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Löhnig Martin, Masheva Ivelina (eds.). 2022. *Commercial Law in Southeastern Europe – Legislation and Jurisdiction from Tanzimat Times until the Eve of the Great War*. Vienna – Cologne: Böhlau Verlag, 135.

Before succumbing to its various external and internal afflictions, the 'sick man of Europe' had several attempts to remedy his state. One of the most notable ones was the reform heralded by a new generation of modernist politicians, such as Mustafa Reshid Pasha, who sought to reinvent the Ottoman Empire as an equal partner to the concert of European powers, rather than a mere object of their political interests. Their success, however, remained limited, due to various factors. One of the issues these reforms tackled was the old system of trade law, based on Sharia principles and religious inequality, which hindered the Empire's economic growth. In order to modernize its commercial law, a series of acts was adopted, the most important of which was the Commercial Code of 1850, which remodeled this legal branch into a more open system of legal certainty, with special courts to ensure more equal access to justice. Such tunes of change reverberated throughout the country, leaving a lasting effect on commercial law in Southeastern Europe.

This book is a collection of three papers with a common bibliography and a short foreword by the editors, detailing the impact reforms of commercial law in three significant territories tied to the Ottoman Empire: its province

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of Bosnia and Herzegovina (prior to and after the Austrian[1] occupation), and the autonomous principalities of Bulgaria (prior to and after gaining autonomy) and Serbia.

Each of these, as the editors pointed out, bore distinct signs of the presence of Ottoman law in their legal systems. From those that had only been under nominal suzerainty – such as Serbia – which decisively rejected most of the Ottoman influence in such matters, opting to adapt to Western legal tradition relatively early, to those that were deeply rooted in both the Sharia and the Tanzimat[2] norms, like Bosnia and Herzegovina, which even a drastic change in governance could not completely ignore.

Aside from the abovementioned, the foreword focuses on the basic issues of the broader topic, giving useful insight in the dynamics of the Reorganization in regards to commercial law and its pivotal moments, such as the foundation of commercial courts and the adoption of the Ottoman Commercial Law of 1850, and its Appendix in 1860. Furthermore, this segment also summarizes the evolution of this branch of law in the legal systems in the entirety of Rumelia (the Empire's Balkan/European territories), as well as the key questions this publication seeks to answer, presented as a full page of short inquiries (pp. 15–16)! Importantly, here is where one can also find a short summary of the evolution of commercial law in other Balkan nations (Romania and Greece) whose details were not covered by the authors in this book. Ergo, it serves its purpose as an introduction for both well-versed and lay readers alike, providing the information most necessary in order to proceed with further reading.

The first of the papers included in this volume is Commercial Disputes and Application of Ottoman Commercial Law in Bosnia and Herzegovina, by Mehmed Bećić, from the University of Sarajevo Faculty of Law.

The author sets an ambitious task for his contribution: to ascertain which commercial law system were in effect in the province at this time and in what manner, what were the legal sources (material, as well as procedural), and how the commercial court proceedings played out in accordance with these sources. The timeframe set for this analysis is from

[1] Although occupied in 1878 and annexed into Austria-Hungary in 1908, Bosnia and Herzegovina was only ever under direct control of provincial officials and the central government in Vienna, having no part to play in the general dichotomy of the country's administration, thus prompting the consideration of the occupation as an Austrian affair in the broader sense.

[2] The Tanzimat is a period of legal, cultural and social metamorphosis that are still echoes in modern-day Turkish culture. For more on it and the Empire's "longest century", see Ortaylı (2004).

1878 (the Austrian occupation of Bosnia and Herzegovina, according to the provisions of the Treaty of Berlin) until 1883 (the adoption of a Commercial Code for Bosnia and Herzegovina). In that period, before a more thorough transition to Austrian law could be achieved, the governing authorities chose to principally maintain the Tanzimat court structure, with significant changes entailing only types of courts responsible for commercial cases. The commercial courts were abolished, with adjudication of these matters falling to regular courts, which were stripped from their lay elements. The supreme jurisdiction belonged to the Supreme Court for Bosnia and Herzegovina.

