

The Fate of the Roman Law in the Eastern Europe since the Death of Justinian the Great until the Fall of the Byzantine Empire¹

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Abstract: *To maintain the unity of the state and the legal order, Justinian banned the writing of abstracts, excerpts and interpretations of his codification. Justinian's bans were subject to high penalties; however, they were already violated during his lifetime, which contributed to the development of legal thought. The durability of Justinian's codification, as evidenced by long period of validity, was only apparent, because the Justinian law was only in force in later periods theoretically and in the form of extracts from extracts, including the Eclogue, Basilika, Novels of Leo VI, Procheiron and Epanagoge. The Eastern Church had far-reaching privileges under the imperial law, so it made sure that it was not lost by the desuetude. To this end, separate sets of provisions were created, whether included only in the imperial constitutions or provisions contained in all Justinian legislation. In the 7th Century, these collections combined collections of the Byzantine emperors – translated into the Old Russian by the state law for the Church with the provisions of the church legislation – canons (nomocanons). The apparatus of power in Byzantium deviated from its Roman standards. An important thread in the development of the Roman law in the Eastern Europe was its didactics. In the beginning, the problem was to eliminate scientific centres in Athens and Alexandria, which were opposing the Justinian codification. The consequence of the collapse of schools in Byzantium was the collapse of scientific development of the Roman-Byzantine law in the Eastern Europe. The lack of schools that could deal with the development of*

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the Roman law also hindered its reception in Russia and the Balkan Peninsula, but in Greece Hexabiblos lasted until year 1946.

Key Words: Roman Law; Byzantine Law; Justinian; Justinian's Codification; Eclogue; Basilika; Novels of Leo VI; Procheiron; Epanagoge; Hexabiblos; Eastern Church; Trade Law; International Private Law; Constitutional Law; European Union Law; Roman Origins of the European Union Law; History of Law; Eastern Europe.

Introduction

The history of the Roman law after the death of the emperor *Justinian the Great* has a significant significance for the history of the East and in the application of realities for the nowadays uniting Europe (potential accession to the European Union, some countries of the Balkan Peninsula). The significance of the fate of the Roman law in the Eastern territories is important for determining the text of the Justinian included and for learning about the *Justinian* law. The importance of the Roman rights in Byzantium is emphasized by the fact that the influence on the West is derived, which shows that it is the influence of the Roman law by the Ravenna Exarchate and Rome, which after the conquest of the Lombards remained with the Eastern Empire, and during all of the southern Italy.² In this paper, we will show the above-mentioned significance and its meaning for the future of the European legislation.

1 *Justinian's prohibitions and violations during his life*

Justinian's codification stimulated the cultivation of the Roman law in a scientific way that was necessary to adapt it to the Eastern realities. *Justinian* wanted to exert a great influence on keeping his codification in pure form, so it was forbidden to write to his collections of answers and use when rewriting the *Digest*. All this served to eliminate possible ambiguities and any interpretation of the collection.³ The emperor was worried that the professors would change the law. He wanted to get any price

² See WRÓBLEWSKI, S. *Zarys wykładu prawa rzymskiego: Historia stosunków wewnętrznych Rzymu i źródła prawa: Losy prawa rzymskiego po śmierci Justyniana: Nauki ogólne rzymskiego prawa prywatnego*. 1. wyd. Kraków: Akademia Umiejętności, 1916, p. 183; and KURYŁOWICZ, M. *Historia i współczesność prawa rzymskiego*. 1. wyd. Lublin: Wydawnictwo Lubelskie, 1984. 138 p. ISBN 83-222-0333-0.

³ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 85.

related to the situation in which it would be possible to circumvent or to break the applicable law.⁴ To maintain the durability of the system demanding uniform and universal law in the area of exceptional non-legal decisions, because it is precisely this that does not creep into freedom and load within borders.⁵ *Justinian* wanted once and for all to create and to use a state of uncertainty in calculations that could apply to the next scholar procedure.⁶

The ban on writing comments to the *Justinian's* collections found itself against critics and any explanations – *legum interpretationes, immo magis perversiones*.⁷ The punishment for breaking the ban was deportation, confiscation of all property and destruction of the work that violated the ban. Only literal translations of the collections into the Greek (the so-called *Kata poda*),⁸ special places (the so-called *Paratitla*) and short summaries to some passages (the so-called *Incides*⁹ or *Summae*¹⁰) were allowed.

