court and Court of Appeal and the Presidents of the first degree courts.

The need for regularizing the judicial power and its organization on the territory of the whole Kingdom, conditioned passing of a law on 24 November 1928, according to which judicial power was conducted through regular courts: district, commercial, courts of appeal and the cassation court. The courts were organized on the territorial principle, with the right of appeal to higher courts. From 1890, all district courts chan-

ged names into first degree courts, until 1928, when the old names were returned and when the organization of courts provided for „srez“ (a regional unit), which had been previously founded (1911), but they never started functioning until 1931. By the Law on Organization of Regular Courts from 1929, that had been passed immediately after the „6 January Dictatorship,, regular courts continued working under the previous law, but the possibility was provided for establishment of special courts, which by number and importance of its work used to overcome regular courts (State Court for Protection of State, Military Court, Church Court, Chosen Court, Agrarian Court, Court for Disabled, Court of Workers' Insurance, Municipal Courts, Local Courts, etc.). The function of the judiciary in the final degree was conducted by the Cassation Court, and regarding the court administration, the courts were subject to Ministry of Justice. The principle of the group judgment was followed as a matter of principle. Only in local courts single judges passed judgments, while in the district courts there were chambers of three judges.

The „Oktroisani“ Constitution from 1931 kept the basic principles of the 1921 Constitution, except that it had established that a judge could be in service until the age of 70. Head-office of Cassation Court was returned to Belgrade.

There were two prosecution offices, independent from the judiciary, as representatives of executive power, which acted in criminal legal proceedings and taking care that the state punished the executors of criminal deeds, whom the prosecutors' offices officially pursued.

From 1929 „banovine“ (regional units) were introduced, which existed until the capitulation of Yugoslavia, on 18 April 1941. Instead of 33 regional units, 9 „banovina“ were formed. Valjevski district became a part of the Drinska banovina, which included parts of Bosnia and Hercegovina and Western parts of Serbia.



Serbia was divided into 14 districts during occupation (1941-1944), while the Valjevski district had the same local units. Some courts continued with their work in accordance with the old laws, passing at the same time different decrees and other legal

acts (establishment of the President of the Council of Commissioners and Commissioners within Ministries, and, at the same time, Commissioners of Justice - July 1941; Decree of the Council on Removal of „nationally unreliable civil servants“ from the public service - August 1941, according to which each judge could be removed; new systematization of court staff with the president and 12 judges - 1942; for application for compensation of war damage local courts were appointed - 1942; foundation of the Court-martial, the Court of the Serbian State Guards - 1942; interruption of procedures in civil proceedings - 1942. Existence and operation of courts of occupational authorities lessen the authority of all regular and extraordinary courts, while the general characteristic was the irregularity in operation of all courts.

Until people's power was established, the justice was dealt by the people itself at public gatherings. That was the period of temporary courts without special jurisdiction, and at the same time the military courts were functioning. By the end of 1944, the Great People's Liberation Council of Serbia issued a direction on foundation of people's courts, and by the beginning of 1945 two

more directions ensued on organization of people's courts.

Within commanding offices of military units and their territory, military courts were founded.

Judicial power on the territory of federal Serbia was performed by the people's courts: municipal (city), „srez“ (regional unit) court, district and the Supreme Court of the Federal Serbia. The judgments and final decisions were pronounced „In the name of the People“.

The Presidency of the Temporary National Parliament of the Federal Serbia passed a Law on Organization of People's Courts, on 26 August 1945. According to this law, regular courts were: „srez“ (regional unit) courts, district, supreme, courts of the federal units, Supreme Court of Vojvodina and the Supreme Court of Federal Serbia. Apart from the regular courts, special courts could be founded. Municipal and regional courts were abolished. It was determined that courts of „srez“ do criminal and civil proceedings in the first degree, while the district courts should examine appeals lodged against the decisions of the „srez“ courts.

For organization of judiciary, the Constitution of Federal People's Republic of Yugoslavia, from 31 January 1946, was important.

At the territory of the District People's Committee Valjevo, the following courts were operable: District Court in Valjevo and „srez“ courts in Valjevo, Valjevska Kamenica, Mionica, Ub and Obrenovac. Regarding special courts, there was the District Agrarian Court in Valjevo.

By the beginning of 1945, public prosecutor's offices were established.

By the Republic Law of 17 January 1947, for judicial bodies of the People's Republic of Serbia the district and „srez“ courts were established, and the highest judicial bodies were: The Supreme Court of Serbia and the Supreme Court of Vojvodina.

For commercially important proceedings, the Law on Commercial Courts as Regular Courts was passed on 5 July 1954; district courts were in charge of several „srez“ (regional units) and cities, higher commercial courts and the Supreme Commercial Court. While reorganizing the commercial courts in 1974, the Commercial Court in Valjevo was founded for the territory of Podrinjsko-Kolubarski region.

By the Manual on Internal Operation in „srez“ courts, district and commercial court on the territory of Serbia, dated 26 December 1959, in courts with a large number of court

chambers or single judges, judicial departments were formed.

By the 1963 Constitution, institutional inspection was perfected and a further development of judicial system by foundation of the branch of the Supreme Court of Serbia in Pristina and Novi Sad, but that started the break-up of the unique judicial system in Serbia. That process was rounded off in 1969, when the autonomous regions founded their supreme courts.

By a law of 11 June 1966 the name of „srez“ courts was changed into municipal courts. Territorial jurisdiction stayed the same. All regular courts were within jurisdiction of the Republic Secretariat for Justice and General Administration.

1974 Constitution introduced the constitutional establishment of self-managing courts and social self-management attorney, that is, the new mechanism of protection of constitutionality and legality. The legal consequence of this was that each single act or measure on the side of an individual, state or other agencies, had to be legally supported. The self-managing courts have been established as courts of associated labour, arbitrage, courts of equity and election courts. Still there were courts of regular

jurisdiction (municipal, district, supreme court of the republic or autonomous region), and special courts (commercial and military). The independence of the court was proclaimed - functional, institutional and legal, but not the socio-political independence. The latter resulting in the provision of the 1974 Law on Regular Courts, which stated that a candidate for a judge had to be morally and politically suitable.

After the disintegration of former Yugoslavia and social and political changes that took place after that, the Republic of Serbia passed the 1991 Constitution. The same year, on 30 July, the National Assembly of the Republic of Serbia passed the Law on Courts, by which the courts of general jurisdiction were founded, as well as the commercial court. This law changed the conditions and ways of election of judges, in accordance with the Article 3, which states: „The court Presidents, judges and jurors, are elected and dismissed by the National Assembly“. For the first time after the Second World War, it was proscribed that the judicial function is permanent. The condition of „morally and politically suitable“ was erased.



two centuries
of judiciary
in valjevo

Establishment of the Court in Valjevo

Valjevo and Valjevo nahija were freed from the Turkish rule on 6 March 1804.

