

Over two "missing" publications of "the Code of Lekë Dukagjini"

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Abstract

There is inevitable evidence of the great historical and cultural importance of the Code of Lekë Dukagjini to the Albanians. The focus of the study presented as follows is the composition, decomposition and the journey made to refine, improve and update this vital text of law. Indeed, there have been observed several attempts to compose successive editions to refine the text aforementioned.

The methodology undertaken for this study is based on textual analysis of parallel works, parts of these texts itself and of course notes and works done by the well-known experts of the field that have given tirelessly their contribution to preserve, point out and promote this precious cultural heritage. We can name Father Benardin Palaj o.f.m., Father Benedict Dema o.f.m, Father Kostandin Shtjefën Gjeçov o.f.m., Dr. Emil Tedeschini and so on.

As a result of the study that follows, we can observe the effort made to a second and third edition of the Code of Lekë Dukagjini, as well as the particular updates, changes and improvements made.

A. Introduction

The Code (or Canon) is a historical cultural monument of the traditional Albanian right. Albanians have inherited up to the 20th century two Codes: the "Code of the Lekë" or the well-known "Code of Lekë Dukagjini"¹, which had power upon the territories over the Drin River; as well as the "Code of the gegë" also known as the "Code of Skanderbeg", which had power throughout the rest of northern Albania.

Whilst there are four Codes throughout the Albanian space:

1. The Code of Lekë
2. The Code of Skanderbeg (Code of the Arbër)
3. The Code of Labëri²

¹ Kanuni i Lekë Dukagjinit

² Part of the south of the Albanian region

4. The Code of the Mountains (Code of Malësi e Madhe³)

But, undoubtedly, the most complete model of traditional organization of the Albanian life is the Code of Lekë Dukagjini⁴, a Code that expresses the existence of an urban civic life and an early community consciousness.

When talking about the Lekë Dukagjini Code, we always refer to a summary arranged and written by Father Shtjefën Gjeçovi ofm, of the unwritten legal norms of Albanian customary law, conducted through the oral tradition of Northern Albania's mountaineers, especially those of Mirdita. The name of the Code is related to Leka, a not yet well defined personality from the Albanology science.

The first edition of this Code emerged as a posthumous work in 1933 by the Albanian Franciscan Province. It was the time when Albanian Franciscans had taken up the discovery, formulation and proclamation of Albanian cultural identity. "Now Albania was formed, should be formed the Albanians " wrote Father Gjergj Fishta shortly after the Declaration of Independence in early 1913. This phrase sounds so cumbersome, so ironic, and idle, as the truth. But who would make the Albanians feel Albanian? Obviously, this was the worst, most challenging, most ubiquitous, most vital mission that was entrusted to the people of the culture. We would rather say: the "workers of the culture". These idealistic masters who started building stone after stone the edifice of the Albanian cultural identity. It had to be proved first that as we are alike in dignity as diverse we are in culture. So the great work of these illuminators in digging the roots of this identity initiated. They had to dig up the land from which the pillars of the identity edifice would grow.

The first pillar: **The Albanian language**, the first dialectical vocabulary of which was collected and published by Father Benedict Dema o.f.m.

The second pillar: **The Epic of the Kreshniks**, wich was assembled, organized and published by Father Benardin Palaj o.f.m.

The third pillar: **The Codes and the statutes**, the most important of which "The Code of Lekë Dukagjini", was assembled and organized by Father Kostandin Shtjefën Gjeçov o.f.m.

The fourth pillar: **National Tales**, assembled, organized and published by Father Donat Kurti o.f.m.

On these four pillars, we Albanians of the new century, could build our cultural temple which distinguishes us from the others.

