

OCCUPATION OF BOSNIA AND HERZEGOVINA

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Abstract: *The extensive diplomatic action with which the Austro-Hungarian monarchy began in 1875 ultimately resulted in the Berlin Congress and the acquisition of a mandate to occupy Bosnia and Herzegovina. This act led to a series of changes, both in terms of the international legal position of the occupied territory, and in internal issues. The author deals with the circumstances that preceded the occupation of Bosnia and Herzegovina, the way in which it was carried out, as well as the internal changes that it led to, placing special emphasis on the organization of government and the legal system.*

Key words: *occupation, Bosnia and Herzegovina, government organization, legal system.*

1. DIPLOMATIC STRUGGLE OF AUSTRO-HUNGARY
FOR BOSNIA AND HERZEGOVINA

Seeing in the uprising that broke out in 1875 the possibility of realizing their own interests regarding Bosnia and Herzegovina, Austro-Hungary launched an extensive diplomatic action. As early as December 30, 1875, the Austro-Hungarian Minister of Foreign Affairs, Count GyulaAndrássy, sent a diplomatic note to the great European powers, the content of which primarily referred to the need for appropriate reforms in Bosnia and Herzegovina: freedom of religion, improving the economic situation of peasants, as well as the abolition of the lease.² In addition, the establishment of appropriate bodies to oversee the implementation of these reforms was sought. After obtaining the consent of the great powers, the memorandum was sent to the Turkish government on January 31, 1876. Although it had the character of a recommendation rather than an ob-

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2 David Haris, *Diplomatic History of the Balkan Crisis of 1875-1878. The first year* (London: Humprey Milford, Oxford University Press, 1936), 132-287; Vasilj Popović, *Istočno pitanje* (Beograd: G.Kon, 1928), 138; Grgur Jakšić, *Bosna i Hercegovina na Berlinskom kongresu* (Beograd: Naučna knjiga, 1955), 10-11.

ligation, it was accepted by Turkey, due to internal problems and pressure from the great powers. However, the insurgents rejected the memorandum.³ The so-called Berlin Memorandum of Austro-Hungary, Germany and Russia signed on May 12, 1876.⁴ Due to the opposition of England, this act did not give the desired results in practice.⁵

The next diplomatic step of Austro-Hungary, in which the outlines of its pretensions towards Bosnia and Herzegovina were already visible, was the agreement with Russia from the Reichstadt from June 26, 1876.⁶ The agreement stipulates that if Serbia-Montenegro wins the war against Turkey, „*the forces will act together to resolve the consequences of the war. They will not give priority to the creation of one great Slavic state, but Montenegro and Serbia will be able to join - the first Herzegovina and one port on the Adriatic Sea, the second some parts of Old Serbia and Bosnia. However, similarly, Austria will have the opportunity to annex Turkish Croatia and some border areas of Bosnia in accordance with the agreed route.*”⁷ It can be seen from the above that Austro-Hungary has unequivocally shown in which direction its expansionist politics.

The first great diplomatic success of the Monarchy was the Secret Austro-Russian Convention of January 15, 1877.⁸ Committing to neutrality in the event of a Russo-Turkish war (Article 2), Austria-Hungary was given the right to occupy Bosnia and Herzegovina by this convention: „*His Majesty the King of Austria, etc., the King of Hungary, reserves the right to decide on the time and manner of occupation of Bosnia and Herzegovina by his troops.*”⁹ Article 9 also hints at the conclusion of a special, supplementary convention.¹⁰ It is about the so-called The Budapest Convention, which stipulates that: „*The High Contracting Parties ... have agreed to limit their eventual annexations to the following territories: the King of Austria, etc. and the King of Hungary: to Bosnia and Herzegovina, excluding the part between Serbia and Montenegro, on which the two governments reserve the right to agree when the time comes to decide.*” The goal that the signatories wanted to achieve with the Supplementary Convention

3 Bune i ustanci u BiH u XIX veku (Beograd: 1952), 153-154.

4 Lazar Vrkić, *Pojam i biće srpske nacije* (Novi Sad: Izdavačka knjižarnica Zorana Stojanovića, 2004), 361-364.

5 Mustafa Imamović, *Pravni položaj i unutrašnje - politički razvitak BiH od 1878. do 1914* (Sarajevo: Magistrat, 2007), 11; Jakšić, *Bosna i Hercegovina na Berlinskom kongresu*, 13.

