

## THE JUDICIAL SYSTEM IN MACEDONIA AT THE BEGINNING OF THE 20TH CENTURY

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### ABSTRACT

At the beginning of the 20th century, Macedonia's judicial system underwent a profound transformation following the end of Ottoman rule and the region's transition to Serbian control. During this period, the legal landscape was diverse and mosaic-like, with the legal order intertwined with religion, nationality, and traditions. With the end of Ottoman rule, the Serbian legal tradition, which began with Dušan's Code in 1349—a document regarded as a manifesto—laid the foundation for a new order and concept of justice. The inclusion of Macedonia into Serbia initiated a reorganization of the legal system, aiming to establish a modern judicial framework.

In the post-independence period, the Serbian government undertook various measures from 1912 onwards to restructure the legal system in the region. Initially, the "Regulation on the Establishment and Procedure of Courts" was issued in 1914, establishing regional courts and assigning judges to judicial duties in Macedonia. During this time, a Supreme Court was established in Skopje, functioned as the highest judicial authority for all courts in the region. Additionally, due to the shortage of judges, citizen judges were also appointed.

Judicial issues in Macedonia have attracted attention, especially regarding land reform and the regulation of property rights. Courts were initially unable to handle property cases, but subsequent legislation rectified this issue. The 1914 regulation also established Sharia courts, granting jurisdiction over family and inheritance matters for the Muslim population. In 1929, with the formation of Yugoslavia, the existence of various legal regions was seen as an obstacle to political and national unity, leading to the unification of these judicial systems under a single framework.

By the 1930s, new laws and regulations facilitated the creation of a modern and effective judicial system in Southern Serbia. By 1934, regional and district courts were established, and a new Court of Appeal was inaugurated in Skopje. These courts ensured access to justice by implementing civil and criminal procedures. These innovations in Macedonia were carried out to increase the legal security of the region and strengthen the public's confidence in the justice system.

Judicial reforms carried out in Macedonia at the beginning of the 20th century dismantled the remnants of the Ottoman judicial system and laid the foundations for a different/mixed legal order. This process led to significant changes in the social, economic and cultural life of the region and aimed to ensure justice by protecting the legal rights of the people. The legal regulations and the establishment and the new judicial system established in this period constitute the main topic of this scientific paper.

**Keywords:** Judicial System, Macedonia, Ottoman Rule, Serbian Legal Reforms.

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## INTRODUCTION

The Legal life in Macedonia before the end of Ottoman rule was characterized by a heterogeneous structure. The legal order was strictly governed by the millet/nation system of religion, nationality, traditions, and lifestyle. During this period, there was an intersection between the inclusive administrative traditions of the Turkish state and the sensitivities of the region population, reflecting an era of justice and equity (Nuredin, 2008). Efforts were made to erase the traces of Turkish administration and initiate a new era of cultural, economic, and social life in these regions (Nuredin, 2008: 182).

As a mythological and legal basis, on May 21, 1349, the powerful ruler Dušan proclaimed the Serbian Code in Skopje, the center of Macedonia, after successfully unifying the Serbian tribes and establishing order and peace in the country. This code, known as Dušan's Code, aimed to serve as the foundation for future legislation and was considered a manifesto. Dušan introduced this law to organize the empire, codify traditions, and provide the people with a written law that stood above all individuals as the highest/supreme will of the country. With this law and a different administrative approach, he succeeded in regulating the conquered territories, establishing a solid state structure, strengthening order and security in the country, and providing citizens with a peaceful living and working environment. During Dušan's reign, the powerful Serbian Empire's assembly also convened in Skopje.

Based on long-term Ottoman rule, the Serbian people were able to preserve their identity and develop their cultural traditions through the "millet/nation system" (Nuredin, 2011). After the end of Ottoman rule, while Macedonia gained its freedom, Serbian dominance began. Having been under a different legal order and foreign administration for a long time, Macedonia experienced the blessings of freedom and justice most profoundly in social life in the best way (Петровић, В., 2009).