³ Part of the southwestern Albanian region

⁴ Popovci, Syrja. Burimet për studimin e Kanunit të Lekë Dukagjinit, in: Studime për Epokën e Skënderbeut, vëll. 3 (Tiranë, Akademia e Shkencave e RPS të Shqipërisë-Instituti I Historisë, 1989), 112-139, 140-170; A. Luarasi, E drejta në shtetin e Skënderbeut, Studime për Epokën e Skënderbeut, vëll. 3 (Tiranë, Akademia e Shkencave e RPS të Shqipërisë-Instituti I Historisë, 1989), 33-53; Fjalori Enciklopedik Shqiptar, vëll. 2 (Tiranë: Akademia e Shkencave e Shqipërisë, 2008), 1108-1109; Robert Elsie, A Dictionary of Albanian Religion, Mythology, and Folk Culture (London: C. Hurst & Co. (Publisherss Ltd.), 146-149

B. The efforts for the second edition

The second unpublished edition of the Lekë Dukagjini Code was undertaken again by the Franciscan Province of Albania, which had the right and enjoyed the legacy of the rights to the text.

The reasons for this new publication were two: The first, because the 1500 copies of the first circulation of 1933 had finished. And the second, because there were performed some legal interventions and there had been made some technical corrections to them, which had escaped unnoticed in the "hustle" of the first edition.

However, the whole problem of this operation (if there was any harm) was time. The autumn of 1944 was undoubtedly the most appropriate time for the confirmation of the famous latin saying "Inter arma, silent musae"⁵

To make the serious attempt to realize the second edition even clearer, we present as follows, untouched the Preface to this publication prepared by Father Benedict Dema o.f.m in Shkodra on August 7, 1944.

"Past the 1500 copies of the first edition (1933), are about to begin with the second edition of "The Code of Lekë Dukagjini ", a collection of zealous, diligent and exemplary work done by Father Shtjefen K. Gjeçov.

This second edition has come out different from the first one in many aspects: not only the content with more than a third of the foreground, sorted with the system of juridical science, criticized among the drawbacks, which might have had first the publication, complemented with records and annotations and footnote additions.

Father Gjeçovi, that was truly fond of this masterpiece of his, has continually assembled materials from the people until the last days of his life, and has marked it in the white edges of an excerpt of the periodical "Hylli i Dritës"⁶ year I-V (1913-1914, 1921-1924), moreover there have been added several paragraphs, even several titles forgotten by him in the publication published in the aforementioned periodical (afterwards also in the first publication of the work), as well as a few paragraphs, various marks and notes, which the undersigned has found while browsing all the manuscripts left by Father Gjeçov and saved in the Archives of the Franciscan Province of Shkodra. There are only a few paragraphs, that I have added in the text of this publication. There have also been added some remarks and worthy reviews, which have been firstly risen by the Italian edition of "Qandrës së Studimevet për Shqipnin"⁷ in Rome (No. 2) in 1941.

The whole text is systematically sorted in the form of a code, by removing idle repetitions, by changing places to paragraphs, chapters and different parts, by removing some pieces opposite to others. Otherwise, the content of the first edition, enriched by the author's manuscripts, as it was said, has remained totally unchanged as of the previous own form. The legal arrangements of the "Code" were carefully performed by Dr. Emid Tedeskin.

⁵ Meanign: "Where there are weapons, the muzzles are silent"

⁶ Meaning "Star of the Light"

⁷ The Center for the Studies of Albania"

*In most of the notes - like those of the first edition, as well as the ones added - we have followed the form of the Italian edition, that is, the calls made from the obsolete researchers have now been brought to light by works of the present day with a perfect form. The texts of the major Greek and Latin authors and of the aged jurists have been controlled over the most recent critical editions, which are in the hands of the researchers. The texts of the Greek writers have been brought, where possible, into original languages, and immediately after, to make it easier for some readers, attached the respective Albanian translation. For those authors, whose works are rarely and hardly found, we have marked the most recent edition of classical work by Bruns Mommsen, *Fontes Juris Romani Antiqui*, that contains those texts. Immediately after the text of the "Code" we have put a list these works. We have left again those few notes of the first edition, that the Italian edition had completely removed, either because they did not see any link with the respective text, or because did not find them among critical publications, have been opted for review, a slower control will probably find afterwards the rarer authors, for us anonymous today, in the notes of A. Gjeçov, who certainly did not invent them.*

I have changed and enriched furthermore even the Appendix of the first edition. In the second edition I have distinguished two Appendixes at the end of the volume, the first: Special decisions and Codes (chronologically ordered), - Second Appendix: Variants of the "Code of Lekë Dukagjini" (sorted at the end of the text of this publication, to whom they give a clarification). Among the two appendixes I have added what has been found in the first edition and I have added many other pieces, extracted mostly from the articles of F. Bernardin Palaj o.f.m.. and F. Marin Sirdanit o.f.m.. published at the periodical "Hylli i Dritës".

