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THE CODEX KANUN NAMA OF SARAJEVO

(The collection of kanun-namas, inventory No. 1 of the list of
kanun-namas of the Oriental Institute in Sarajevo)

DESCRIPTION OF THE MANUSCRIPT

Among the manuscripts of the Oriental Institute there are quite a number of manuscripts of the old Turkish kanun-namas. The most numerous are the kanun-namas published by prof. Kōprülü in *Millî tetebbüler mecmuasi*. I would like to describe all the manuscripts of the kanun-namas kept in Sarajevo, whether in the Oriental Institute, Husrebey's Library or in private property. A part of this work is the description of the codex recorded under No. 1 in the list of kanun-namas of the Oriental Institute (No. 1054 of the old inventory of manuscripts of the former Archives Department of Zemaljski muzej called „Turcica 1911”).

This codex was recorded into the old inventory "Turcica 1911" on 18th June 1917 as follows: "The manuscript (a very precious collection) – The Collection of Legal Codes in the Turkish Language Including the Code for Bosnia and Herzegovina as well as the Law of Mines and Exploitation of Ores. – Delivered to the Archives from the Library of the 1st of the Government Department." This is written in the inventory. But Fehim Spaho wrote in 1913 in the Preface to the edition of Turkish mine laws that this manuscript was as early as that time in the Library of Zemaljski muzej. The manuscript was, thus, in the library of Zemaljski muzej even before 1913. The inventory "Turcica 1911" was delivered by the library just about 1913 to the newly founded Turkish Archives of Zemaljski muzej. Many unrecorded oriental manuscripts were delivered together with the inventory and they were later included in the years inventory. The date of the inclusion into the inventory was recorded and not the date of the reception of a book or a manuscript. So it may have happened that this manuscript had been obtained from the Zemaljska vlada Library before 1913, but as for the record in the inventory it might seem that it had not been obtained until 1917.

In some manuscripts of the former Turkish Archives of the Zemaljski muzej in Sarajevo, there were descriptions of manuscripts written on slips of paper which were put in the manuscripts. Some of these descriptions have been preserved to the present day and they are kept in the Oriental Institute. Judging by the hand-writing on these notes we might conclude with certainty that they were written by Safet-bey Bašagić. The description of this code says:

1) قانوننامه سلطان سليمان Sultan Suleyman's Code written by Seyh-ül-Islam (the oldest Moslem religious dignitary in the Turkish Empire) Ebus-Su'ud after the conquest of Budim and it refers to all European regions. It begins like this: الحمد لله الذى له ملك السموات و الارض Chapter I در بيان احوال طاهرو . The laws mostly concern civil and financial law and they are explaining the systems of feudal estate and state taxes. This code was supplemented by later additions from the time of Ahmed I added by shehislam Jahja effendi. Besides, there are insertions by Dželal-zade, Latifi Čelebija, Hamza-pasha and other legislators. At the end there is a firman addressed to the Bosnian beylerbey and the Gabela quadi which states that tithe should be given according to the yield, not according to the defter. The firman is dated the end of the month of *muharrem* 1129 (1716). There follow several seriat decisions by different shehislams. L. 1-109.

- 2) الحمد لله الملك الحق a code beginning like this
 الذى يأمى بالعدل و الاحسان and divided into three parts:
 a)1 جنائيات مقابلته سنده اولان جرم و سياسن يانتده
 b) بيت الماله و سهايه به رعايادن مايد اولان رسوم يانتده
 c) رعايابه مختص احوال يانتده

Therefore this code also refers to penal and civil law. This is a very rare code. I do not know of another copy. At the end there are several dated firmans solving different cases unpredicted by the code. p. 1-59.

- 3) قانوننامه بوسنه the Code for Bosnia. It begins like this:
 الحمد لله الذى جعل بساط الارض لتسكن اهلها القراء و البلاد

Upon the order of Sultan Suleyman it was composed by *zaim* (zaim) Bišaret b. Abdusselam and the *catib* (katib) of the imperial *defterhane* Mustafa b. Ahmed towards the end of cumad. I. 973 (1565). It is a code concerning Bosnia and Herzegovina and it deals with civil and penal laws. The first two pages are somewhat damaged by water stains, but the text itself is undamaged. This is a copy from 1099. p. 61-82. Another copy of this code is kept in the Court Library of Vienna. See Flügel III, p. 237.

4) قانوننامه جديد. This code was composed by a secretary of the *mehćema* (mehkeme/court of law) in Sarajevo using the notes of the

¹ Bašagić in his text marked these items by numbers. I put letters instead for the sake of clearness.

Sarajevo *mula* (munla) Ali ef. Lahumija. He said about this code:

قانوننامه جدیدہ معمول ہا بلا زیادہ و لا نقصان , namely that it was a new one which should be absolutely obeyed. It was mostly concerned with inheritance law. p. 85–90.

5)^{1a} قانوننامہ جدید الیوم یعمل ہا A new code which is in effect today. It is mostly concerned with the regulation of feudal estates and their revenues. It seems that it is not complete. p. 90–120.

6)^{1b} معروضات ابو السمود Law proposals composed by the famous Ebus – Su‘ud, died in 982, mostly in the form of decisions about different civil and religious questions. p. 120–128.