Justinian's bans were not meticulously monitored by scholars. Scholars made available free text translations. The same restrictions put forward by *Justinian* were not applied, because there were no restrictions on school lectures, which, however, expanded in the form of scripts. Even in *Justinian's* time, paraphrases in the Greek were created, which transferred the text and explanatory notes (the so-called *Paragraphai*) to the *Digest* and the *Code*.¹¹

⁴ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 85.

⁵ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 85.

⁶ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 83.

⁷ See WRÓBLEWSKI, S. *Zarys wykładu prawa rzymskiego: Historia stosunków wewnętrznych Rzymu i źródeł prawa: Losy prawa rzymskiego po śmierci Justyniana: Nauki ogólne rzymskiego prawa prywatnego*. 1. wyd. Kraków: Akademia Umiejętności, 1916, p. 183.

⁸ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

⁹ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 95. ISBN 83-01-02555-7.

¹⁰ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

¹¹ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 95. ISBN 83-01-02555-7.

The flagship configuration of breaking Justinian's bans is the Greek paraphrase of the *Institutes* (*Paraphrasis Institutionum Graeca*),¹² attributed to the later required marshal of the court,¹³ professor *Theophilo* (*Theophilus*), who was co-editor of the *Institutes* (member of the *Justinian's* codification committee). It is available in the form of a free translation of the *Justinian Institutes*, kept in the form of a lecture.¹⁴ Professor *Theophilo* himself was associated with a school in Constantinople.¹⁵

During *Justinian's* lifetime, translations of the *Digest* by lawyer *Stephanus* and the *Code* comments from *Thaleleus* were created.¹⁶ The rank of *Theophilo's* paraphrase, however, is emphasized by the fact that it constituted a subsequent codification of the Greek law.¹⁷

2 Development of legislation after the death of Justinian

a) Introductory remarks

The further fate of the *Justinian's* codification in the Eastern Empire, on the one hand, shows the durability of the work and, on the other hand, the need for its simplification. The durability of the codification is evidenced by the fact of the commitment binding it until the fall of the Eastern Empire in year 1453. The popularization of the work among the Greek-speaking people was associated with its simplification.¹⁸

After Justinian's death, codification is still subject to binding; major political changes as well as technical and linguistic difficulties caused

¹² See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

¹³ See OSUCHOWSKI, W. *Prawo antyczne w zarysie*. 1. wyd. Kraków: Państwowe Zakłady Wydawnictw Szkolnych, 1950, p. 28; and WERESZCZYŃSKI, A. *Państwo Antyczne i jego renesansy: Przyczynki do reformy ustroju Polski*. 1. wyd. Lwów: Wydawnictwo Zakładu Narodowego im. Ossolińskich, 1928. 196 p.

¹⁴ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 95. ISBN 83-01-02555-7.

¹⁵ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

¹⁶ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

¹⁷ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 95. ISBN 83-01-02555-7.

¹⁸ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 34. ISBN 83-7334-393-8.

possess properties that should be properly theoretical and should apply to school education.¹⁹

b) Eclogue and progressive integration of the Syrian dynasty

Application found the *Justinian* collections only in the judicial practice of Byzantium.²⁰

At the beginning of the 8th Century, a Greek extract from the *Justinian* codification, the so-called *Eclogue*²¹ (*Ekloge ton nomon*, choice of laws), was made at the behest of the emperor *Leo III of the Isaurian dynasty* (years 717 – 741). *Eclogue* was announced in year 726.²² It was associated with the emperor's tendency to create the Byzantine collections based on *Justinian* modification. *Eclogue* included civil law and criminal law for practical purposes and took into account customary law. It reflected greater Christian influence, and most importantly, contributed to the humanization of the Byzantine law.²³ The word “*ekloge*” literally means “choice”, “excerpt”. The role played by *Eclogue* is emphasized by the fact that it was widespread not only in Byzantium, but also in the Slavic countries.²⁴

Leo III's choice of rights was an attempt to impose a uniform legal order on his citizens.²⁵ During the Syrian dynasty, the idea of basing the state organization on uniform legislation was taken from the *Justinian* ideas. However, the rulers of the Syrian dynasty changed the meaning of legal regulations from the time of *Justinian* significantly. The legislative

¹⁹ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 95. ISBN 83-01-02555-7.