In this way, we remember that not only have we brought into the light a much more worthy edition for the great works of F. Shtjefën K. Gjeçov in the national folkloric field, who with the publications of this work has given the nation the greatest service – because without it we would have no historical-legal personality among other nationalities; but at the same time, with this publication we have placed in the hands of the Albanian or foreign readers and researchers an Albanian folkloristic work, where the Albanian world can proudly look at "the seal of its generous genesis", the noble sense of its people for the righteousness, as well as the smart psyche of the forefathers in the practical regulation of the social endeavor and of the different events, often intertwined, of the common life within the family and within communions and tribes; While the other civilized world can see that "what the small Albanian nation has achieved for the great cultural activities and specially to preserve their personality as Illyrian, Arbër and Albanian.

Who does not know this "Code", not only does not understand the Albanian, but also will never know how to lead and rule."⁸

The second edition would also include some notes from lawyer Emil Tedeschini, who will explain to younger readers the interventions made on the first edition. Doctor of Law Emil

⁸ From the personal archive of advocate Emil Tedeschin in Shkodër

Tedeschini would complete his work on the text of the Code of Lek Dukagjini in Shkodra on November 1, 1944.

Lawyer Tedeschini, an example of a high degree of responsibility, wrote his enclosure notes below:

In " Parathanje "⁹ and " Te Him"¹⁰ composed in this " Code " by Father Fishta and Father Dema emerges in light the importance, of the work of Father Gjeçov in the national and cultural view. For an Albanian jurist, whether a judge or an advocate, the Code deserves special interest, not only historically but practically, because the application of the codes, that we have obtained from the foreigners, will be better, if the judge masters these Codes, that for centuries our people have known them as their own law and has already dealt with its legal mentality. For that reason, it is necessary that the legislative takes in consideration these Codes, to which belongs the burden of the passage from the old time to the new times. Therefore, among those few publications, they have come up to date in the field of justice in Albania, the Code of Lekë, for his purely Albanian character, takes undoubtedly the first place.

The sudden death of Father Gjeçov, sadly took away from him the opportunity to review his manuscripts, so the numerous materials gathered by him remained unsorted by the legal criteria. To perform this work the Franciscans Entities of Shkodër charged the undersigned, who gladly accepted the task to prepare this second edition on the legal sphere.

With these lines I would like to inform the readers about the main changes, which have been performed in this elaboration, regarding the content and the form in comparison with the first edition.

1. Regarding the content there have been omissions and additions:
 - a. The omissions imply the repetitions and contradiction, as well as the transfer of some expressions from the text to notes. Generally, the omissions are minor and made for need of unavoidable logic.
 - b. The additions (except those of Father Dema) imply the words put at the beginning of each article, to make it easier for the reader to understand the meaning of the Codes. Some of these titles have been found in the text of the first edition, they are really short, to cover the meaning of the whole article and not to contain foreign words, when those can be substituted with Albanian words. What is being written for the articles applies also to the titles of part, titles, headings, and subdivisions.
2. Regarding the form the have been made fundamental changes:
 - a. The paragraph was removed as reference unit from beginning till the end, as in the first edition, but the article, as this is in use in our codes. The articles are composed either of one or more indents, and those are not numbered but are recognized by the reader himself. Many

⁹ Preface

¹⁰ Introduction

articles describe alignments of objects or sentences: in this case, the numerical or Latin alphabet is used, as the simplest.

b. The whole material is divided into two parts: The Codes that regulate the relationship between the private entities are placed in the first part, the Codes that regulate the relationship with or between those entities, known as the authorities, are placed in the second part, in analogy with the differences, made according to the jurisprudence. But even in the field of this knowledge, no distinct differences can be made, so for the sake of understanding and of the interconnection, some Codes regarding the private sphere are placed in the second part.

c. Each part has the almost same number of articles (the first 184, the second 182, and each one is divided in four titles, the titles include the headings and those are divided, where is asked, in smaller portions, that are the subdivisions A, B, C, etc.

d. Although they have been modeled from the recent codes and laws, these have not been followed blindly, in order not to underestimate the particularities of the Code, but also because its material contains Codes having not only purely legal character.