7)^{1c} قانوننامہ سلطان سلیمان Famous Suleyman’s code which was later supplemented by many legislators. p. 128–143.

8) احکام الاراضی من الفرائد Treaty about *erazi miri* written in Arab. This must be a chapter from the work الفرائد (Biseri). p. 144–153.

9) قانون و ترتیبات معادن Firman about the regulations of mines on whose basis someone wrote a code. This is the only code on this subject known to me. The numeration of pages is disturbed. It continues from p. 110. p. 110–129.

10) سالیاریہ خصوصندہ اولان فتوالر Seriat decision about "salarija" (salariae or salarlik/feeding of horses) and other questions concerning spahias (sipahi) and raya (re‘aya). A very important collection. p. 131 – 181.

This collection is written in many handwritings on hard paper rather legibly. It represents a great rarity since it is very difficult to find so many important codes in one volume as it is the case here. It belonged to Bey-imam Hafiz Sabrija in 1268. I think it was written about the middle of 18ct.”²

Thus much is given in this description. It is incomplete since the author, rather than going deep into studies, gave a superficial description which was supposed to serve only as first information. I have cited the whole of it as I consider it would be contrary to scientific honesty to use it partly as a source without citing it.

Bašagić pointed out that the collection had been written in different hand-writings. Fehim Spaho had quite a different opinion. On the occasion of publishing some mine laws he gave a short description of the

^{1a} In the manuscript: قانوننامہ جدید الیوم یعمل بہ which is correct.

^{1b} In the manuscript معروضات ابو السمود علیہ رحمۃ الودود

^{1c} In the manuscript قانوننامہ سلطان سلیمان خان

² The sheet is damaged here so that it may also be 17th. But since Bašagić mentioned the year 1716, it is probably 18th.

collection they were published in. Here is Spaho's description of our collection:³

"Among the Turkish manuscripts of the Zemaljski muzej library there is a large collection of old Turkish laws, firmans, *fetvas* (legal decisions) and other rules of various state administration fields.

The collection consists of two separate volumes, *but judging by the hand-writing and the fact that the contents of both volumes are given in front, it seems that they were both written by one man whose purpose was to make them a single work.*⁴ The whole book was written on same paper, 19,5 cm long and 12,5 cm wide, the hand-writing is rather nice. Since there are rather big errors it seems that the writer was a good and patient transcribe but uneducated, so that he could not understand completely what he was transcribing.

Unfortunately, there are no notes in the volume which would tell who the scribe was or when it was written. According to the contents one might suppose that the scribe had spent some time in our regions, for the material in question concerns mostly the European Turkey of that time, particularly Bosnia and the neighbouring countries. The newest documents of this collection date from the end of 11ct (Hicret), so it might have been written about 1100 (Hicret) (1688).

Besides the two separate contents for the two parts and several blank sheets, there are 109 sheets in the first and 180 sheets in the second part.

The second part, from sheet 100 to 129, comprises 4 Turkish mine laws. Two of them date from 943 H. (1536) while the other two have no date, but they must all originate from the same time."

I have many objections both to the first and the second description. I must say that my research agrees far more with Bašagić's description although it is incomplete, written hastily and unfinished. However, my research cannot agree with Spaho's description.

It is necessary to point out some fact from the history of this collection of kanun-namas. It is written on the second page that it belonged to Sejfulah, the son of Hafiz Mehmed Sabri effendi Begimamović in 1268 (1851/2)⁵. This note was crossed out and the corresponding *muhur* (seal) was destroyed so that it cannot be written out. On the same page there is a seal and a call number showing that the collection belonged to the Zemaljska vlada Library in Sarajevo.

The collection which I refer to as the Sarajevo code and which was recorded in the list of kanun-namas under No. 1 is bound in nice and

³ Glasnik Zem. muzeja XXV (1913) p. 133.

⁴ Italics by author.

⁵ صاحب الكتاب سيف الله ابن بك امام زاد حافظ محمد صبري افندى [ي] سنة ١٢٦٨

The cousin of the mentioned Sejfulah Hafiz Esad Sabrihafizović now lives in Sarajevo. This family used to give hereditary imams and *hatibs* of Bey's Mosque.

strong binding. The manner of its binding, especially some glued parts, indicates that the parts of the collection are separate manuscripts. The sheets are of the same size, 19,5 cm long and 12cm wide. The sheets of one of the manuscripts had been larger and, obviously, cut. The paper is not equal throughout the collection. The colour of paper and of water-marks vary. The paper in the second part of the collection from sheet 85 to sheet 89 is particularly bad. This can be seen as soon as you take the collection in your hands. Although all the kanun-namas were written in the same type of writing (except the manuscript II5), it is evident that they had not all been written by the same hand. Consequently, it is clear that it was not originally one single collection. The point is that different manuscripts were bound so that they formed a collection. One part of the code (II, 1. 82–83) shows clearly that the previous kanun-nama was extracted from a *medžmua* (meczma), for the observations on the last page have no relation with kanun-namas. I shall try to find out the parts of this collection and the way it was composed.