²⁰ See RYSZKOWSKI, K. and P. PROKOŃSKI. *Losy prawa rzymskiego na Wschodzie od śmierci Justyniana Wielkiego do upadku Cesarstwa Bizantyjskiego*. In: *Academia.edu* [online]. 2013 [cit. 2020-05-08]. Available at: https://www.academia.edu/42757452/Losy_prawa_rzymskiego_na_Wschodzie_od_%C5%9Bmierci_Justyniana_Wielkiego_do_upadku_Cesarstwa_Bizantyjskiego.

²¹ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 96. ISBN 83-01-02555-7.

²² See DAJCZAK, W., T. GIARO and F. LONGCHAMPS de BÉRIER. *Prawo rzymskie: U podstaw prawa prywatnego*. 1. wyd. Warszawa: Wydawnictwo Prawnicze PWN, 2009, p. 86. ISBN 978-83-01-16083-8.

²³ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

²⁴ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 34. ISBN 83-7334-393-8.

²⁵ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 87.

activity of *Leo III* compared to the legislation of *Justinian the Great* is characterized by greater progress. *Leo III's* legislation draws the idea of equality for all Christian citizens under the law and of prohibition of contempt for the lower classes. There is no room for tolerance for crimes of powerful people. Slavery standards were removed. An important change in the legislation of *Leo III* was the limitation of the scope of paternal power. Forced obligations of peasants were reduced, church property was taxed. Equal rights have been granted to spouses. Compliance with legal standards was to be supervised by a professional and secure judiciary.²⁶ The scope of state crimes against the *Justinian* norms has expanded, encompassing not only the insult to majesty, but also any violation of the whole of the state. This was to ensure the permanence of the state.²⁷

Ecloge has introduced many new rules. Since then, the Roman law has been giving way in the East to the Greek-Roman (Roman-Byzantine) law, which deviates significantly from the *Justinian's* codification in the inheritance and the family law department.²⁸ This term was introduced by *Karl Eduard Zachariä von Lingenthal* to describe the Roman law, which was codified in the Byzantine Empire²⁹ and in particular in Switzerland or Greece.

At the time of *Leo III*, the *Book of the Prefect (Eparch)* was also created, which included regulation of the system of craft guilds. It is believed that at the time of the above-mentioned emperor also three small codification works originated: *Nomos Rhodion Nautikos* (sea law of Rhodes), *Nomos Georgikos* (agrarian law) and *Nomos Stratiotikos* (military law).³⁰ *Nomos Rhodion Nautikos* is significantly different from the norms contained in the *Justinian* codification, which irretrievably lost their power in the face of the collapse of the Byzantine sailing.³¹ The Maritime Code was

²⁶ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 87.

²⁷ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, pp. 87-88.

²⁸ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 149.

²⁹ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 149.

³⁰ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 96. ISBN 83-01-02555-7.

³¹ See WRÓBLEWSKI, S. *Zarys wykładu prawa rzymskiego: Historia stosunków wewnętrznych Rzymu i źródeł prawa: Losy prawa rzymskiego po śmierci Justyniana: Nauki ogólne rzymskiego prawa prywatnego*. 1. wyd. Kraków: Akademia Umiejętności, 1916, p. 186.

based on customary law. The very name of *Nomos Rhodion Nautikos* may suggest the influences of the Greek law. The former capital of the island of Rhodes – the city of Lindos is considered the place of creation of the maritime law, which was adopted in the Mediterranean Basin in the ancient times. From all of these three codes, *Nomos Georgikos* raises the most controversy. The date of its origin as well as the local jurisdiction is doubtful. There is a concept that this code was only valid in areas inhabited by the Slavs. The source of disputes is the fact that the said code probably only regulated the relations of free peasant communes and made no mention of peasant serfdom.³²

c) The Macedonian dynasty: *Basilika*, *Novels of Leo VI*, *Procheiron* and *Epanagoge*