The legal order and personal issues in Macedonia went through specific stages considering temporal and material possibilities. After 1912, Serbia attempted to organize the legal system in this region differently from the "millet/nation system" thus ensuring the life and freedom of citizens (Nuredin, 2022), property rights, religious rituals (Nuredin, 2017: 19), education (Hoca, 2013: 19), and working/labor rights could only be guaranteed within the context of Serbian identity and culture (Hoca, 2013: 161).

Establishing a different system outside the historical "millet system" in Macedonia was possible through a strong ethnic and cultural movement (Janković, D., Guzina, R., 1970). Instead of the hierarchical structure of Turkish administration, the process of building a new legal order based on democracy and legal security within the framework of a dominant Serbian identity began. First of all, as a requirement of the state's mission, the faith of the Macedonian people in justice and equality before the courts needed to be revived. This belief was advocated to be ensured regardless of whether individuals were Muslim or Christian, noble or poor. However, with agrarian reform, the properties of many Turkish farm owners were made public, leading to a migration process (Nuredin, 2011).

Macedonia's exit from Ottoman rule, the necessity of building a new legal order, and the legal order remained subject to restructuring based on human rights and freedoms (Nuredin, 2022). However, both internal and external conditions complicated the establishment of new courts. At that time, the Serbian judicial cadre/staff was insufficient to establish a district court in each region. Following the cessation of conflicts on the battlefields, towards the end of 1912, many judges were appointed to establish courts in Macedonia in their military uniforms by the order of the Supreme Command and the Ministry of Justice.

With the outbreak of war again in 1913, the regional courts began functioning effectively in 1914. The "Regulation on the Establishment and Procedure of Courts," issued on February 17, 1914, marked the formation of the first courts in Southern Serbia. Due to extraordinary circumstances, judges could be transferred from one court to another as needed within six months of the regulation's implementation. During this period, the Supreme Court was established in Skopje, which served as the highest judicial authority for all courts in Macedonia and served as the Supreme Court of Appeals (Jovanović, S, 1937: 12).

Interestingly, according to the February 17, 1914 regulation, the Serbian administration stipulated that, in addition to state judges, non-lawyer citizen judges would also serve in Macedonia. This was perceived as an incompatible practice with the legal order and judicial ethics (Nuredin, 2023). Initially, this practice involved a court panel consisting of two state judges and one citizen judge, who jointly handled both criminal and civil cases. This regulation was created to manage the situations in Macedonia and address the insufficient number of judges. Citizen judges were elected by the municipal councils where the district courts were located, and no educational qualifications were required. The

duty of citizen judges was mandatory, and they began their duties by taking an oath.

District courts handled both civil and criminal cases. Following the Ottoman rule, the land reform issue arose in Macedonia. Since Turkish-owned movable and immovable properties were not registered in the Serbian land registry and intellectual property and property rights were not defined by law (Nuredin, 2017: 352), district courts initially could not handle property cases. Similarly, they were not authorized to conduct transactions involving the sale and purchase of real estate. However, according to Article 32 of the February 17, 1914 regulation, these transactions could be conducted in certain situations, which was considered a different method from general legal customs and the administrative judiciary system (Korbayram, A.; Delev, 2023: 32). The Agrarian Commission, established under Article 35 of the Ministry of Justice, was authorized to examine and provide opinions on land titles issued during the Turkish administration.

## **METHODOLOGY**

This research was conducted through a comprehensive and meticulous examination of the relevant scientific literature, adhering strictly to scientific criteria and avoiding any skepticism. The sources utilized included scientific books, printed research papers, and online databases such as Google Scholar and ResearchGate. These databases feature journals indexed on prestigious platforms such as EBSCO, SCOPUS, and WEB OF SCIENCE. Our investigation was guided by specific keywords, including "Judicial System," "Ottoman Rule," and "Serbian Legal Reforms."

To ensure the highest scientific quality and relevance of the selected publications, a set of stringent research, review, and evaluation criteria were applied. These criteria included: (a) inclusion of papers written in, Serbian, English and other relevant languages, and (b) consideration of papers published between 1920 and 1930.

By adhering to these scientific criteria, this study aims to compile a comprehensive and rigorous collection of literature on the development and transformation of the judicial system in Macedonia during the 20th century, with a particular focus on the resulting mixed court system.