If we consider its external marks we shall notice that the pagination goes in the following way: part I from 1 to 109, part II from 1 to 153 and part III from 110 to 181. Such a pagination might lead us to the conclusion that the parts I and III had been bound together and that part II was inserted as a separate entity, for the pagination continues in Part III where it stopped in Part I. But we shall abstain from such a simple explanation finding no reason for such an act.

Bašagić says nothing about the parts of the code in his description, except that the pagination is disturbed. He did not notice, however, that the pagination of Part III begins where it stopped in Part I. Spaho, on the other hand, speaks about two volumes. But his two volumes do not correspond to our Part I and Part II. His first volume goes from page 1 to 109 and the second one from 1 to 180. Since he says that the law mines are included in the second volume from page 110 to 129, it seems that he did not notice that the second volume — as he calls it — also consists of two parts. Neither did he notice that the "second volume" is twice as thick as the first one.

And now let us see how we can divide the collection according to the type of writing and paper. Except the difference in the style of writing which is sometimes difficult to be established, we shall take a criterion which seems adequate for the identification of the manuscript parts. This criterion is the number of lines on a page and it is the thing we shall begin from.

Part I of the manuscript (1. ps. 1–109) has nineteen lines on each page till p. 105. From p. 105 to 108 the number of lines is irregular and vary from 29 to 31. Pages 108 and 109 are not taken into account being final pages. The handwriting is the same from the beginning till p. 108. It is different from all the other hand-writings in the collection. The paper

in the first part of the code is equal.

Part II of the code (1. 1–153) according to the number of lines on a page looks like this:

- 1) From 1.1 to 59 there are 23 lines on a page
- 2) From 1.60 to 1. 82 there are 25 lines (in this manuscript only they are incircled with red ink)
- 3) From 1. 85 to 1. 89 there are 21 lines
- 4) From 1. 90 to 1. 153 there are 23 lines.

We can immediately separate the manuscripts 2 and 3 since they were obviously inserted later, for the hand-writing and paper are different. The way of binding is also different as these two manuscripts had first been glued and then bound. They themselves differ both in hand-writing and in paper. The number of lines shows that they differ both from one another and from other manuscripts. The number of lines in 1) and 4) is the same. The hand-writing in 1) and 4) till 1. 143 is very similar. There are small differences in ductus which might have occurred because of different sharpness of reed pens and the fact that they were not written at the same time, therefore not in same ink. The paper of the two manuscripts is not equal either. Between 1. 143 and 144 there are six blank unpaginated sheets. Furthermore, from 1. 144 to 153 there is a very pretty handwriting different from all the others in the collection.

Therefore, Part II of the Code represent a separate collection consisting of the following manuscripts: 1) from 1. 1 to 59, 2) from 1. 60 to 82, 3) from 1. 85 to 89, 4) from 1. 90 to 143, 5) from 1. 144 to 153, each of them being a completed entirety.

Part III of the Code consists itself of two parts. The first one till p. 1. 129 has 23 lines on a page while the second one from 1. 131 to 181 has fifteen lines on a page. These two differ in type of paper. It is obvious that they represent two manuscripts for the pages were glued at the beginning of the second manuscript. But the first manuscript of Part III of the code has a very similar writing to that in manuscript 1 of Part II. The type of paper is also the same. Also, manuscript III 2 is similar to II 1 and III 1.

After the consideration of the quoted data it becomes clear how the code came into being. Three manuscripts are bound into one volume (I, III 1 and III 2) and five manuscripts into another volume which was later inserted between I and III 1. Pagination, binding and writing may well support this assumption. But there are similarities between II 1, II 4, III 1 and III 2. Since there is also correspondence between II 1 and III 1 in respect of line number and type of paper, I can maintain with considerable certainty that the two were written by the same hand. Slight differences in writing between manuscripts II 1 and III 1 on one hand and II 4 on the other as well as the different type of paper are the reason why I cannot maintain with the same certainty that II 4 was written by the same hand. Still, I think that it was, for the same number of lines and the same basic

characteristics of writing present a pretty reliable evidence. I want to point out that the manuscript III 2 also has the same basic characteristics though not the other elements. If we assumed that only II 1 and III 1 were written by the same hand, without taking into consideration the remaining two, we could hardly bring this into accord with the conceivable existence of two volumes. In order to clear up this matter it will be necessary to consider one more fact.

Spaho drew the following conclusion: ... "judging by the handwriting and the fact that the contents of both volumes are given in front, it seems that they were both written by one man whose purpose was to make them a single work". We have seen that the handwriting is not the same in all parts of the code. Still the fact remains that the *fihrist* (contents) for both volumes is given in front. But the *fihrist* consists of two parts. The first one covers Part I of the Code while the second one covers the present Part II. Part III has no contents either in front of the three parts or at its beginning. The first part of the *fihrist* comprises 4 sheets of yellowish paper of exactly the same type as in the manuscript I. The writing is the same as well, which means that this *fihrist* is a part of the manuscript I. The first two pages are covered with writing and paginated with 154 and 155 while the other two are blank. The second part of the *fihrist* consists of nine sheets — six covered with writing. The second part differs from the first one both in handwriting and in paper. Its paper is completely white and the watermark does not correspond to any other type of paper in the collection. None of the pages in the second part of the *fihrist* are paginated. The one blank sheet in front of the contents is of the same type of paper as the second part of the contents. This means that: 1) the first part of the contents was inserted and 2) the second part of the contents rather than being a part of any manuscript in Part II of the Code was made for the whole present second part of the Code. The most important fact is that the inserted sheets of the contents were paginated with 154 and 155. When we consider that the second part of the Code ends with sheet 153 it becomes clear that the inserted contents had once been after the present second part of the Code. Since the inserted contents is a part of the present manuscript I it means that the present Part I had once been after the present Part II. Furthermore, when we take into consideration that the manuscript I was paginated by a different hand than the remaining parts of the Code, then the intricate pagination of the Code seems to be explained.