During the Macedonian dynasty, the progressive legislation of the Syrian dynasty was liquidated. The work that completely implemented the tendency to create a fully Greek study of the Justinian collections was *Basilika* (*Basilica*, royal statutes), constituting a restitution of the *Justinian* law for the needs of the church and feudal system.³³ This work was announced in the 9th Century. The whole consisted of sixty books (hence the term *Hexabiblos*), which contained the development and alteration of the *Digest*, the *Code* and the *Justinian's Novels*, supplemented by numerous imperial novels and commentaries (*scholia*). The presence of comments and alterations is justified by the fact that *Basilika* has already repeated largely outdated material legal, which gave rise to the need for updating. The development of *Basilika* began during the reign of *Basil I the Macedonian* and was completed during the reign of his successor, *Leo VI the Philosopher* (years 866 – 911).³⁴ *Basilika* was the most extensive collection of the medieval Byzantine laws. A commission chaired by the *Proto-spatharios Symbarios* took care of the work.³⁵

Basilika covered private law, public law and canon law. Most of the recipes were taken from the *Justinian Code* and the *Digest*. To a lesser extent, *Basilika* was also based on the *Justinian's Novels*, *Institutes* as well as

³² See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

³³ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 89.

³⁴ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 96. ISBN 83-01-02555-7.

³⁵ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 212.

Justin II's and *Tiberius's Novell* and *Procheiron*. The *Code* paraphrase included in the study was authored by *Justinian* professor *Thalelaios*. An anonymous *Digest* paraphrase was also included in the work.³⁶

When compiling *Basilika*, lawyers of *Basil I* and *Leo VI* did not reach for the Latin sources, basing their work on the Greek translations and the Greek commentary dated from the 6th and 7th Centuries. *Basilika* was distinguished by the transparency of the system, which, combined with the editors in the Greek, decided about its superiority over the codification of *Justinian* for the citizens of Byzantium. In the introduction of *Basilika*, attention was drawn to the chaotic nature of *Justinian's* work. All this contributed to the repression of the *Justinian* codification in the Eastern Empire and the promotion of *Basilika* to the rank of basic legal knowledge in Byzantium.³⁷

Over the centuries, the text of *Basilika* was supplemented by numerous scholars. In the 12th Century, it was the so-called *Tipucitus* – the Index that *Basilika* was supplied with. *Tipucitus* as term came from the Greek phrase “*ti pu ketai*”, meaning “where is what”.³⁸ During the time of the emperor – lawyer, *Constantine VII Flavius Porphyrogenitus* (years 913 – 959), *Epitome Basilika* was created. An abridged elaboration of the text of *Basilika* was also prepared.³⁹

Leo VI issued 113 edicts named after the *Justinian* works *Novels* (proper titled *hai ton nomon epanorthotikai anakatharseis*, which means “correcting and purifying old laws”). *Novels* modified old laws and removed some of them; they also contained matter that was not covered by customary law. The addressee of ordinances concerning the affairs of the Church was Patriarch *Stephen*, of the other ordinances *Stylios Zaoutzes*.⁴⁰

³⁶ See DAJCZAK, W., T. GIARO and F. LONGCHAMPS de BÉRIER. *Prawo rzymskie: U podstaw prawa prywatnego*. 1. wyd. Warszawa: Wydawnictwo Prawnicze PWN, 2009, p. 87. ISBN 978-83-01-16083-8.

³⁷ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 212.

³⁸ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, pp. 212-213.

³⁹ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 96. ISBN 83-01-02555-7.

⁴⁰ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 213.

Basil I also started legislative work in order to prepare an accessible textbook of applicable law. The study was entitled *Procheiron (ho procheiros nomos)*⁴¹ and was announced during the reign of his son, *Leo VI*, in year 879.⁴² The work was published on behalf of the emperors *Basil*, *Constantine* and *Leo*. According to the creators, this work was to be adapted to practical use. The most important and most frequently used civil and public law provisions are listed in 40 paragraphs. From all the parts of the *Justinian* codification, *Procheiron* draws the most from *Institutes*. When editing the textbook, just like when editing *Basilika*, mainly the Greek translations and *Justinian* codification comments were used, rather than referring to the original editorial rights. *Procheiron* also contains many borrowings from the popular *Leo III's Eclogue*, although *Basil* denied all communications with the codification of the emperor – iconoclast. *Procheiron*, as before *Eclogue*, was translated into the Slavic language and also enjoyed great popularity among the Southern and the Eastern Slavs.⁴³