6 Vladimir Čorović, *Ilustrovana istorija Srba (šesti deo)* (Kragujevac: Imperija knjiga, 2011), 14.

7 Vrkić, *Pojam i biće srpske nacije*, 365-366.

8 *Ibid.*, 367-374. Although the convention is dated January 15, it was signed only on March 18, 1877. Jakšić, *Bosna i Hercegovina na Berlinskom kongresu*, 18.

9 Art. 7. Secret conventions.

10 „The consequences of the war and territorial alterations that would be a consequence of the eventual disintegration of the Ottoman Empire will be regulated by a special and simultaneous convention.” - Art. 9. Secret conventions.

it referred to the elimination of a possible conflict of interest of the interested states. An important difference between the two simultaneously signed conventions was the degree of rights guaranteed to Austria-Hungary in relation to Bosnia and Herzegovina. While the first convention gave the Monarchy the right to occupy Bosnia and Herzegovina, the second already mentions its annexation.¹¹

The following year, during the signing of the San Stefano Peace Treaty between Russia and Turkey, on February 19 (March 3), 1878, Bosnia and Herzegovina again came to the center of international interest. It was referred to in Art. 14.¹² The fact that neither the occupation nor the annexation was mentioned in the said article represented an obvious deviation of Russia from the previously reached agreement with Austro-Hungary, formulated in two conventions. Therefore, in order to realize its expansionist interests, the Monarchy had to secure support from other European powers. She got it primarily from Germany. Apart from her, England, which in the past mostly rejected the Austro-Hungarian proposals, has now decided to provide assistance. The reason for such a sudden change in the course of English policy probably lay in the fact that Russia approached Constantinople and the seas, which directly clashed with its interests in the Middle East.¹³

Due to the new conflict of interest, the question of the sustainability of the San Stefano Peace Treaty itself was raised. Ultimately, this led to the holding of the Berlin Congress in 1878.

2. BERLIN CONGRESS AND OCCUPATION OF BOSNIA AND HERZEGOVINA

In the period from June 13 to July 13, 1878, a congress of great powers was held in Berlin. Even before the congress, the English government and Bismarck advised Count Andrassy that Austro-Hungary should take over Bosnia and Herzegovina by military force, which would bring the great powers to a final act. However, Andrassy rejected the proposal.¹⁴

At the eighth session of the Congress held on June 28, 1878, the San Stefano Peace Treaty was on the agenda, more precisely its Art. 14. which referred to Bosnia and Herzegovina. All forces present, with the exception of the Ottoman representatives, supported the British proposal to give Austro-Hungary a

11 Art. 1. Supplementary conventions.

12 See the San Stefano Peace Treaty in: Vrkatić, *Pojam i biće srpske nacije*, 375-389.

13 Imamović, *Pravni položaj i unutrašnja - politički razvitak BiH od 1878. do 1914*, 12.

14 Ferdo Šišić, *Okupacija i aneksija Bosne i Hercegovine* (Zagreb: Matica hrvatska, 1938), 59.

mandate to govern Bosnia and Herzegovina.¹⁵ It was only after pressure from Germany and England that the Ottoman representatives read their government's statement on the status of Bosnia and Herzegovina on 4 July.¹⁶

On the day of signing the agreement, the Turkish proxies received an order from Constantinople to change Article 25 of the agreement in such a way as to predict that the occupation would be temporary, and that it would depend on a direct agreement between Porte and the Vienna government. In case the Congress does not agree to such a change, the Turkish representatives were instructed to ask all proxies, or at least the Austro-Hungarians, for a written statement stating that. An alternative in case of disagreement with such a statement was to be a note on the inviolability of sovereignty and the temporary nature of the occupation, which Turkish representatives would submit to Congress before signing the agreement. Should the notification not be received by the participants, the Turkish representatives were ordered not to sign the contract.¹⁷

The fact that the contract had already been printed and submitted to the proxies for signing prevented any changes in its content. That is why the Turkish proxies decided to talk to Andrašići. The result of that conversation was a statement signed by Austro-Hungarian representatives: „*At the request of the Turkish plenipotentiaries on behalf of their government, the Austro-Hungarian plenipotentiaries declare on behalf of the government of His Imperial and Royal Apostolic Majesty that to suffer any violation of the occupation, referred to in the article of the agreement on those provinces, which is to be signed today, that a previous agreement on the details of the occupation will be concluded between the two governments immediately after the end of the congress.*”¹⁸