The continuity of Ottoman material law was also ensured through the special translations of their law sources into German, in order to accommodate to a newly-found language barrier between the positive law and the officials tasked with applying it. A more nuanced way of introducing Austrian law, the author notes, was still found in the methods used to fill the legal gaps. If it came to resolving them with new acts being passed, they would without a fault be modeled on Austrian solutions (legal transplants);[3] and if the question at hand arose in court, the judges were instructed to address them only by using analogy with the provisions of the Austrian civil code (*Allgemeines bürgerliches Gesetzbuch* – ABGB).

Segueing into the issues encountered in the courtroom, Bećić explores the archives and court records to convey some of the most common reasons traders went to court. Among these "apples of discord" one can mostly find disputes stemming from the sale on credit – *veresija*, as well as from trader loans. The value of the author's research of these materials is even more significant given that most of the sources have yet to be published.

Following a brief overview of several cases, from lawsuit to verdict, the author discusses the commercial law sources that were in force during the early years of Austrian rule. In the legal landscape where pluralism was the norm, the old Sharia and new customary Tanzimat norms, which at times had a very tense coexistence, were forced to accept different Germanic influences in their midst. In spite of that, even after the new commercial coded was promulgated in 1883, a small part of the Ottoman system still remained in use in some significant issues, such as statutory interest and damages, based on the Appendix to the Ottoman code of 1860.

In conclusion, Bećić recaps the broader answers to some of the questions raised in the introductory chapter of his study, depicting the functioning of a divergent system of rules in a post-Ottoman Bosnia and Herzegovina.

[3] For more about the concept of legal transplants see Watson (2010).

The paper is thoroughly thought out and researched, however, it does at times almost teeter on the balance between its views on the general, e.g. jurisdiction and law sources, and special issues, e.g. court cases.

This piece is followed by Legal and Judicial Reforms in an Imperial and Post-Imperial Setting: Commercial Law in (Ottoman) Bulgaria 1840s-1890s, an article by this tome's editor Ivelina Masheva, from the Central European University in Vienna.

Similarly to the previous paper, the first part outlines the relevant sources for the chosen topic, as well as the state of the previous research. The two big periods analyzed are the late Ottoman rule in Bulgaria: the formation of first Ottoman commercial courts in 1840 until Bulgaria's autonomy in 1878, and from said autonomy until 1898, when the new Commercial Code was passed. This second period is also what ties the first two works: in both cases the territories in question stopped being under Ottoman suzerainty, slowly departing from its legal influences, before receiving their own commercial law codifications under the influence of Western European traditions.

In Ottoman Bulgaria, the author states, there was an evident evolution of commercial law, one that paralleled that of the rest of the Empire. From traditional sources, through the Commercial Code of 1850, which merged novelties and traditions, to the 1861 Law on Commercial Procedure, a relatively coherent system of material and procedural norms was formed. Each of these was considered in relation to their predecessor and successor. Masheva, for instance, details the regulation of some fields of company law, such as the types of trade partnerships according to the Code of 1850 and court proceedings according to the Law of 1861.

The following segment is dedicated to the reforms and changes to the judiciary during this period. Starting from the very emergence of commercial courts in Ottoman Bulgaria until the end of Ottoman rule, its regulation, jurisdiction and practices changed with the procedural law. Several cases are used, as is the case in Bećić's paper, to illustrate these shifts. A matter also discussed is the regional distribution of these courts. Since the archives are incomplete, some issues about their work, founding and jurisdiction still remain open. The information available, however, is presented in a respectable manner.

Finally, the author analyzes the changes autonomous Bulgaria brought to its commercial law. She offers insight on the changes that arose mostly due to the evolution of the legislature, with the new laws on civil procedure, contracts and obligations, as well as a new commercial code – all adopted by 1898. After analyzing some of their provisions, in relation to the previous Ottoman law, Masheva concludes with just a recapitulation of developments in this legal branch.

This volume is closed by Zoran Mirković, from the University of Belgrade Faculty of Law, and his contribution titled The Beginnings of Commercial Law in Serbia 1840–1860. From the onset, the readers get a sense of the different approach and peculiarities of the topic, compared to the previous two pieces. This paper is a chronicle of evolution of commercial law in the Principality of Serbia, from the Serbian Civil Code of 1844, to the adoption of the Serbian Commercial Code (SCC) of 1860.