In year 879, *Epanagoge* was to appear – an introduction to the great set of laws, published on behalf of the emperors *Basil*, *Leo* and *Alexander*. In *Epanagoge* we can find the significance of larger borrowings from *Eclogue* than in *Procheiron*, because they also apply to marital law, the editing of which was in the case of *Procheiron* based on the *Justinian Code*. A special place is in *Epanagoge* occupied by regulation of rights and obligations of the emperor and patriarch, who were presented here as leaders of the Christian world, cooperating for the good of humanity and heading the state. The work reflects the concept professed by the orthodox circles of the Greek clergy, which presents a perfect picture of cooperation between the state and the Church. This concept was probably transposed into *Epanagoge* by *Photios*, who, at that time, was once again the Patriarch. The theory of two authorities, attributed to *Photios*, emphasized clear separation of the emperor's and the patriarch's powers and duties, assigning the emperor the care for temporal goods, while the patriarch the concern for spiritual goods of his subjects. *Epanagoge* also

⁴¹ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 209.

⁴² See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

⁴³ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, pp. 209-210.

included new material on rights and obligations of other clergy and laity dignitaries.⁴⁴

3 The Eastern Church and the Byzantine law

The Byzantine law was transplanted to Rus through the clergy of Ruthenia (dependent on the patriarch of Constantinople), which included a large number of the Greeks.⁴⁵

It is true that many very interesting provisions of both the Russian and the Byzantine laws contained four trade treaties, the so-called *Dogowory*, concluded between the Ruthenian princes and the Byzantine emperors; however, this is not the direct topic of our paper. These provisions concern private law (including inheritance), criminal law and procedural law. Noteworthy are some provisions that would now be classified as provisions in the field of international private law, including the treatment of the Russian merchants in Constantinople or the abolition of the cruel rules of coastal law in year 911.⁴⁶ Their conclusion was caused, however, not by the clergy, but by the threat of Byzantium by the Russian expeditions.⁴⁷ Now, let us come back to the direct topic of our reflections.

Based on imperial law, the Eastern Church had far-reaching privileges (“the Church obtained landed property and immunities”),⁴⁸ so it was necessary not to lose them through *desuetude*. This revealed, among others, by creating separate sets of provisions contained either only in imperial constitutions or in provisions contained in the all *Justinian* legislation. In the 7th Century, these collections combined collections of the Byzantine emperors – the state law for the Church translated into the Old Russian and the provisions of their church legislation – canons. In this way, *nomocanons*, widespread in the practice of the church judiciary,

⁴⁴ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 210.

⁴⁵ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

⁴⁶ See SCZANIECKI, M. *Powszechna historia państwa i prawa*. 7. wyd. Warszawa: Wydawnictwo Naukowe PWN, 1994, p. 188. ISBN 83-01-11441-X.

⁴⁷ See JAWORSKI, I. *Zarys powszechnej historii państwa i prawa*. 6. wyd. Warszawa: Wydawnictwo Prawnicze PWN, 1996, p. 175. ISBN 83-86702-40-0.

⁴⁸ See SCZANIECKI, M. *Powszechna historia państwa i prawa*. 7. wyd. Warszawa: Wydawnictwo Naukowe PWN, 1994, p. 185. ISBN 83-01-11441-X.

were created.⁴⁹ The term *nomocanon* itself came from the words *nomos* (secular act) and *canon* (church act).⁵⁰

In the mid-sixth Century, a systematic collection of church law was created in *Nomocanon* by *John Scholasticus*. This work was based on synodal legislation and the letters of *Saint Basil*.⁵¹ The most important of nomocanons – *Nomocanon of 50 Titles*, attributed to *John Scholasticus*, was based on *Justinian's* codification. Its translation into the Old Russian was made by *Saint Methodius*.⁵²

In the 9th Century, the most extensive codification of church law was created – *Photios's Collection*, attributed to the later patriarch, professor of philosophy from Constantinople.⁵³ *Nomocanon of Photios* became basis for the development of church law in Ruthenia and the Balkans.⁵⁴

Parts of *the Novels of Leo VI*, concerning matters of the Church, were addressed to Patriarch *Stephen*.⁵⁵

In judicial practice, *Nomocanon of 14 Titles* from the 7th Century was most often used; since the 13th Century it was called *Pilot's Book* (*Kormchaya kniga*). Later, *Pilot's Book* covered *Eclogue* and *Procheiron*. *Procheiron* itself performed in the Slavic countries under the title *Gradski zakon*.⁵⁶

⁴⁹ See WRÓBLEWSKI, S. *Zarys wykładu prawa rzymskiego: Historia stosunków wewnętrznych Rzymu i źródeł prawa: Losy prawa rzymskiego po śmierci Justyniana: Nauki ogólne rzymskiego prawa prywatnego*. 1. wyd. Kraków: Akademia Umiejętności, 1916, p. 185.