Immediately after the liberation of the Valjevo nahija, Prota Mateja Nenadovic made a short law based on the „Krmcija (Church Law Code)“ and the „Justinijanov Code“. This law had the function of maintaining the order at the freed territory. Upon Karadjordje's request, „Ostruznicka“ Assembly was summoned, at which the leaders of the uprising met and agreed on the further development of the uprising, and that courts should be organized in free Serbia. Upon return from the „Ostruznicka“ Assembly, and prior to his departure for Belgrade, Valjevo Principal Jakon Nenadovic and Prota (Priest) Mateja Nenadovic summoned the Assembly of the Valjevo nahija at the Reljino field near Krsna Glava, on 5 May 1804. **That was the first National Assembly in free Serbia, and at the same time, the first legislative assembly***. At that assembly the following was agreed: 1. how many sol-

diers would go to Belgrade; 2. keeping the order and maintaining legality in the nahija (for this purpose, the Prota Mateja's law was to be used); 3. at that assembly Prota Mateja read the law and the assembly has unanimously adopted it; 4. the court was then founded and the first judges of the Valjevo court (magistrates) were elected.

The task of the court was to, as judicial, administrative and executive power, takes care of the maintenance of order in the country. Some provisions on punishing the most severe criminals were introduced, and that was better known as the Law of Prota Mateja Nenadovic. In fact, that was a collection church laws taken over from Sava Nemanjic and local common law, as well as the adopted Turkish laws. The tradition was so strong, that it was implementing some court decisions by the mere strength of its morality. That first Serbian law had 14 or 15 paragraphs, but not all of them have been saved. Prota Mateja has in his memoirs quoted only some of them. The most serious criminal offences under the Priest's law were: 1. murder, 2. abduction, 3. theft (most common criminal offence in Serbia of that time), 4. desertion from the uprising

* Gavrilovic, Obrad, Valjevo Distric Court 1815-1865, SANU, Beograd, 1973, Book 72, page 2 and onwards

army, 5. running away from the guard's post, 6. falsely swearing before a court, 7. using weapons during a fight or a quarrel. For the first offence, Prota Mateja provided the following: 1. „If somebody were to kill a man, he should be killed and put on the wheel,.. For the other offences, corporal punishments were provided (whipping), fines, and if somebody would leave the guard's post, he should be shot. The first Serbian law contained provisions from the civil and military-criminal codes, which is justified, having in mind the conditions in which it was made.

At the assembly, peasants Jovan Rabas from the Rabas village and Petar Citak from Gornji Music were elected judges, while the priest from Brankovina, Mato Curdjevic, born in Blizonje and the only literate member of this court, was elected notary. For the service of the court, at Klicevac, where today the Tower Nenadovica is situated, a cottage was made (the so-called „pletara“), and a prison next to it. Soon, the court was transferred to Valjevo, where the head office remained to be. This court was only abolished for a short time, from end September 1813, when the Turkish army occupied Serbia again, to April

1815, when Valjevo was liberated from the Turks.

It is not precisely known when the Law of Karadjorde was made (most probably in 1808), and whether it was applied, but it deserved to get a few comments, because it represented a totally new law in the new Serbian state. It not only discontinued the connection with the Serbian middle-ages law, which went all the back to Dusanov Code and further in the past, it also disrupted any relation with the church laws and codes of that time. It was divided into three groups of provisions: a) provisions on criminal offences against the state organization (laws on insulting the state and government, and laws on acts performed by haiduks (rebels), b) military-criminal and military-disciplinary provisions (treason and espionage for the Turkish benefit, throwing away weapons, using too much ammunition), and other criminal and civil legal provisions (murders, infanticide, abductions, etc.). According to the Law of Karadjordje, the punishments were pronounced in accordance with the seriousness of the offence, and were as follows: death by hanging, later death by shooting (upon execution, depending on the offence, the executed could

have been put on wheel, as a terrifying example, and for cruel deeds, the punishment could have been executed by axe); 100 beatings, sometimes 200, but with pauses; the women were beaten with „kamdzija“ (whip), and the men with a club (this punishment was executed in front of the court's building, or at the market place); the „dead club“ punishment was done in the following fashion - the convicted person would run 24 times between the rows of 500 people or 12 times between the rows of 300 people; life in prison, which was equal to death, because all connections between the convict and the rest of the world were severed; prison, public and domestic; banishment into another village, nahija or another country; loss of civil rights, rank and decorations; inspection, which has been implemented to haiduks (rebels) and confiscation of the property for political convicts, as well as the compensation for damage.

The Court of Valjevo had a great contribution to the introducing of legality and establishment of order in a new state. Due to extraordinary, uprising circumstances, it stopped with its work on 25 April 1806, when the judiciary was returned to the military commanders. Probably, it was

yet again founded in 1807, and by the decision of the Synod, the court was reorganized on 1 January 1809, and has been working ever since. (Unfortunately, materials from the archive covering this period was destroyed during the ruin of Karadjordjeva Serbia in 1813, and only two documents were kept dated 1807 and 1808, while the oldest document from that period is the „Evidence on Division of Inheritance of Jovica Lelicanin from 1807“).

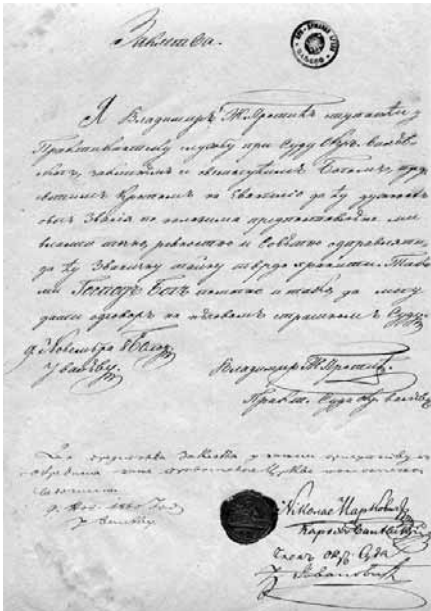
The Valjevo Court, as one of the oldest and most respectable courts in Serbia, was in charge of a great territory, first of all due to its geographical situation, spiritual strength of the population and leaders of the uprisings. The territorial jurisdiction included the following regional units („srez“): Kolubarski, Tamnavski, Podgorski, Posavski and Valjevski.

Valjevo Court - Organization and Functioning

According to the 1838 Serbian Constitution, the organization of the judiciary was as follows: reconciliation courts in each village, comprising of a president and two members,

and the district (first degree) courts in each of 17 districts in Serbia.