The collection originally began with the present Part II of the Code which had its unpaginated contents, began with sheet one and ended with 153. After that there came the *fihrist* for the present Part I paginated with 154 and 155. The manuscript I had had its former pagination and the new pagination went from 1 to 181 which is the number of paginated sheets of the Part I and Part III. Since the present Part I of the Code has the former

pagination from 1 to 109, Part III began with 110.

We should point out the fact that the handwriting with which the former collection began (II 1) is undoubtedly the same as in III 1 and probably the same as in II 4 and III 2.⁶ While these four manuscripts agree with each other, none of the remaining manuscripts has any similarities either in writing or otherwise with the four mentioned manuscripts. Neither do they resemble each other. This means:

1) that the collection was composed by the one who had written the mentioned four similar manuscripts;

2) that he added and bound together with this transcription older manuscripts which corresponded in size with his first transcription (II 1); he transcribed the older ones (II 4, III 1 and III 2) which he could not match with the collection

3) that he or someone else, having been dissatisfied with the arrangement, shifted the present manuscript I ahead as well as its contents which became a part of the former *fihrist*.

This is how the present collection came into being together with its confused pagination. The composer of the collection transcribed the following manuscripts: II 1, II 4, III 1 and III 2, while he simply bound the manuscripts I, II 2, II 3 and II 5. Therefore, there are eight different manuscripts, all of them representing a compilation by their contents. It seems to me that the transcriber did not add anything to his transcriptions and that he was not the author of the compilations but he simply transcribed compiled manuscripts. The evidence for such an assumption is his mechanical procedure with the manuscripts which fitted the collection.

In his description Bašagić gave the contents of the collection. We must say that many of his assertions about the contents are obsolete. Therefore I bring a completely new description of some parts of the collection.

Part I of the Code (1. 1v. till 109) comprises a variation of a kanun-nama compilation which was called by Ćiro Truhelka "Suleyman's Erazikanunnama or the so called Budim kanunnama, sometimes referred to as the New kanunnama".⁷ This compilation was published by professor

⁶ With the manuscript III 2 the number of lines on a page, different paper and way of binding indicate that it had entered the collection as a separate manuscript. This still does not mean that it had not been written by the same hand as II 1.

⁷ C. Truhelka, *Historička podloga agrarnog pitanja u Bosni* (Glasnik Zem. muzeja XXVII) p. 127. Truhelka listed some manuscripts of this kanun-nama. It is hard to establish which manuscripts they are for Truhelka did not quote correct data. The kanun-nama under item a) corresponds to the manuscript No. 24 in the list of kanun-namas of the Oriental Institute (former No. 606). The age of this manuscript is not as old as Truhelka considered it to be. The kanun-nama under item d) corresponds to No. 4 (former 763). It is in fact the manuscript of kanun-name-i cedid. Kanun-nama under item e) is No. 11 (p. 798), f) is No. 12 (p. 605), under g) is No. 25 (p. 35) and under h) is No. 23 (p. 727). When I have the occasion to describe separately kanun-name-i cedid and kanun-name-i

Fuad Köprülü in *Millî tettebbüler mecmuasi I, 1 and 2* on the basis of a rather bad manuscript, under the title "Osmanli kanunnameleri". As we have seen from Safetbey Bašagić's description he called it Suleyman's kanun-nama. This name is incorrect because only the introduction to this compilation comprises Ebu's-Su'ud's kanun-nama from the time of sultan Suleyman.

In addition to Ebu's-Su'ud's kanun-nama this compilation comprises an arazi kanun-nama dating from 11th zilkade 1017 (1609), a *kanun-name-i cedid* composed after 1019 (1610/11), different laws from the time of sultan Ahmet I (1603–1616) and his predecessor Mehmed III (1594–1603). The legal text is interpolated by *fetvas*, legal decisions, replies to different *Şejh-ül-Islams*, transcriptions of *firman*s, historical data, etc. There are many transcriptions of this compilation both in Yugoslavia and abroad⁸. In some manuscripts I found the name of this compilation: *Kanun-name-i sahiha*.⁹ Although this name is not to be found in all manuscripts I consider it adequate because of its differentiation from another similar compilation in manuscripts referred to as *Kanun-name-i cedid*.¹⁰

An interesting fact about the manuscript of the *Kanun-name-i sahiha* is that it differs from other manuscripts and the published copy, for it includes a separately announced order to the Bosnian beglerbey and the Gabela quadi (1. 105v.), while in the rest of the manuscripts this order is a part of the kanun-nama text. The date of the order is muharrem 1129 (1716).¹¹

sahiha manuscripts in the collections existing in Sarajevo, I shall write about them in more detail.