Unlike Bosnia and Herzegovina and Bulgaria, Serbia started its journey into modern commercial law pretty much with a blank slate. Since its autonomy, which was guaranteed in 1830, the state sought to independently arrange its legal system, free from the constraints of most of the Ottoman influences. Even though the practices of traders remained tied to those of their Ottoman counterparts, the totality of their position was yet to be regulated. Mirković notes that the general state of Serbian trade and legal systems – two vital indicators for commerce, in a country with the literacy rate of less than 4%, where many judges could only sign their name[4] – the picture looked bleak for the modern solutions of the SCC of 1844, modeled on the Austrian ABGB of 1811.

The most important institution that heard commercial disputes was the Court for the district of Belgrade. An analysis of its formation, jurisdiction and judges takes a sizeable part of this work. Returning to fragmented archival data (for the years 1844, 1845, 1858, and 1859), the author then focuses on the case law on commercial matters, similarly to his precursors, showing that, like today, it encompassed cases ranging from genuinely disconcerting to downright farcical – such as a trader's attempt to sue the state over an alleged private deal by the previous prince, which had been struck 20 years earlier.

Still, the need for a commercial law codification was dire. The traders made several attempts to raise this issue, mostly appealing for the need for legal certainty and the difference between civil and commercial matters that ought to have been in place. Most serious instances when the separate regulation was considered occurred in 1852 and 1856, when this matter was brought before the highest state authority – the Prince and the State Council. Both of these attempts resulted in a new draft of the Commercial Code, whose structure and some provisions are mentioned by Mirković, as is the arduous process of trying to pass them into law.

[4] This information is mentioned and contextualized in Jovanović ([1912; 1933] 1990, 38).

However, on both occasions the epilogue was the same, with the Prince supporting the traders, and the councilors dismissing the notion, stating that Serbia's economy was not developed enough to warrant such a codification. In reality, this issue is one of the many used in the power struggle between the highest powers in the state at this time. It would only be after the change of princely dynasties that the new code would be finally passed – which is the point where the author choose to end his contribution.

After reading all of the papers, the reader can be satisfied with having gained a glimpse of the shifting legal landscapes and paradigms of several Balkan polities. With many parallels that can be drawn, it does not take a lot of effort to follow the similarities between any two of the three "states" in question. The only common denominator for all is their shedding of Ottoman power, which itself varied drastically, leaving them open to the reform of commercial law in a more Western fashion.

Ultimately, although being a well-thought-out and quality read, this volume falls short of its goals for one simple reason: they are simply far too great for a volume of this length and type. The title marks out a far greater field than the publication covered. Geographically, it aims to encompass (Ottoman) Southeastern Europe, but it lacks contributions on Greece, Romania and Montenegro's commercial law, although briefing the readers on them in the foreword. Similarly, it seeks to include the evolution of said legal branch over more than seven decades, from the beginning of the Tanzimat reforms in Turkey (1839) to the First World War (1914). In reality, only two of the texts find their chronological *point du depart* around that time, while Bećić's work covers an undoubtedly significant, yet shorter period of just six years. If the editors wanted to give us a look at some of the interesting motifs from these turbulent times, which revolutionized commercial law in part of the Balkans, they have very much succeeded. The transitions between the pieces looks seamless, given the previously mentioned commonalities of their topics, similarity of the methods used (archival research, case studies, etc.), as well as their broad results. This consistency is thwarted by the choice of order of these works.

All things considered, each of the published contributions has its fortes in painting a compelling picture of the different ways that the former Ottoman-held entities transitioned to Western European legal tradition. Its further value, however, lies beyond its 135 pages – perhaps in the possibilities for subsequent research opened by the editor's choice of topic, as well as the authors' approaches to it. For that reason, this book does not feel as a complete, standalone issue, but rather as a tome in a series of publications to be.

REFERENCES

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[3] Löhnig Martin, Masheva Ivelina (eds.). 2022. *Commercial Law in Southeastern Europe – Legislation and Jurisdiction from Tanzimat Times until the Eve of the Great War.* Vienna – Cologne: Böhlau Verlag.

[4] Ortaylı, İlber. 2004. *Najduži vek imperije* [*The Empire's Longest Century*], translated by Mirjana Marinković. *Belgrade: Srpska književna zadruga*.