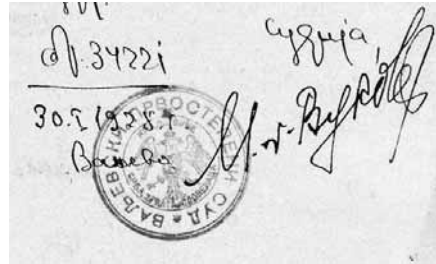
This court was conducting its activity under different names: „Nahijski“ Court in Valjevo, The Court of the City of Valjevo, Magistrate (until 1835), „Ispravnicestvo“ (from 1835 to 1837), again Magistrate (from 1837 to 1840), The Court of the Valjevo Region (from January 1840 to 1890). From 1890 to 1928, it



Zaklet va prakt i kant a pri st upawu u slu` bu Suda okru` ija vaqevskog, 1860. godi na

was called Valjevo First Degree Court, and then the District Court. As all the courts of that time, it also had

apart from the judicial, the administrative-executive power. By passing the „Sretenjski“ Constitution, and after that the „Turkish“ Constitution,



Pot pis sudije i pe-at Vaqevskog prvost epenog suda na sudskoj odluci, 1925. godi na

as well as a number of laws and decrees, the court was more and more relieved of duties which were not in the domain of judicial power.

In the times which were only beginning to take a legal shape, a great help to the Valjevo Court was provided by the reconciliation courts. They were founded within each municipality and used to deal with the smaller disputes, which were the most numerous (up to 100 coins of value, up to 15 strikes of the club, and up to three days in prison). The staff of the reconciliation courts, depending on the importance of municipality, comprised of the president, several members, notary and a policeman.

„Srez“ Principals solved somewhat more serious offences. The Valjevo Court had the rank of the first degree court, which examined decisions of the reconciliation courts, and later on decisions of the municipal and regional courts, and examined cases for which these courts were not in charge of, mostly civil and criminal proceedings. The work of the court was organized through the judges' chambers, judges, investigation courts and administrative staff.

During the rise of „haiducija“ (acts done by haiduci, the rebels), in the period of 1863-1866, 1885 and 1894-1895, the Valjevo Court was acting in accordance with the authority of the Law on court-martial.

Magistrate of Valjevo, as a city and regional court, was founded on 1 January 1809. The Synod appointed 4 members of the court: Ranko Petrovic, Milovan Tadic, Raka Miskovic and for the court secretary - Savo Curicic. Also, it discarded the principle of electability of judges and proscribed the rules of the court: the principle of unanimity of judges in decision-making; protocols of documents, so that the document is to be signed by the oldest member of the court and the secretary; that the trial is to be conducted inside the court

building, instead outside, just like it used to be; that written orders of the court for the people were to be announced at a particular time by a drummer, which introduced the principle of publicity of work.

According to its scope of work, Valjevo Court was, in the first half of 19 century, a unique institution. Its field of work was not just judiciary, but also other fields: commerce, finance, people's health and internal administration. This included all the court's duties, and also the other duties which were necessary for maintenance of law and order. From the regulations of the Valjevo Magistrate, we learn that it was forbidden to enter the Court armed.

In order to confront the Serbian courts to the Turkish ones, Principal Milos established the courts in Kragujevac (1820), Pozarevac (1821), Sabac and Valjevo (1823). In the decision on appointment of Jovica Milutinovic for a judge, sent to Jevrem Obrenovic, it says: „In the Valjevo Court there is to be Principal Jovica Milutinovic and another principal from the Posavska principality. Principal Jovica is to be told to judge everybody fairly... Valjevo Court is to use the present notary of Principal Jovica...“. Valjevo Court started with

its work with two members (principals - judges), one notary and two policemen. Judicial experience of Jovica Milutinovic, for that time a very literate man, was welcome.

Until the Serbian Civil Code had been passed, on 25 March 1844, the work of the court in Serbia was based on the common law, with the following evidence in criminal proceedings: oath, which the accused gave in the church or at court (this has tacitly been revoked in 1842, and by a decree in 1844), witnesses, oaths of peasants and confession.

It should be noted that there were no professionally educated judges. In the year of passing the Serbian Civil Code, the structure of the presidents of district courts was as follows: „three were illiterate, 10 literate enough to sign their own names, three had a bit more than primary-school knowledge, and only one lawyer“. In the second half of 19 century, the education of judges was improved.

The court had the tax income (issuing of passports and certificates, that is, permissions to travel in the country; each court case was taxed; all this was, the so-called „secretarial income“, etc), and the fines.

The numerous documents from

the Archive of the District Court in Valjevo bear witness to the way the proceedings were going on, that is, to the way the court solved and judged in many civil and criminal proceedings.

Up to 6 April 1941, the First Degree Court in Valjevo, as the district court, was overburdened by civil cases especially, until April 1931, until the regional court in Valjevo was founded („Srez“ court).

Valjevo District Court was conducting the following duties in the first half of 19 century: investigating criminal cases and civil proceedings and passing judgments on them; implementation of orders from the highest state agencies; conduction of inspection over the administrative power and conduction of administrative duties (issuing passports or certificates for travel). Also, it took care of the immigrants and the people's health, control and inspection of the trade, handicrafts, civil engineering; it also organized the secret service towards Bosnia and Austria in the border part of the region, it performed the military duties, police duties (returning the runaway girls), etc.

From analysis of the court cases it could be seen what kind of criminal and civil offences there were. Regar-

ding criminal offences, the following were the most numerous: more and less serious bodily harm, theft, robbery, murder, and quite a few cases of infanticide. Regarding civil offences, the most numerous were the disputes between villages about village borders, disputes between individuals due to cutting of woods, disputes about mills, marital disputes, etc.

Criminal proceedings

For the criminal offence of murder the court would organize an investigation, question the witnesses and then pass the sentence (death sentence). For the other „kinds“ of murders, like, for instance, murder of the illegal child, the punishment was time in prison; for manslaughter and attempts to murder, only bodily punishment was envisaged. Criminal offences included the thefts, burning, false witnessing, incest.

„Haiducija“ (acts of haiduks, the rebels) was treated as a criminal offence, because it presented the resistance to the Principal's absolutism, and this was the way the court „dealt“ with the political opponents.



Civil proceedings

In the saved documents dating from the first years of establishment of the Valjevo Court, we learn that the court examined decisions in the domain of civil law - on inheritance or property, purchase of property and not fulfilling sales agreement obligations, overtaking the property, usurping, marital relations and „sinorenje“ disputes (border disputes).