⁸ Numerous manuscripts of this kanun-nama exist in Sarajevo: in the Oriental Institute Nos. 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 26, 30 and 65; in Husrev-bey's Library there are 18 manuscripts but there are still more both in Yugoslavia and abroad: in Vienna, (Flügel III, p.p. 236–7, No. 1804; p.p. 250–1, No. 1816; p.p. 251–2, No. 1817; p.255, No. 1822), in London (Rieu, p. 247, No. 7834), in Upsala, Munich, Istanbul and other libraries.

⁹ Husrevbey's Library No. 837; Oriental Institute No. 25, 10, 26 and 22 of the kanun-nama list.

¹⁰ Although *kanun-name-i cedid* contains mostly the same laws as *kanun-name-i sahiha*, still it represents a different compilation and its arrangement is different. As for *kanun-name-i cedid*, it is evident at first sight that the Budapest kanun-nama, the firman for the Bosnian beglerbey and the Gabela quadi as well as some other interpolations are missing. — When the texts are compared it becomes obvious that both the present *kanun-name-i cedid* and the present *kanun-name-i sahiha* contain the original compilation named *kanun-name-i cedid*. The variant preserved under the term *kanun-neme-i cedid* is by its arrangement closer to the original compilation. — I know that the following manuscripts of *kanun-name-i cedid* exist in Sarajevo: Oriental Institute No. 4, 5, 6, 7 and 8 of the kanun-nama list. Some of the manuscripts contain both compilations.

¹¹ The date of this order is correct only in one manuscript. The other manuscripts record the year of their transcription, or the year when the sample of the transcription was written or transcribed. According to these different datings the manuscripts are classified into several groups. The oldest group has a firman from muharrem 1084. Since one manuscript has the correct date of the firman — muharrem 1054 (No. 1549, Husrevbey's

The *Kanun-name-i sahiha* is a Bosnian compilation having a Bosnian character, in contrast to the *kanun-name-i cedid* which consists of mostly the same laws but does not have a Bosnian character.¹² It is not possible for me to go further to consider the relation of the *kanun-name-i sahiha* manuscript and the other ones neither the relation between the *kanun-name-i sahiha* and the *kanun-name-i cedid*. This should be the subject of a special study.

Part I of the code contains only the *kanun-name-i sahiha* with several supplements (from 1. 106). Part I of the Code is, as we have seen, an old manuscript included into the collection and bound without having been transcribed by the composer. The time of its appearance cannot be established exactly. We can only say with certainty that it was written after 1129 (1716). This manuscript contains many observations in the margins.

Part II of the Code (1. Ov. till 153 v.) is not a single work. As we have already established it consists of five parts: 1) 1. Ov. –59, 2) 1. 60v. –82, 3) 85v. –89v, 4) 1. 90v. –143 and 5) 1. 144v. –155v. The five parts look like this:

1) From 1.Ov. till 59 there is a compilation of different *kanun-namas*, separate *kanuns* and *firman*s. It begins with a *kanun-nama* dating from the beginning of Suleyman the Legislator's rule which was published by Mehmed Arif-bey in 1912/13 in a supplement of the *Tarihî osmaniî encümeni mecmuasi* review (No. 15–19).¹³ In Yugoslavia there is Hamid Hadžibegić's translation of this *kanun-nama* which was done on the basis of the manuscripts kept in the Oriental Institute in Sarajevo and in the oriental collection of the Yugoslav Academy in Zagreb.¹⁴ Hadžibegić also used the manuscript from our collection. According to him there are a number of similarities between this copy and the Vienna manuscript

library 1. 63) the origin of the compilation known as *kanun-name-i sahiha* can be placed between muharrem 1054 (1644) and muharrem 1084 (1673). But some manuscripts of the same *kanun-nama* do not include the mentioned firman. I want particularly to point to an older manuscript, No. 554 of Husrevbey's Library (from 1122/1710/11). *Terminus post quem* 1054 does not apply to them. But if we take into consideration *šejhul-islam*'s answers which are to be encountered in all manuscripts, we shall see that the youngest was Mehmed Behaji, who was twice *šejhul-islam* from 1649 to 1654 (cf. Gl. Zem. muzeja XXVIII, 430). Consequently, *terminus post quem* can be about the middle of 17th century.

¹² It seems to me that this compilation was written in Mostar, for the oldest and the best manuscripts come from Mostar. We may even come to a conclusion about its author on the basis of the fact that it is written together with Ahmed-efendi's *fetvas*, but it is still early to speak about this.

¹³ Arif-bey used the Vienna manuscript and five manuscripts from the Istanbul Library for his edition of this *kanun-nama*.

¹⁴ Hadžibegić used, besides the manuscripts of this collection, some *kanun-nama* manuscripts of the Oriental Institute: No. 3, 41, 4 and 16, and the manuscript No. 126 from the Oriental Collection of the Yugoslav Academy in Zagreb.

which Arif-bey used as the basic text in his edition.^{14a} Suleyman's kanun-nama in this collection ends on l. 28v. with the following words: *و صايلان اودون ايجون هر وزنه ايكتر بجق اچه مقرر قنشد* which correspond to p. 70 of the published kanun-nama.