## **THEORETICAL FRAMEWORK**

### **1. The Judicial System in Macedonia at the Beginning of the 20th Century**

The judicial system in Macedonia at the beginning of the 20th century was shaped by the political and social changes following the late Ottoman Empire and the Balkan Wars. This period was complex due to Macedonia being a crossroads of various ethnic groups, religious communities, and legal traditions.

#### **1.1. Judicial System under Ottoman Rule**

Under the Ottoman Empire, Macedonia was governed by the millet system, which allowed various religious and ethnic communities to use their own internal legal systems. This system enabled Muslims, Orthodox Christians, Jews, and other religious groups to seek justice through their religious leaders and courts. However, the kadis, appointed by the central Ottoman administration, had general judicial authority based on Sharia law and made final decisions in serious crimes and commercial disputes.

#### **1.2. Post-Balkan Wars**

The Balkan Wars of 1912-1913 ended Ottoman control over Macedonia and led to its division among Serbia, Greece, and Bulgaria. This period saw significant changes in the existing legal structures as different states implemented their judicial systems. Under Serbian rule, the Ottoman legal system was replaced by Serbian civil and criminal law, leading to changes in both legal norms and judicial practices.

#### **1.3. Serbian Legal Reforms**

Serbia implemented various reforms in Macedonia to establish a modern judicial system. These reforms aimed to enhance judicial independence, professionalize the courts, and apply fair trial principles. The implementation of Serbian civil and criminal codes, reforms in legal education, and the establishment of standards for the appointment of judges were significant developments of this period.

#### **1.4. Mixed Court System**

The judicial system in Macedonia had a mixed structure due to its ethnic and religious diversity. This situation led to the coexistence of different legal traditions and the formation of mixed courts. Mixed courts

functioned as courts with judges from various ethnic and religious groups, aiming to resolve legal disputes among different communities and contribute to social peace.

### 1.5. International and Regional Influences

The judicial system in Macedonia at the beginning of the 20th century was also influenced by international legal norms and regional developments. During this period, the spread of concepts such as the rule of law and human rights in Europe inspired judicial reforms in Macedonia. Additionally, political and military developments in the region continually reshaped the judicial system.

This theoretical framework provides a broad perspective on the judicial system in Macedonia at the beginning of the 20th century, from the Ottoman legacy to Serbian legal reforms, mixed courts, and the influence of international and regional factors. Examining this period aims to develop a deep understanding of Macedonia's legal and social history.

## **2. Development of Legal Processes and Courts in Macedonia**

Since December 18, 1912, the civil litigation procedures implemented in Macedonia have mirrored those applied in Serbia, albeit with minor modifications (Kostić, 1934). The regulation dated February 17, 1914, contains specific provisions related to civil litigation procedures. To protect farmers, the provisions of Article 471 were enforced, except paragraphs 4 and 5. The criminal litigation procedures, which was valid in Serbia in 1912, was not fully implemented in Macedonia (Knežević, M, 1937: 19), but was implemented gradually. Decisions in criminal cases were rendered by district courts based on the collected evidence and investigations, guided by the judges' conscience and beliefs. According to Article 49, district courts had to submit acquittal decisions and all rulings under Article 250 to the Supreme Court in Skopje within five days.

Post-liberation, legal regulations were gradually and partially implemented. With the amendments to the Regulation dated 7 June 1914, mufti offices were established in Southern Serbia. Muftis were responsible for applying the customary law of the Sharia court in family and inheritance matters. This situation continued until June 30, 1919. On this date, a new regulation reorganizing the pre-1865 Serbian courts was enacted. These amendments extended legal authority in Southern Serbia,

bringing it under the jurisdiction of the Belgrade Appellate Court. District courts in Southern Serbia were transformed into first-instance courts, continuing until November 1, 1934. This regulation abolished the Supreme Court in Skopje, replacing it with a new Appellate Court in Skopje, which was under the jurisdiction of the Belgrade Appellate Court. The jurisdiction of the Skopje Appellate Court was expanded to include the district courts of Vranje, Leskovac, Pirot, Prokuplje, and Niš. This new regulation gained its legal status with the law on the reorganization of the courts dated January 30, 1922 (Jovanović, S, 1995). This law expanded the scope of the 1903 Constitution, ensuring the application of Serbia's other positive laws in these regions. Later, the Niš first-instance court was reinstated under the Belgrade Appellate Court's jurisdiction, and a new first-instance court was established in Kičevo within the jurisdiction of the Skopje Appellate Court (Lesić, 1935: 429).