In the time of Milos, Serbia was a vassal province of the Turkish state. Principal Milos was wise and he knew how to rule. During his first rule, civil property cases started. He cancelled all „spahiluci“ (rented land), and introduced the principle: „The land belongs to the ones who work on it“. These proceedings were long/lasting, so Milos himself used to solve them. He was always on the side of the peasant. The private property was inviolable, and everything without the title deed holder was „people's“. The land/property owner was each Serb who inherited the land from his ancestors or who has taken up a piece of land by putting up a fence or cutting wood, and then bought that land, got it as a present or worked on it for a long time without being disturbed by the owner. In the

Archives of the Valjevo Court most of the cases relate to regularizing property (inheritance, division, purchase, gift). Also, according to the documents, we learn that one part of the Turkish land went to the hands of the leaders from Valjevo. So Jakov Nenadovic bought mills and houses which used to belong to the Turks. There were quite a few cases which dealt with „sinorenje“ (border disputes) between individuals and vilages and municipalities. Milos used to criticize his clerks, and so he sent a very striking letter to the leader of the Posavski Principality, Pavle Danilovic (1832), because he went to court with peasants over „two, three inches of land“, which he ended by the following words: „That very same people feed us, maintain us all, without them we can't do a thing, and with those people we are what we are“.

From the disputes of Valjevo peasants, it could be seen that they were liberal and that they were not afraid of anybody when it came to their interests. In these disputes, during the time of Milos rule, the court clerk was taking tax of 20 coins for himself, while in other disputes there were no taxes.

During the first years of the existence of the court, the following

evidence was used in civil proceedings: belief, oath and witnesses, and after 1819, the written certificates. Written judgments were very rare at that time.

By adoption of the Serbian Civil Code in 1844, new relations develop in the field of civil law.

The characteristic of family law are the following: Orthodox people had to be married before a priest, with the two witnesses. The husband was the head of the family and he had the obligation to take care of wife and children, while the wife and children had the obligation to „execute his orders“. The reasons for divorce were: adultery, when husband conducts a crime and gets sentenced to time in prison, if one of spouses leaves the marriage or if the husband changes Orthodox for another religion. This law forbade for the illegal paternity to be proven, but there was an exception in the case when the woman had been raped or abducted.

According to the law on inheritance, the heirs were male children and their male descendants, while female children got alimony and home, unless they were the only children. According to the law, the testator had the freedom to make equal both male and female children, as

well as other relatives. The law provided that the wife should inherit the property of her husband only if he had no male relatives up to the 6th degree on the mother's side, and if there were such relatives, the widow would get the „enjoyment of husband's property“.

In the Valjevo District Court, civil cases, within the domain of obligation law, were prevailing. The history of proving the guilt in civil cases, especially in the second half of 19 century, when there were many cases before this court, was very interesting. By the Law on Judicial Procedure from 1881, the word „debt“ was changed into the word „claim“, and then it was introduced that the claim bigger than 200 dinars could not be claimed if based on witnesses statements. In this way, by the reform of the presentation of evidence in a civil proceedings, it was not possible to base claims only on witness statements. By the previous Law on Judicial Procedure from 1851, a reliable proof was statements of two witnesses; from 1860 an indirect principle of free judicial estimate of the witnesses' statements (the term „reliable witnessing of two witnesses“ was used). The whole problem was with the illiterate people who

had to sign. By studying the archives of the District Court in Valjevo, we see that the judicial practice very often disregarded application of this principle.

Due to the public scandal caused by the „cheats“ from Ub, the change of witnessing was brought about in 1865, and the principle of prohibition of witnesses was introduced.

„The Ub Belt“ and the Reform of Presentation of Evidence

Legally guaranteed evidence value of the two witnesses' statements caused the legal relations in Serbia of that time to worsen. It was made possible that the few representatives of the freshly formed bourgeois class abused illiterate peasants, who were the majority in the country. Village snobs and certain village rich men abused witnesses' evidence statements. This is best illustrated by the court trial known under the name of „The Ub Belt“, whose main characters were brothers Curdjevic, Milutin and Svetozar, tradesmen from Ub. They „made“ false obligations, which put illiterate peasants in

Tamnava into debt, and, at the same time, they stimulate other people to perform such illegal actions. Having in mind that the brothers belonged to the liberals, the police couldn't wait to brand them as thieves. They were represented by a lawyer from Valjevo, also a liberal, Ljubomir Radovanovic. The proceedings were started before the Court of the Valjevo region in May 1865, conducted by the President Uros Romanovic. The judges were: M.S. Aksentijevic, and C. Stefanovic, who had a „reserved opinion“*. At the end of the proceedings, the lawyer, as the representative of the accused, was sentenced for 5 offences to 11 years in prison by the judgment of the District Court in Valjevo, dated 6 June 1866, and he was acquitted regarding other accusations due to lack of proof. In May 1867, the court of Appeal sentenced him to 7 years in prison due to two false identification documents and two insults to the police. The Cassation Court confirmed this sentence by the end of May of the same year.

„The Ub Belt“ and similar cases led to the reform of the presentation of evidence in civil proceedings, which, in a way, has caused political

changes. So „The Ub Belt“ had, as an indirect political consequence, the murder of Principal Mihailo in 1868.

It was known that, after the sentence was pronounced, brother of Ljubomir Radovanovic, Pavle, went to Belgrade to ask for pardon for his brother. Principal Mihailo promised Pavle that he would pardon Ljubomir when the sentence became enforceable. When that happened, Pavle once again went to Principal Mihailo, but he said that he would pardon Ljubomir only after he had served a half of the sentence. Aggravated by this decision, Pavle decided, with his other brothers, to get revenge on the Principal. They conspired and after two years, they fulfilled their pledge.

Out-of-court cases

The civil law included the out-of-court cases. Regarding this kind of cases, the District Court in Valjevo certified wills, performed division of cooperative property, protected the interests of underage children without parents and the people, conducted „adoptions“ or disowning of sons.



* The same, Gavrilovic, Obrad, n.d. 364-370

Judges of Valjevo Court

(„List of Official Governmental Offices and Clerks in Serbia, established in December 1840“)

The most important members of the Valjevo Court in the first half of 19 century were: The Prota Mateja Nenadovic, founder of the First Valjevo Court, the first Serbian legislator and the first Serbian diplomat; Jovica Milutinovic, Jovan Simic Bobovac, Gaja Dabic, Jevrem Nenadovic, Bosko Tadic, Milovan Tadic, Mica Jancic, Petar Jokic, and the others. Apart from the respect everybody had for them not only in their region, but in the whole Serbia, Principal Milos very often used to „humiliate“ his officials. That’s what he did with the Priest Nenadovic, with Jovan Simic Bobovac, and even Jevrem Nenadovic, whom he had transferred from the position of the President of the District Court in Valjevo to the position of the member of the District Court in Loznica. With all due respect of the abovenamed for the Principal, the liberal spirit of Valjevo people held during the Milos’s absolutistic rule. It was strongest by the end of Milos’s rule. For example, the strongest resistance was seen by the end of 1838 in Tamnava, when the

Valjevo and Tamnava people refused to accept for their Principal the son-in-law of the Principal Milos, Aksentije Sreckovic.