From l. 28v to l. 36v. there is a law about tradesmen and trade, *قانون اهل دكاكين* (Kanuni ehli dekākīn) dated safer 939 (1532). Then, there is a description of an imperial edict dated the beginning of muharrem 929 (1522). After this edict there comes: *بوسنه و هرېك و ازورنيق سنجالقرنده* واقع اولان قانون (Bosna ve Hersek ve Izvornik sancaklarinda vaki olan kanun). This law ends on sheet 39v. and is dated 1st muharrem 946 (19th May, 1539). Ć. Truhelka published the translation of this law in his treatise on agricultural question in Bosnia (Gl. Zem. muzeja XXVII, 200 – 202), but he dated it incorrectly (1st ramazan 946).

I published this law in Turkish and in translation in *Istorisko-pravni zbornik* (History and Law Collection), vol. 3–4, 1950, pp. 227–240.

After decrees of agrarian and legal nature there is on l. 44 i 45v. the transcription of decrees concerning the *badž* (bac) (customs office) in Srebrenica. It was published by V. Skarić, translated into Serbo-Croatian, in his work "Staro rudarsko pravo i tehnika u Srbiji i u Bosni" (Ancient Mine Law and Technology in Serbia and Bosnia), pp. 90–91. Further, till the end, there are a number of imperial orders in transcription which end with the order dating from the beginning of seval 973 (1566). Most of these orders refer to Bosnia.

Nazir Hasan's hudžet from the first decade of reb. I 956 (1548) which is included in this collection (II, 55v.–56) was published by F. Spaho in the Preface to his edition of Turkish mine laws (Gl. Zem. Muzeja XXV, 1913, p. 138). Truhelka published the translation of this *hüccet* under the title "Zakon o srebreničkim ugljarima" (The Law of Srebrenica Coal Miners) in his treatise on agrarian problem in Bosnia (Gl. Zem. muzeja XXVII, pp. 202–203). Truhelka states in the end that this *hüccet* and the Bosnian-Herzegovina – Zvornik law "belong to the Drinopolje kanun-nama 973". He obviously considered this whole manuscript (II 1) a single kanun-nama which he calls the Drenopolje kanun-nama from 973. The last order in this manuscript is indeed dated 973 in Drenopolje. The manuscript contains Suleyman's kanun-nama (Arif-bey II) which was supplemented by various kanuns and orders.

Out of this material Nedim Filipović published (Gl. Zem. muzeja IV – V, 1950, p.p. 285–294) an imperial order from the first decade of seval 970 (1563) which had been addressed to Abduselam's son Bešaret, census taker of the Bosnian sanjak. This order is included in the manuscript from l. 52 to l. 55. Filipović also published other transcriptions of documents out of this material which referred to Bosnia (Prilozi za or. fil. etc.

^{14a} Gl. Zem. muz. IV–V (1950), p. 296.

III–IV, p.p. 437–454)¹⁵. Among these documents nazir Hasan's *hucet* was also published. Hamid Hadžibegić published three firmans from this manuscript which date from 16ct. and refer to Macedonia (Prilozi za or. fil. etc. II, p.p. 83–94).

This manuscript belongs to the transcriptions done by the composer of the collection himself. In my opinion, the composer had begun his work with this very transcription. It is obvious that there had existed an older compiled manuscript which the composer of the Code transcribed on the whole.

2) From 1. 60v. to 82 there is a manuscript of kanun-namas beginning with a Bosnian kanun-nama transcribed on reb. I 1099 (1688). In Bašagić's description this kanun-nama is quoted in item 3. The manuscript only begins with a Bosnian kanun-nama. From sheet 64v on begins the compilation of various decrees from common kanun-namas of 16th and 17th cts. According to Hadžibegić, this compilation is similar to the mentioned Suleyman's kanun-nama, but its arrangement is different. Besides, it includes no part which would refer to our regions but it contains many regulations from later times.^{15a}

The Bosnian-kanun-nama was recorded into defter by Ahmet's son Mustafa towards the end of cumad. II 973 (1565) under the supervision of Abduselam's son zaim Bešaret. The introduction is equal to that of the kanun-nama published by Ćiro Truhelka in Glasnik Zemaljskog muzeja XXVII (p.p. 427–475). Nevertheless, Truhelka was right when he mentioned this kanun-nama separately in his treatise on the agrarian problem in Bosnia,¹⁶ for the arrangements of the published kanun-nama and this one differ, the material they contain being only partly equal. But even in parts of the two manuscripts that should be equal there are a lot of differences in style and a number of actual differences. The differences between the two were pointed to by Hamid Hadžibegić in his introduction for the edition of this kanun-nama. Since both of them have the same introductions although they represent different kanun-namas or rather compilations, it is

¹⁵ Filipović thought that two of the orders he published had originated in 18th century, one in 1174/1761 (pp. 541–452) and the other in 1179/1766 (pp. 453–454). If this is the case, this manuscript (II 1) was compiled and transcribed after 1766. In the manuscript the years are recorded in the document as follows: 1) سنة تسع و سبعين و مائه أ سنة اربع

و سبعين و مائه. Filipović thinks that الف should be added. In my opinion تسعمائة should stand here, that is 974 and 979. I would make this correction because of the fact that all orders from this manuscript date from 16th ct. and that these two orders were addressed to the Bosnian sanjakkbey, namely they come from the time before the establishment of the Bosnian *beglerbegluk* (1580). The fact that they were addressed to the Bosnian sanjakkbey indicates clearly that they do not come from 18th ct.