The Law on the Organization of Sharia Courts, dated March 21, 1929, established Sharia courts in many parts of Southern Serbia. These courts had jurisdiction over marriage law cases, parental rights and duties, the legitimacy of children, and inheritance cases involving Muslims (Jovanović, 2022).

### **3. Modernization of the Legal and Judicial System in Macedonia**

The administrative status of Macedonia as part of Southern Serbia, as noted by Максимовић (2023), saw a heterogeneous judicial system before the implementation of a new judicial order for the entire state. With the formation of Yugoslavia, six heterogeneous legal regions with different laws and court systems were established. These regions included Serbia, Montenegro, Bosnia and Herzegovina, Slovenia with Dalmatia, Croatia with Slavonia and Međumurje, and Bačka with Banat and Baranja (Dobrivojević, 2005). This situation presented an anomaly in relation to political and national unity, prompting lawmakers to create a unified judicial system with a single Supreme Court as the highest guarantee (Čubinski, 1925).

The first attempt to meet this judicial need was made with the law on the establishment of regular courts for the Kingdom, dated September 24, 1928. This law proposed a Supreme Court in Zagreb for the entire Kingdom and the establishment of one of the seven appellate courts in Skopje. Apart from Serbia and Montenegro, twenty-nine district courts and four hundred three municipal courts were planned for the other legal

regions. This law also anticipated the establishment of commercial courts, maritime courts, and municipal courts as special ranking courts (Drakić, 2004: 406). The law was set to take effect on April 1, 1929, but a new regular courts law was published on January 8, 1929, and released on January 28, 1929, without significant changes to the judicial system. The implementation of new laws required a single Supreme Court, with temporary instructions on July 9, 1930, designating the existing Supreme Court's branches as the Belgrade Supreme Court, the branch of the Belgrade Supreme Court in Novi Sad (Tasić, 1936: 184), Section B in Zagreb, the Supreme Court in Sarajevo, and the Great Court in Podgorica (Младеновић, 2007).

On November 26, 1930, a law was enacted for the establishment of district and regional courts within the jurisdiction of the Belgrade and Skopje Appellate Courts. This law transformed former first-instance courts into regional courts and others into municipal courts. The Minister of Justice was authorized under the 21st paragraph of the 1934/35 Fiscal Year Law to establish municipal and regional courts in other regions of the Skopje Appellate Court, and a regulation on November 1, 1934, established the following municipal courts in Macedonia: Bitola, Veles, Kavadar, Kosovska Mitrovica, Vučitrn, Kumanovo, Kratovo, Kriva Palanka, Preševo, Novi Pazar, Sjenica, Ohrid, Struga, Debar, Peć, Prizren, Orahovac, Prilep, Kičevo, Kruševo, Prištine, Uroševac, Gnjilane, Skopje, Strumica, Radoviš, Gevgelija, Valandovo, Tetovo, Gostivar, Štip, Kočani, and Resen. On the same day, regional courts were established in Bitola, Veles, Kosovska Mitrovica, Kumanovo, Novi Pazar, Ohrid, Peć, Prizren, Prilep, Prištine, Skopje, Strumica, Tetovo, and Štip in Southern Serbia (Младеновић, 2007).

These courts began functioning on November 1, 1934, completing a significant unification process. The modernization of the judiciary accelerated Macedonia's alignment with other regions of Yugoslavia, ensuring legal uniformity and national coherence (Zečević, 1994).

With the establishment of district and regional courts in Macedonia, the new criminal procedure was immediately started implementing, followed by the new civil procedure and non-contentious proceedings six months later.

#### 4. Legal and Judicial Institutions in Skopje Since 1930

Since 1930, various judicial institutions have been established in Skopje, including the Court of Appeals, Administrative Court, High State Prosecutor's Office, High Sharia Court, Regional Court, District Court, State Prosecutor's Office, Sharia Court, State Legal Counsel, and High Agricultural Court. In addition to these judicial institutions, there is also a lawyer bar association in Skopje (Jovanović V., 2022).