The History of the Valjevo Court after the Second World War

During occupation and the Second World War, in Valjevo and on the whole territory of the region, the judiciary functioned within the limits of the situation. Basic impediments were lack of space and professional staff, and quite a few legal regulations were inapplicable. All public buildings, including court buildings were occupied by the Germans.

Immediately after liberation of Valjevo, the Military court of the Valjevo military region started to function, upon Decree on Military Courts, dated 24 May 1944. According to this Decree, military and civil judiciary formed a whole and unique system. The jurisdiction of military courts was to judge criminal offences performed by the military personnel, as well as all the offences performed by the war criminals and people’s enemies. The historical archive in Valjevo is one of the rare which has saved decisions and judg-

ments of the Military Court. In those saved decisions, in 1944 and 1945 (8 judgments), it can be seen that the judicial procedure was followed, which was particularly regularized by the Article 28 of the abovementioned Decree. All the judgments began with „In the name of the people“ and they contain the names of members of the chamber: the President, judges, the Secretary, the military prosecutor and the defense lawyers. The judgment is to be passed upon the completion of the „verbal investigation,“; it is followed by the guilt, sentence, and in some cases the explanation. The sentence would become valid on the day of confirmation by a higher court, in this case, the Higher Military Court.

On all decisions from 1944, Milijan Jeremic was signed as the military investigator. The composition of the Military Court of the Valjevo military district (these names were taken from the judgments) was as follows: 1944. - the president was Branko Pavlovic, judges were Bosa Ratkovic, second lieutenant, and Radomir Dudic, the political commissioner; secretary Dragoljub Trajkovic and the military investigator Milijan Jeremic. In 1945, the President of the Court is Milijan Jeremic, and during one period Dra-

goljub Trajkovic; judges were Slobodan Jevtic, Radmila Golubovic, Zivorad Cosic; secretaries Zivka Kovacevic or Srboljub Rasulic and the military prosecutor, Sava Kapisoda.

Although civil state agencies were constituted, in this case the people's courts, from the saved documentation we learn that the Military Court of the Valjevo military region operated until the mid 1945.

In Valjevo, in 1946 the Military Court of 4th Division of the 1st Yugoslav Army was also in function, which has, as the second degree court, passed judgments according to the Law on Criminal Offences against the People and the State.

Judicial people's power at the territory of Serbia was executed by the people's courts. On the territory of the Valjevo region there were six courts - one district in Valjevo and five „srez“ (regional unit) courts based in Valjevo, Valjevska Kamenica, Mionica, Ub and Obrenovac.

The District People's Court in Valjevo was constituted on 15 January 1945*, and Radomir Lazic was elected President; he was the former judge of the „srez“ court in

* Radic, Snezana, „Confiscation of Property in the Valjevo Region 1944-1946“, MIAV, Valjevo, 2002, pages 27-31

Valjevo. The other members were: judges Miodrag Andjelkovic, Dragoljub Trajkovic, Svetozar Paunovic, all of them former judges of the District Court, and Milic Milosev; jurors: Budimir Milivojevic, tailor, Milenko Golubovic, smith, Ratka Paunovic, teacher in the Civil School, all of them from Valjevo; Aca Vezilic, farmer from Tulare and Milos Obrenovic from Ravanj.

In February of the same year the „srez“ people’s courts started operating. According to Article 31 of the Directions on Organization of People’s Courts for the Federal Serbia dated 9 February 1945, the Justice Office (poverenistvo) determined the number of judges and jurors for people’s courts in the Valjevo region: District People’s Court in Valjevo - 10 judges and 120 jurors; „Srez“ People’s Court in Valjevo - 6 judges and 100 jurors; „Srez“ people’s Court in Kamenica - 3 judges and 60 jurors; „Srez“ people’s Court in Mionica - 4 judges and 80 jurors; „Srez“ People’s Court in Ub - three judges and 60 jurors and the „Srez“ People’s Court in Obrenovac - three judges and 60 jurors.* Also, it has been ordered that

municipal people’s court be formed, the jurisdiction of which would include the examination of civil matters. In the same month, the Ministry of Justice of Serbia got information on employed staff in the courts of Valjevo region. There were 45 employees, 14 of whom had finished Law School (University). At election of judges, the most important characteristic was the reference written by the professional service of the People’s Defence Valjevo, which would describe the behaviour of the said person and the member of his/her immediate family during the period from capitulation to liberation.

When beginning their duty, the judges had to pass an oath: „I (name and surname), swear by my honour and the honour of my people that I will faithfully serve my people, that I will keep and defend the democratic inheritance of the liberation people’s war implemented in the people’s rule, and that I will judge impartially..“

After only two months from the constitution of courts, certain elected judges were dismissed, after which the Ministry of Justice complained with the Presidency of the National Assembly of Serbia, and informed the People’s Defence in Valjevo. This communication dated June 1945 stat-

* MIAV, fund: The District People's Council in Valjevo - Valjevo (1944-1947), The Presidency of the People's Defence, 1945, reg. No. 3

ed that by this act the functioning of the legal system had been violated as well as the reputation of the judges, which was an important prerequisite of the legal security. It further said that, „having in mind that the people’s judiciary in the form of the institutions of people’s power... established by people,, it was an obligation of people’s courts to completely execute their function and report back to people, but „they have to pass their judgments freely and independently... even from the people itself... although it is in the name of the people that the justice is being administered,,. They especially should be independent from influence, immediate or indirect of the elective body which appointed and dismissed them.

The work, type and jurisdiction of courts were officially regulated by the Law on Organization of People’s Courts dated September 1945.* By this law, all regulation on organization of courts stopped being valid, „Organization of the courts based on this law is to be implemented until 1

* Law on Organization of People’s Courts, Official Gazette of Democratic Federal Yugoslavia, No. 67/45; revised text of the Law on Organization of People’s Courts, Official Gazette of Federative National Republic of Yugoslavia, No 51/46.

January 1946,,. District and „srez“ courts had jurisdiction of deciding cases in the first degree, „the criminal and civil matters for judging in chambers,, and they were comprised of the president, necessary number of judges and jurors. The number of judges and jurors was determined by the Minister of Justice. The revised version of this text, with changes and amendments, was published on 25 June 1946. Instead of „presuditelj,, another word for juror appeared (sudija-porotnik), for which position any citizen could have been elected, unless relieved of any political or civil rights.