^{15a} Gl. Zem. Muz. IV–V (1949–50), p. 299, note 11. — Cf. Gl. Zem. Muz. III (1948), p. 201.

¹⁶ Gl. Zem. Muz. XXVII (1915), vol. 1–2, pp. 127–8.

difficult to say whether other manuscripts of kanun namas with same introductions represent the same kanun-nama. It would be possible to answer this question only after a thorough comparison of all manuscripts. The observation mentioned above refers to the manuscript in the Vienna library (Flugel III, p. 237, No. 1804, transcription from 1126/1714) which Bašagić considers to be equal to this manuscript.¹⁷

This is one of the manuscripts that had not been transcribed before it was included into the collection. It backs up my claims about the origin of the collection. Its paper had been wider than in the present code. When cutting the paper, the composer wanted to preserve the observations in the margins, so he left the original paper width and folded the paper. The original paper was 1,5 cm wider.

The Bosnian kanun-nama from 1565 included in this manuscript was published by Hamid Hadžibegić in Glasnik Zemaljskog muzeja III, 1948 (p.p. 201–222) in Turkish and in translation. Hadžibegić did not quote that the manuscript containing this kanun-nama was not equal to the remaining manuscripts of the collection, that it was an older manuscript which was mechanically included into the collection.

3) The manuscript described under item 4 by Bašagić (1. p.p. 85–89 in the code) obviously belong to older manuscripts. The writing, the paper and the binding prove itd.

4) The manuscript from 1. 90 v. to 143 contains the materials which Bašagić described under items 5, 6 and 7. The compilation under item 5 (in the manuscript till p. 1. 120) has the title: قانونتامة جديد اليوم يحمل به

Under item 6 the manuscript : *مروضات أبو السعود* (1. 120 v.–128) is described. In the Vienna library there are two manuscripts of this same text (Flügel III, 1. 251, No. 1816; p. 252, No. 1817). Flugel's description shows that our manuscript is somewhat shorter than the first Vienna manuscript.¹⁸ The compilation described under item 7 (in the manuscript p. 128 v. – 143) is only by its title sultan Suleyman's kanun-nama. It is, as a matter of fact a compilation of kanun-namas and *fetvas* from 16 th and 17 th cts. Some of them resemble kanun-name-i cedid and kanun-name-i sahiha.

All these parts were transcribed one after another and had obviously once been a single manuscript. We can be almost certain that the composer of the collection transcribed these parts, for the handwriting is very similar to that in II 1.

¹⁷ It would be of great importance to check how different manuscripts preserved the kanun-nama written in 1565 by Mustafa, Ahmet's son under the survey of Abuselam's son zaim Bešaret.

¹⁸ The second Vienna manuscript (No. 1817) is shorter than the first one. — In the Oriental Institute there is a manuscript of this text which corresponds, to the manuscript in our collection and the second Vienna manuscript (the list of kanun-namas and fetvas No. 27). There are still other manuscripts of this text in the Oriental Institute (No. 13, 16 and 21).

5) The manuscript described under item 8 of Bašagić's description is a separate manuscript which was included into the collection (1.p.p. 144–153). This can be proved by the different handwriting and way of binding.

The third part of the code (1.110 v. to 181 v.) consists of four mine laws (till 1.129 v.) published by Fehim Spaho in *Glasnik Zemaljskog muzeja* XXV, 1913 (p.p. 133–149; 151–194)¹⁹ and a compilation with the title "Salariye hususunda olan fetvalar suretleridir". This compilation was quoted by Truhelka in his treatise "The Historical Background of the Agrarian Problem in Bosnia".²⁰ VI. Skarić published a *Herzegovina kanun-nama* from this compilation in *Glasnik Zemaljskog muzeja* XLVI (1934)²¹.

The mentioned parts of the third part of the collection represent two manuscripts. The first one was, no doubt, written by the composer of the code, for the way of writing is the same as in the manuscript II 1. This is also true of the second manuscript notwithstanding that the paper is different, that there are less lines on a page and that it was obviously separately written.

The result of all the quoted data about the origin and the contents of the collection is the conclusion that it was made rather mechanically. The manuscripts were included into the collection without changes, whether they were transcribed or not. Later the composer (probably another person) tried to put it in order by shifting the present manuscript I ahead. His intention was obviously to have common kanun-namas ahead, then Bosnian kanun-namas and finally kanun-namas dealing with legal problems (mining, salarie, etc.). Quite naturally, he did not succeed in this because of his mechanical procedure. Nevertheless, he did it very skillfully so that it can seem to a superficial observer that the collection was written by one man "whose intention was to make it a single work" (Spaho).

The procedure of the composer of the code shows us the way how other compilations could have been made.

There is one more question – when the code was composed. Spaho thought that it was written about 1688. He did not notice that the last manuscript was dated 1129 (1716). Bašagić thought that it was composed in the middle of 18th ct.²² If we consider the fact that the manuscript I entered the collection as an old one, Bašagić's dating could be taken as cor-

¹⁹ Spaho's edition of mine laws is not satisfying. It would be very useful to edit these laws anew.