The purpose of this coding is not only to reduce the flaws of the first edition, but also to add to the Albanian intellectual public the interest for this important part of our culture. We are at the beginning of the work, since there are still many issues to be completed, which can be summarized in the following points:

1. The need also to also summarize the customs of the Toskë¹¹;
2. The need to distinguish Codes of a purely legal nature from the rules of goodness, from doctrines or traditions;
3. The need to distinguish the general Codes from the local ones;
4. The need to distinguish the old Codes from the recent ones;
5. The need to distinguish the Codes according to their value, meaning, which ones deserves special attention from the legislative, and which ones are no longer compatible with the pace of progress.
6. We wish that many of our intellectuals, that tried or that are trying for the good of the people, to find here an area of action in the interest of the national culture.

C. The efforts for the third edition

The Franciscan fathers, even after a severe period of repression, imprisonment, torture and executions, had the illusion that the time for reprinting the Code of Lekë Dukagjini in 1958 had come again.

¹¹ The south region of Albania

They seemed to continue believing that the communist regime would allow their efforts to the benefit of national culture, which was just an unfortunate illusion.

The text of the missing third edition in the Albanian language would not have any substantial changes in relation to the missing second edition.

In the front of this third edition was added:

F. SHTJEFEN K. GJEÇOV O.F.M.
LEKË DUKAGJINI CODE
THIRD EDITION
WITH INTRODUCTION, ADDITIONS AND COMPLEMENTS BY
F. BENEDIKTIT DEMA O.F.M.
CODED FROM Dr. EMID TEDESCHINI adv.

The Franciscan Province of Albania preserves for itself each right for reprinting and translating into foreign language

SHKODËR, 1958

D. Post scriptum

Meanwhile and in the midst of these failed attempts was made the integral edition of the text of the Code of Lek Dukagjini in Italy and in Italian.

The Italian edition was supported by the first version of the text translated into Italian by Father Pål Dodë O.F.M., but viewed, corrected and edited (not only as of the language, but as of the legal work) by Zef Schiro and others.

Zef Schiro also wrote "Parathanjen"¹², and Frederick Patetta "Himjen"¹³ of this rare publication.

This publication was published in 1941 by the "Qandra e Studimevet për Shqipninë"¹⁴ at the Italian Royal Academy (No. 2), with the care of Father Gjergj Fishta and Zef Schiro.

The publication has the following headlines: "Reale Accademia d'Italia. Centro Studi per l'Albania. P. Stefano Cost. Gjeçov, Codice di Lek Dukagjini ossia Diritto consuetudinario delle Montagne d'Albania. Tradotto dal P. Paolo Dodaj. A cura di P. Giorgio Fishta e Giuseppe Schiro. Introduzione di Federico Patetta. Roma, Reale Accademia d'Italia 1941"¹⁵.

¹² Preface

¹³ Introduction

¹⁴ The Center for the Studies of Albania

¹⁵ *Code of Lek Dukagjini ie Conscious Law of the Mountains of Albania. Translated by F. Paolo Aggiungi. Under the care of F. Giorgio Fishta and Giuseppe Schiro. Introduction of Federico Patetta. Roma, Royal Academy of Italy 1941 "*.

The publication is quite well presented in the outline, with clear, clean prints, with very good paper, in a 24x16cm format.

It includes two pages of Zef Schiro's "Parathanje"¹⁶ (pp. 5 and 6), 41 pages of "Himje"¹⁷ (pp. 7-47) by Frederick Patetta; Then follows the "Conspectus Auctorum quos in notis saepe proferimus" (Author's preface, mentioned in the notes and comments of the text) p. 43.

And from page 45 to 200 there is the Italian translation of the text of the "Code", after which, as in the first Albanian edition, comes the "Supplement" translated by Zef Sciro (pp. 281-319) and finally " Diftosji: i librit"¹⁸ (pp. 321-327).

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¹⁶ Preface

¹⁷ Introduction

¹⁸ Table of contents