The Buildings of the Court

The Valjevo District Court changed premises several times since its foundation. In his well-known book, „The Travel around Serbia,, Joakim Vujic noted that Valjevo had that year 150 Serbian, about 30 Turkish homes and about 100 stores. According to Joakim Vujic’s words, next to the residence of Jevrem Obrenovic in Valjevo (built in, approximately, 1820) on the right bank of Kolubara, there was a church made of wood. Away from that

church, there was the Magistrates Court of the Valjevo region. There was no description of the building of the Magistrates Court. In it, there were two Principals and one notary, who were solving cases within their region, apart from criminal offences, for which the Great Court in Kragujevac was in charge. At the other bank of Kolubara river, left, there was a Turkish mosque, next to which there was the home of the Turkish vizier's assistant, in which the Turks were taken to court.

Upon Principal Milos's order in the 1830s, the building of straight streets took place in Valjevo at the left Kolubara bank. Not everything went according to the plan of Principal Milos, because that was a very expensive project for the young bourgeois class in Valjevo. There were no reliable information as to how the problem was solved. It is known that, instead of moving, the city was expanding. The left bank of the Kolubara river was inhabited by those whose financial status allowed it: tradesmen, clerks or new people who came on business to Valjevo. All the land was bought from the Turks who were leaving town. So, in 1842, the Prota Mateja Nenadovic and his second cousin moved, together with

the President of the Court, Jevrem Nenadovic. Apart from private houses, the building of state administration buildings was started.

From the „List of state property in the Valjevo region in 1852“, we learn about „the building of the District Court in Valjevo“. The building in which the District Court used to be was built for the purposes of the Chief's Office, which was moved in 1851, since the administrative office bought him another building in 1851. The building in which the District Court was situated was on the same land where it is today. It was made of stone and covered with tiles. On the upper floor, there were 7 rooms and a hall, and in the ground floor there were two rooms, basement and two small rooms connected with a hall, and those rooms, together with the basement, served as prison. „Everything was average“. Apart from this, there were two stores and one small house covered with tiles, consisting of one kitchen and one room. That room was used for the „women's prison, and it was in a quite poor condition“. In the yard, there was a well built in stone.

* Dr Perunicic, Branko, The City of Valjevo and its Administrative Territory 1815-1915, History Archive Valjevo, Valjevo, 1973, pages 682-683



The building of Court in Valjevo

The whole piece of land was fenced, from the street on one side, that is, on the Western side - from the land of Jefrem B. Tadic from Valjevo, all the way to the land of Nikola Rakic from Mionica, to the East and the same Rakic; on the South it went down to the land of Rakic, Atanasije Danilo-

vic and Jefrem Gavrilovic; on the East it went to Gavrilovici and through a street to Milivoje Tomic.

In May 1902, the Ministry of Civil Engineering placed an advertisement in The Belgrade paper, in which all interested parties were informed that on 27 May there will

be held an auction for constructing buildings in Valjevo for the district head's office and the first degree court, as well as the accompanying buildings. The total was 377, 573.89 dinars. It was necessary to give deposit before the auction, in the amount of 19,000 dinars in cash or state bonds, and the rest of the money of up to 15% of the calculated sum will be kept when paying in certain installments. The plans, the total and the conditions were exposed „for the opponents to see“ in the finance department of the Ministry of Civil Engineering. In the advert it said that the additional offers, once the auction is over, will not be considered. On 24 August/6 September 1902, the foundations of the current buildings of the District Court and Municipal Court, that is, the buildings for the District Head's Office and the First Degree Court, were consecrated.* They are in the centre of the city, at the right side of Karadjordjeva Street, from the corner of the Vojvode Misica Street and Karadjordjeva Street, almost to the Vuka Karadzica Street. They were finished in 1906, and are a com-

plex of administrative buildings, built upon project of the Architect Jovan Ilkic.

The building of the District Court* has a basement, ground floor and the upper floor. Since it is situated at the corner of two streets, its central part is prominent. That part of the building is especially decorated by the main entrance and the balcony above it, two pillars at the sides, a number of big windows and two standing figures at the top. The finish of the central part has the quadruple roof, covered with sheet metal. From the entrance, one comes into the building through a monumental stairway, leading to the first floor. The stairway is especially decorated, and, apart from its function, it is also esthetic. The following decorative elements were applied: horizontal wreaths, pilasters, numerous big windows, as well as the elements which were characteristic for academic style. Although the building of the District Court in Valjevo was one of the most beautiful of this kind in Serbia, it has not kept its authenticity. As a matter of fact, in 1957, at the

* Rankovic, Zdravko, Valjevo Region in IX Century, IP Kolubara, Valjevo, 2003, pages 18, 37-38

* VALJEVAC, The Great People's Calendar for 1994 Year; Stamenic, Dragan: "Important Buildings in Valjevo", Book 2, Agency "Valjevac", Valjevo, 1994, pages 365-367

façade in the Vojvode Misica Street, a big Western gate, which was leading into the yard, was walled up.

The Building of the Municipal Court is situated in Karadjordjeva Street and is a part of the composition with the building of the District Court. It was made by the same author, and in the same style. It was built with the hard material, and has the ground floor and the upper floor. In the middle of the street façade in the ground floor the entrance is especially prominent. In the middle of the object, there is a stairway leading from the entrance. The façade has decorative elements, like the District Court building. Unfortunately, the former entirety was marred by additional construction of the Insurance

Fund „Dunav“, which has no connection with the existing buildings style-wise.

In 1985, these objects were pronounced cultural monuments.

With smaller changes and the purposes of certain objects, the main buildings remained unchanged.

Jovan Ilkic (1857-1917) - an architect, used in his work the styles based on baroque and classicism - elements of pure academic architecture. His projects marked the architectural work in Serbia by the beginning of 20 century. His main works were: the building of the National Assembly, Hotel „Moskva“ in Belgrade, court buildings in Kragujevac, Vranje, Pirot and other places.



INTERESTING POINTS FROM JUDICIAL HISTORY AND ARCHIVE COLLECTION

- The collection of the Valjevo District Court contains 372 books and 6320 cases of files for the period 1807-1944. It is one of the best preserved collections in Serbia and belongs to the cultural heritage category of extraordinary value for the period up to 1918, and from 1919 to 1944 to the category of great value. Two documents have been preserved from 1807 and 1808, and 20 documents for the period 1823-1827. In the latter years the number of archived items has increased and in some years there are over 1000 documents. The Collection is located and kept in the Valjevo Inter-municipal Historical Archive.

* * *

- First collected items (22) represent receipts („svidateljstva“), judgments, orders, reports, verdicts (attempted murder, infanticide, adultery, unnatural lechery).