²⁰ *Gl. Zem. Muz.* XXVII, p. 128, item e).

²¹ pp. 109–111. Skarić corrected the text in the Bosnian kanun-nama published by Truhelka according to this Herzegovina law.

²² If Bašagić in his description did write 17th ct. (This is difficult to be ascertained for the paper is damaged), it must have been a lapsus calami, because Bašagić noticed the year 1716 in the text of the manuscript I.

rect. This is the time when the composer transcribed and included the transcribed manuscripts into the collection. The remaining older manuscripts (except the manuscript I) probably date from 17th ct. The date of the manuscript II 2 (bosnian kanunnama) is obvious – it dates from 1099 (1688).

As for the place where the collection was composed, we do not have much to say. It is evident that it was composed in Bosnia. Nothing can be established about the composer and the transcribe.²³ It is only evident in some places of the manuscript that he sometimes transcribed the text without understanding it, so that he made mistakes in his transcription.

Notwithstanding the fact that the code consists of manuscripts of later law compilations, it is of great value and contains very rare manuscripts some of which are – according to the present state of our knowledge – unique items.

R e z i m e

SARAJEVSKI KODEKS KANUN-NAMA

Kodeks koji je pod brojem 1 uveden na listu kanun-nama i fetvi Orijentalnog instituta, sadrži prepise mnogih kanun-nama koji potiču iz 16. i 17. vijeka. Na prvi pogled čini se da ovaj kodeks predstavlja jedinstven rad nekog pisara koji je takođe izvršio i jednu jedinstvenu, iako do kraja neprovedenu podjelu kodeksa, naprije opšte kanun-name, zatim bsanske kanun-name, najposlije zakoni koji se tiču pojedinačnih pravnih oblasti (rudarstvo, salarija, itd.). Prilikom izdanja zakona o rudnicima (G.Z.M. 25/1913, 133), F. Spaho je naveo da je kodeks jedinstven rad jednog pisara i da se sastoji iz dva dijela.

Autor je utvrdio da kodeks ima 3 dijela, od kojih samo prvi predstavlja jedinstven rukopis, dok se drugi dio sastoji iz 5 manuskripata, a treći, opet, sadrži dva rukopisa. Pisar kodeksa je prepisao samo 4 rukopisa (II.1, II.4, III.1 i III.2), ostala četiri (I, II.2, II.3 i II.5) uvezao je mehanički u kodeks kao već gotove rukopise. Svi su rukopisi kompilacija, ne samo prepisani sa originala, nego i ostali uvršteni u svezak. Pisar je počeo svoj prepis rukopisom II.1, ali je kasnije stavio naprijed gotovi rukopis I, da bi postigao bolji raspored.

²³ On the front unwritten page of the manuscript II 1, of the one with which the composer in my opinion began his work, there are two equal square seals and a round one. I cannot read out the two square ones. But even if I could read them, the author of the manuscript would probably not be discovered, for the seals must have belonged to the owner of the manuscript. The round seal belonged to a Mehmed, probably Mehmed Sabri-effendi.

Pored toga što se autor djelimično poslužio neobjavljenim kratkim opisom manuskripta, koji je napisao Safvet-beg Bašagić, on daje i svoj opis istoga. Autor objavljuje Bašagićev opis, ali naglašava da on nije bio pripremljen za štampu. Autor se slaže s Bašagićem da bi kodeks mogao biti sastavljen sredinom 18. vijeka, ali ukazuje na to da bi četiri umetnuta rukopisa morala biti starija. Jedan od njih je iz 1688. godine, a i ostala tri potiču iz 17. vijeka.

S u m m a r y

THE KANUN-NAMA CODE OF SARAJEVO

The code included under No. 1 in the list of kanunnamas and *fetvas* of the Oriental Institute consists of many copies of kanun-namas dating from 16 and 17ct. At first sight it seems that this code represents a single work of a scribe who also made a unique division of the code, although he did not carry it out completely. Namely, he first divided the common kanun-namas, then the Bosnian ones and finally the laws concerning separate legal fields (mining, *salarija*, etc.). On the occasion of issuing (publishing) the mine laws (G.Z.M. 25/1913, 133) F. Spaho said that this code represented single work of one scribe and that it consisted of two parts.

The author has found out that the code consists of three parts. Only the first one is a single manuscript, while the second one consists of 5 manuscripts and the third one of 2 manuscripts. The scribe of the code copied only 4 manuscripts (II.1, II.4, III.1 and III.2) while the remaining 4 ones (I, II.2, II.3 and II.5) he included into the code as already finished manuscripts. All the manuscripts are a compilation, not only the ones copied from the original but also the others included into this volume. The scribe had begun by copying the manuscript II.1, but he later put the finished manuscript I ahead in order to achieve a better arrangement.

The author has used an unpublished short description of the manuscript written by Safet-bey Bašagić, but he also gives his own description. He publishes Bašagić's description but he points out that it has not been prepared for printing. He agrees with Bašagić that this code could have been composed in the middle of 18th ct., but he also points to the fact that the four inserted manuscripts must be older. One of them dates from 1688 and the remaining three also date from 17th ct.