This overview summarizes the historical phases of the judicial system in the southern regions. The judiciary system had to navigate numerous obstacles in an unorganized environment. Primarily, the liberation wars in Southern Serbia hindered the full organization of the courts immediately after liberation. There was also a significant need for law graduates, which was largely unmet until liberation, thus necessitating temporary judges for a short period. Today, the jurisdiction of the Skopje Court of Appeals includes 314 judges, 209 judicial candidates, and 719 clerks and other officials (Николић, П., 2010).

A significant portion of the judges hail from Southern Serbia. The continuous influx of new young legal professionals in the south indicates a steady increase in this region. The transition from the "millet system" to different courts has seen the justice system become an enforcer of justice, ensuring the protection of Macedonia's civil, political, and religious rights (Petranović, B., 1988). The general population believes in the judiciary, which has succeeded in providing full protection for our citizens (Petranović, B., Zečević, M., 1985). The modest and honest people of the south no longer hide or resolve their conflicts independently but instead turn to the courts. The people of the south no longer have feudal lords/gentlemen, aghas, or beys; they live freely, with all their rights definitively protected by objective laws (Čulinović F., 1946).

The established judicial system in Macedonia aims to strengthen and stabilize family structures. As faith in legal security and judicial protection increases, loyalty to the rule of law and, consequently, to the state and administration, is expected to rise. The courts in Macedonia are designed as modern and enduring fortresses that "protect the country and cities" (Радовановић, З., 2008).

Macedonia, as any other part of the Serbo-Croat-Slovenian Kingdom, had the opportunity to understand the significance of justice within the framework of the "millet/nation system" and the great misfortune caused by the absence of justice. Therefore, it is the region that can best appreciate the benefits of a well-organized and structured judicial system.

## **CONCLUSION**

With the end of Ottoman rule, significant changes occurred in the legal and social life of Macedonia. Under the Ottoman period's "millet/nation system," the legal structure was heterogeneous, shaped by elements such as religion, nationality, traditions, and lifestyle. Efforts were made to eliminate the traces of Turkish administration and to usher in a new era.

The Serbian codex, promulgated by Dušan in Skopje in 1349, formed the basis of future legislation and established order in the Serbian Empire. This law was introduced in order to establish order in the conquered regions and provide a peaceful life for the citizens.

Under Ottoman rule, the Macedonian people preserved their identity and cultural traditions through the "millet/nation system." With the end of the Ottoman period, Serbian dominance began in Macedonia, and during this time, various ethnocentric applications of freedom and justice were felt in social life. Since 1912, Serbia attempted to organize the legal system differently, aiming to guarantee citizens' rights to life, freedom, property, religious rituals, education, and work within the framework of Serbian national identity.

The modernization of the legal order in Macedonia was made possible through a strong ethnic and cultural movement. The foundations of democracy and legal security were established within the framework of Serbian identity, replacing the hierarchical structure of Turkish administration. This process aimed to revive the faith of the Macedonian people in the new judicial system and concept of justice.

The establishment of the new legal order faced various challenges, including the inadequacy of the judiciary staff and wars, which delayed the formation of courts. The "Regulation on the Establishment and Procedure of Courts" issued in 1914 led to the creation of the first courts,

though they were initially not fully functional due to extraordinary circumstances. Over time, the judicial structure was strengthened, and a modern judicial system was established in Macedonia.

During this period, regional courts handling both civil and criminal cases were established in Macedonia, addressing issues such as agrar/land reform and property disputes. The citizen judge system was used to address the inadequacy of the judiciary staff in the region, though this practice was considered incompatible with judicial ethics.

In conclusion, the post-Ottoman period in Macedonia witnessed significant transformations in legal and social life, a new legal order was established, and citizens' rights began to be protected. This process facilitated the reorganization of the region's judicial system. To meet the needs of the people and achieve judicial modernization, the establishment of both secular and sharia courts contributed to creating a societal unity and a sense of security, enabling the country to achieve its governance goals in the desired format.

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