* * *

- According to the list from 1834, Valjevo had 140 households

and 893 inhabitants, 530 male and 363 female. Valjevo at that time was one of the 18 settlements of the Knezevina Srbija, divided in towns. At the same time, those were regional, that is district centers. Serbia at that time had about 70.000 people, out of which only 7% lived in towns and 93% in villages. In 1861, Valjevo had 2150 inhabitants (1385 male and 972 female).

* * *

- The power of the leaders of the uprising immediately took the form of their

getting rich, on which the Priest (Mateja Nenadovic) wrote in his „Short Notes“: „Children, the circumstances change the way we act, better something than nothing“. Nevertheless, before the passing of the Criminal Law in 1844, the practice of seizing the land, grabbing the land which had not been cleared, and abuse of the right to purchase Turkish property, was an exception. The more important thing was the

fact that Milos had adopted the principle that the land belonged to the ones who worked on it, which made the peasant free and the sole owner. By this principle, Milos eradicated feudalism in Serbia.

* * *

- Judges, when they appeared before the court as litigators in their private matters, were often very aggressive and rude to their opponents and plaintiffs, and sometimes even openly threatened them. A famous case was between Jovica Milutinovic (first judge of the Valjevo Court, and subsequently its president) and Prota Mateja Nenadovic, in the matter of division of the river Gradac for their mills. In the hearing, Jovica Milutinovic was continuously insulting and openly threatening Prota Mateja, that the Court ordered him to apologize. The apology was made in front of the Great Court in Kragujevac, with a warning that any act of violence (by Jovica Milosavljevic) would be severely punished. Perhaps that was the reason why Knez Milos suspended Jovica Milosavljevic on November 20, 1838, who was afterward reinstated as a judge.

* * *

- An excerpt from Regulations of the Peoples' Council for the

Court of Valjevo Region of January 1, 1809, according to article 6, prescribed corporal punishment (minimum 25, maximum 50 lashes, strokes) and punishment by deprivation of liberty (arrest, prison) but with beneficial treatment of leaders and traders who were exempted from the first two corporal punishments. „Peasants, buljubase (military commanders) and traders“ shall be punished for the first „mistake“ by imprisonment of 24 or 48 hours with „bread and water“ only, and for second offence by 25 or 50 coins; only when they commit offence for the third time, the court will order lashing.

* * *

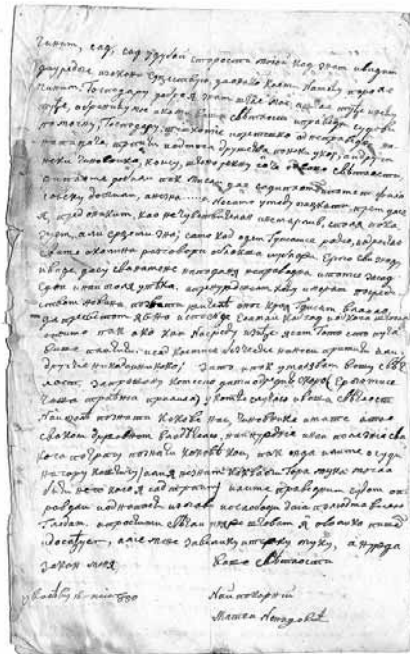
- Slavno Isprevnictstvo of the Valjevo District received on August 18, 1837 an order from the Sovjet president from Kragujevac, was received, which among other things, sent them two prisoners convicted of murder. Instead of the sentence, they were ordered to „bury those who died of plague and to care for the sick“. The guards were strictly ordered to prevent them from escape. In 1837, the plague was recorded in Brezde and Osecinica, although it was often in the Valjevo region. Captains were ordered to create quarantines, to guard villages where the outbreak was spotted, to

send reports on the number of dead or cured, to ban gatherings and seasonal field work and to announce when the epidemic was over.

* * *

- In May 1850, Prota Mateja Nenadovic filed a complaint - letter to Knez Aleksandar Karadjordjevic about court's decision regarding a debt. In his complaint he refers to his prior work, when he was a judge from 1840 with jurisdiction from Kolubara to Drina rivers, and how he was young and „independent and without restrictions“ in the decision making. He also referred to the work of younger judges where he says: My Lord, I know very well what is mine and I do not want what belongs to any other, and I shall defend what's mine if your Highness and just courts help me. My Lord, it is difficult to me to endure attacks from my foes, and to withstand reprimands for my behavior from some state officials, who, let me say, yesterday received their diplomas from you and today behave as they possess diplomatic philosophy, but in fact don't know a..thing. He finished the letter with the words... Forgive me, my Lord, for this letter and trouble, but I carry a great burden and load, and great need changes the law.

- In January 1860, the Commercial Court sent a note to the Court of Valjevo district on initiation of bankruptcy proceedings against the „over-debted local master Jovan Pavlovic“. It was announced and publicly informed that anyone, with documents and proofs, holding the aforementioned Jovan in debt, to approach the court in order to claim their rights.



* * *

- The court of the Valjevo district addressed the Ministry of Justice on 21

March 1860 to get 336 coins from the people's safe deposit, in

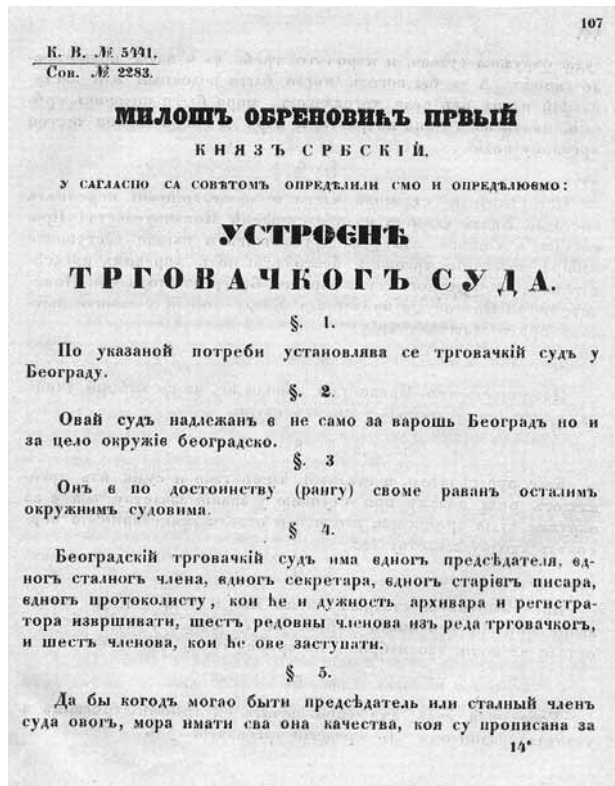
order to purchase 12 shackles. As a matter of fact, the local office (in Valjevo) arrested 9 people who had performed different thefts, but they did not have enough „shackles for these thieves to be put on“. A positive response was received as soon as 24 March.