⁵⁰ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

⁵¹ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

⁵² See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

⁵³ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

⁵⁴ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

⁵⁵ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 213.

⁵⁶ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

Hexabiblos (conversion of *Gradski zakon*), developed by judge *Constantine Harmenopoulos* in year 1345, enjoyed special longevity and had been in force in Greece until year 1946.⁵⁷

The place of origin and authorship of another collection from the 9th Century, based on *Eclogue* regulations – *Zakon sudny lyudem*, is a lot of controversy. According to some concepts, it was created in Bulgaria and according to others, in the Great Moravian Empire.⁵⁸

From the above-mentioned it can be concluded that “... older monuments of the Ruthenian law testify to the fact that legal culture in Ruthenia was shaped within the legal concepts of the Roman law, which Ruthenia learned through the Byzantine mediation”.⁵⁹

4 Reception of the Roman administrative apparatus in the East

The apparatus of power in the East showed differences compared to the Roman models. Former traditional offices of consuls, praetors, and even the senate were only symbols and honorary dignities in Byzantium. These offices had no influence on the management of the state. The main purpose for which traditional offices were maintained was to cultivate the memory of a single state. In fact, the state was headed by the emperor, army and centralized bureaucracy.⁶⁰

Beginning with the 7th Century, the administrative apparatus developed, which led to a transformation in such a way that it was radically different from the Roman system from which it originated. Leo III's legislation crowns the historical process that elevated the monarch to the rank of one-man.⁶¹

Novels of Leo VI revoke the rights of former city curia and the senate.⁶²

⁵⁷ See DĄBROWSKI, K. *Prawo grecko-rzymskie wg Karola Dąbrowskiego* [online]. 2008 [cit. 2008-12-17]. Available at: http://grecja.home.pl/prawo_gr_rz.htm.

⁵⁸ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 83. ISBN 83-7334-393-8.

⁵⁹ See SZCZANIECKI, M. *Powszechna historia państwa i prawa*. 7. wyd. Warszawa: Wydawnictwo Naukowe PWN, 1994, p. 189. ISBN 83-01-11441-X.

⁶⁰ See SEIDLER, G. L. *Mysł polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, pp. 70-71.

⁶¹ See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, pp. 213-214.

⁶² See OSTROGORSKI, G. *Dzieje Bizancjum*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1967, p. 213.

5 Role of schools in the development of the Roman-Byzantine law and the consequences of their liquidation

Considering the fate of the Roman law in Byzantium, it is impossible not to mention the schools of law. The East Roman professors used the exegetical method in their lectures, the literary equivalent of which was gloss characteristic for lawyers of the early Middle-Ages.⁶³

Justinian the Great allowed lecturing law only to professors of Constantinople, Rome and Berytos (today's Beirut) – i.e. of three official empire law schools. The choice of these centres was not accidental, because *Justinian's* concepts were fully accepted in these centres.⁶⁴ Critical attitudes for *Justinian* codification were manifested in Alexandria and Athens, which is why these centres were banned from teaching law.⁶⁵ "*Justinian* put particular emphasis on closing the school in Alexandria, where there was a strong opposition to the religious policy of the emperors."⁶⁶ In the 9th Century, the law education in Byzantium was in a state of complete decline. This state was attempted in the 11th Century to be changed by the emperor *Constantine Monomachos*, who for this purpose founded a separate legal school in Constantinople. The school's achievements were of a secondary importance. There is no proven influence of this school on the flourishing of legal science in the West.⁶⁷

The collapse of schools of the Byzantine Empire resulted in the fall of the scientific development of the Roman-Byzantine law in the Eastern Europe. The problem of the lack of schools that could deal with the development of the Roman law also hindered its reception in Russia and the Balkan Peninsula. As mentioned above, the process of reception of the Roman-Byzantine law in the Eastern Europe was associated with the process of the Christianisation of the Slavs. Along with the Christianisation of the Slavs, there was a process of the Slavization of the Roman law, which previously had already changed under the influence of the Greek

⁶³ See OSUCHOWSKI, W. *Rzymskie prawo prywatne: Zarys wykładu*. 1. wyd. Warszawa: Państwowe Wydawnictwo Naukowe, 1981, p. 98. ISBN 83-01-02555-7.