* * *

The prisoners had adequate medical care. The medicines were obtained in the Klauđije Prikelmajer's pharmacy. In 1892 medicines were distributed in the value of 85,45 dinars. The prisoners mostly suffered from: dental pain, mange, sore throat, ear infection, temperature, different swellings, mental disorders... For these diseases, the following drugs were prescribed: quinine, chloroform, hypermangan, Vaseline, antifebricet, antipirin, borax, lanoline, bicarbonate of soda, calibronate, sodium salicylic acid, valium. The bills were inspected by the Ministry of Interior on 3 February 1893.

* * *

At the request of the tradesmen for the Commercial Court to be founded and a Commercial Code to be passed, constitutionalists in the Ministry of Finance formed a com-



Odluka kneza Milo{a Obrenovi}a o osnivawu t rgova-kog suda, 1859. godina

mittee which had the task to draft the Commercial Code. That was not done, most probably because the constitutionalist government did not want to impose any limitations on

the tradesmen and to legally regularize the trade. After the fall of the government, and after Milos came to the throne again, he founded the Commercial Court on 12 December 1859, and by the beginning of the following year, precisely on 26 January 1860, he passed the Commercial Code. That Code was mostly done according to the principles of the French Commercial Code, and it contained the regulations on tradesmen, tradesmen's books, tradesmen associations, on intermediaries and the whole Bill of Exchange Law. In the August next year, the tradesmen requested amendments to that law, their dissatisfaction being caused by the fact that they could not realize their claims in practice.

* * *

By analysis of the court cases of the District Court in Valjevo for 1893, the types of criminal proceedings can be seen: 20 murders, 2 murder attempts, 11 arsons, 35 cutting of woods, 40 thefts, 50 fights, 11 insults to the King and the government.

* * *

SCHEMATISM (taken from the State Calendar of the Kingdom of Serbs, Croats and Slovenians for 1924)

* * *

In Valjevo, on 10 May 1937, a trial was held for the group of burglars led by Milan Vukosavljevic Bonfilo from Valjevo, who were accused for the „Sugar Affair„. The indictment included 39 persons, among whom there were several honorable tradesmen from Valjevo. The first accused was sentenced to 7 years in prison.

* * *

Radomir Lazic, graduated lawyer, the first post-war president of the District Court in 1945, was born in 1904 in Stapar (near Uzice). His recommendation read as follows: „During occupation, he conducted himself properly. He did not cooperate with the occupiers, nor with the people's traitors. During the occupation, he stuck to the national liberation defense line. He is faithful to the current regime, and as such was chosen for the member of the People's Defense, and during foundation of the District People's Court, he was chosen for the president of that court, which position he has been occupying up to the present moment.

Prepisi sudskih dokumenata

Vačevo, 25. avgusta 1849. godine

Dostava lekarskog uverewa **Okru`nog fizi kusa** za uhap{ ene radi tel esne kazne **Okru`nom na-elstvu u Vačevu**.

Lekarsko svi dat eqst vo

Blagoje Solgi } mo` e po mojoj vizi t aci (j) i i t elesnu kazn izdr` at i; Milut in pak sara- zat o { t o je prosut ne mo` e se t akvoj kazni podvrgnut i.

SN = o 30.

*25-go Avgust a 1849.
u Vačevu*

Dr. Ma{ in

Spoqa: KN = o D. 4827

S.

Gospodine!

Premda je drugo svi dat eqst vo za Milut ina sara-a izdat i nisam mogao, mo` et e mu opet 10 bat ina slobodno ot cepit i dat i, koi po mom mneniju ni kakav kvar pri~ini t i ne}e.

25/8 1849. u Vačevu

Dr. Ma{ in

D. 4827

Spoqa: N = o -----

S. 4160

Kr. ~. 81

(Napomena: Po izve{ t aju Na-elst va okruga vačevskog N = o 5788 od 12. sept embra 1849. god. izvr{ ena je t elesna kazna nad Blagojem Solgi }em i Milut inom Gavri lovi }em.)

Valjevo, 1966 and 1967

- Breakdown of cases in the Valjevo Municipal Court in 1966 and 1967 (4. April 1968). The Court had 10 judges in 1968.

| Court matter | Year | Backlog | Received | Finished | Other |
|-------------------|-------|---------|----------|----------|-------|
| Criminal | 1966. | 450 | 1921 | 1897 | 474 |
| | 1967. | 474 | 1879 | 1798 | 555 |
| Investigation | 1966. | 32 | 210 | 219 | 23 |
| | 1967. | 23 | 237 | 204 | 56 |
| Civil litigation | 1966. | 751 | 2876 | 2774 | 853 |
| | 1967. | 853 | 2889 | 2801 | 941 |
| Civil enforcement | 1966. | 225 | 2070 | 2008 | 287 |
| | 1967. | 287 | 1968 | 1935 | 320 |
| Wills and probate | 1966. | 65 | 350 | 365 | 50 |
| | 1967. | 50 | 330 | 330 | 50 |
| Non-litigation | 1966. | 141 | 1902 | 1849 | 194 |
| | 1967. | 194 | 1670 | 1718 | 146 |
| Land registry | 1966. | 225 | 2006 | 2024 | 237 |
| | 1967. | 237 | 2381 | 2262 | 356 |
| Invoices | 1966. | - | 3288 | 3288 | - |
| | 1967. | - | 2983 | 2983 | - |
| Total | 1966. | 1919 | 14623 | 14424 | 2118 |
| | 1967. | 2118 | 14337 | 14031 | 2424 |

U I zve{ taju o kretawu kri mi nal a za 9 meseci u 1967.godi ni , sa posebni m osvrtom na krimi nal u privredi (razmatran je na sednici Saveta za op{ te, pravosudne i unutra{ we poslove SO Vajevo, 30. oktobra 1967.) pi { e da su naj-e{ }e kra|e, utaje, zloupotrebe slu`benog polo`aja, nesavesno poslovawe i dr. ali pi { e i da i ma vi { e krimi nal a nego { to je otkri veno – ci tat: „I nteresantno je napomenuti da se mnogi i zvr{ i oci ove vrste kri vi ~nih dela i posle otkri vawa nekako „izvuku“ bilo u toku izvi |aja ili pred Sudom, na glavnom pretresu... I ma slu~ajeva da ~lanovi radnih organi zacija, organi unutra{ we kontrole, pa i neka rukovode}a lica ~esto puta i du „na ruku“ i zvr{ i oca kri vi ~nog dela, zata{ kavaju}i wi hove proti vpravne radwe...”

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