⁶⁴ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 85.

⁶⁵ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 85.

⁶⁶ See SEIDLER, G. L. *Myśl polityczna średniowiecza*. 1. wyd. Kraków: Wydawnictwo Literackie, 1961, p. 107.

⁶⁷ See WRÓBLEWSKI, S. *Zarys wykładu prawa rzymskiego: Historia stosunków wewnętrznych Rzymu i źródeł prawa: Losy prawa rzymskiego po śmierci Justyniana: Nauki ogólne rzymskiego prawa prywatnego*. 1. wyd. Kraków: Akademia Umiejętności, 1916, pp. 187-188.

process. Slavization of the Roman law was solely linguistic and limited to the creation of extracts from extracts. Scientific considerations of a small group of scientists were purely theoretical. An additional difficulty in the reception of the Roman-Byzantine law in the East was the low level of urbanization of these areas as well as the very poor level of economic development, which transferred into the poor development of higher education in these areas (the first university in Moscow was established in year 1755).⁶⁸

Conclusions

The image of the timelessness of the Roman law in the Eastern Europe is the long period of the reign of *Hexabiblos* – the work of judge *Harmenopoulos of Thessalonike*. Written in year 1345, numbering six books, *Hexabiblos* was a summary of Procheiron and gave in a concise form the principles of the Roman law still valid in Byzantium. It survived the collapse of Byzantium by almost 500 years and was spread in the Balkans and in Greece by the Decree of 22nd February 1835, where it lasted until year 1946.⁶⁹ *Hexabiblos* is an example that certain aspects of the Roman law have survived in the Eastern Europe to modern times, which is extremely important in connection with the process of the European law unification. The Roman law can constitute a common legal plane – a bridge between the Eastern and the Western Europe, like *Dogowory* between the Byzantine emperors and the Ruthenian princes, and the ground for the further European Union laws.⁷⁰

⁶⁸ See DAJCZAK, W., T. GIARO and F. LONGCHAMPS de BÉRIER. *Prawo rzymskie: U podstaw prawa prywatnego*. 1. wyd. Warszawa: Wydawnictwo Prawnicze PWN, 2009, p. 87. ISBN 978-83-01-16083-8.

⁶⁹ See SÓJKA-ZIELIŃSKA, K. *Historia prawa*. 10. wyd. Warszawa: LexisNexis, 2005, p. 34. ISBN 83-7334-393-8.

⁷⁰ For more related facts, see the author's following publications: RYSZKOWSKI, K. Adjudication on Principles of Equity in the Proceedings before the Arbitral Tribunal in the Polish Law Compared to Other Legal Systems. *Cadernos de Dereito Actual*. 2019, no. 12, pp. 9-19. ISSN 2340-860X; RYSZKOWSKI, K. Glosa do uchwały Sądu Najwyższego z 7. 5. 2009 r. – Problem zdatności arbitrażowej sporów ze stosunku spółki. *ADR. Arbitraż i Mediacja*. 2011, nr 3, pp. 109-123. ISSN 1898-942X; RYSZKOWSKI, K. Klauzula porządku publicznego jako klauzula generalna w arbitrażu handlowym w prawie polskim. *Przegląd Prawa Handlowego*. 2014, nr 3, pp. 17-20. ISSN 1230-2996; RYSZKOWSKI, K. Klauzula porządku publicznego w postępowaniu przed sądem polubownym a zdatność arbitrażowa. *ADR. Arbitraż i Mediacja*. 2013, nr 1, pp. 77-102. ISSN 1898-942X; RYSZKOWSKI, K. *Klauzula procesowego porządku publicznego w arbitrażu handlowym w prawie polskim na tle innych systemów prawnych*. 1. wyd. Warszawa: C. H. Beck, 2019. 312 p. ISBN 978-83-8158-459-3; RYSZKOWSKI, K. Orzekanie na zasadach słuszności w postępowaniu przed sądem arbitrażowym.

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