The decision on the occupation was formulated in Article 25 of the Berlin Agreement: „*The provinces of Bosnia and Herzegovina will be occupied by Austria-Hungary, which will govern them. Since the government of Austro-Hungary does not want to take over the administration of the Novi Pazar Sandzak, which is located between Serbia and Montenegro in the southeast direction to Mitrovica, the Ottoman administration will remain in it; however, in order to ensure the maintenance of the new political situation, as well as the freedom*

15 Jakšić, *Bosna i Hercegovina na Berlinskom kongresu*, 53; Ćorović, *Ilustrovana istorija Srba (šesti deo)*, 18.

16 „... The Imperial Turkish Government took seriously the opinion of the Congress on suitable means for restoring peace in Bosnia and Herzegovina. It places full confidence in this and reserves the right to reach an immediate and prior agreement in this regard with the Vienna Government.” Jakšić, *Bosna i Hercegovina na Berlinskom kongresu*, 57.

17 *Ibid.*, 64.

18 Listed according to: *Ibid.*, 64-65. The contents of the said written statement, which was initially a secret, were published by the French Minister of Foreign Affairs, Gabriel Annothe, in October 1908. Imamović, *Pravni položaj i unutrašnje-politički razvitak BiH od 1878. do 1914*, 13.

and security of traffic, Austro-Hungary was given the right to keep garrisons there and to have military and trade routes in the entire area of this part of the old province of Bosnia. In that sense, Austria-Hungary and Turkey will agree on the details.¹⁹

As can be concluded from the above, Article 25 deals not only with the issue of Bosnia and Herzegovina, but also with the Novi Pazar Sandzak, which envisages the dual role of Austro-Hungary. On the one hand, the Monarchy will occupy and manage Bosnia and Herzegovina, while on the other hand, it refuses to take over the administration of the old Bosnian province of the Novi Pazar Sandzak. However, in order to preserve the „new political situation”, it retained the right to keep its military garrisons in the area. In addition, it is envisaged that the Austro-Hungarian and Ottoman governments will subsequently agree on the details that should have arisen from this agreement. Thus, taking the fate of Bosnia and Herzegovina into their own hands, the great powers committed a flagrant violation of international law by denying the population of Bosnia and Herzegovina the right to self-determination.²⁰

After the work of the Berlin Congress ended, Austro-Hungary began intensive preparations for the implementation of Article 25. In the proclamation on the occasion of the entry of Austro-Hungarian troops into the territory of Bosnia and Herzegovina, the Tsar pointed out that they were friendly troops whose goal was to bring order and peace. Despite the promise that the existing customs and laws would not be touched, and that the country's revenues would be used exclusively for its needs, and unpaid taxes would not be collected, when the Austro-Hungarian army began entering Bosnia on July 28, 1878, it encountered strong resistance of the domestic population.²¹ Despite that, her troops managed to enter Sarajevo on August 19.²² The occupation of Herzegovina was completed the following month. On that occasion, Austro-Hungarian troops also disarmed 6,750 insurgents, who had previously successfully fought for liberation from Turkish rule for three years.²³

One year after the signing of the Treaty of Berlin, more precisely on April 21, 1879, the so-called Constantinople Convention. It is a bilateral international

19 Art. 25. of the Berlin Treaty see in: Vrkatić, *Pojam i biće srpske nacije*, 412. See also R.B. Mowat, *Select Treaties and Documents to Illustrate the Development of the Modern European States – System* (Oxford: Oxford University Press, 1915), 79-83.

20 Ante Malbaša, *Bosansko pitanje i Austro-Ugarska u svijetlu političkog dnevnika J.M.Baernreithera* (Sarajevo: Bosanska pošta, 1933), 33.

21 On that occasion, Austro-Hungary hired about 200,000 soldiers and officers, while the insurgent army had about 93,000 fighters. Dženana Čaušević, *Pravopolitički razvitak Bosne i Hercegovine* (Sarajevo: Magistrat, 2005), 195.

22 Avdo Sućeska, *Istorija države i prava naroda SFRJ* (Sarajevo: Svjetlost, 1979), 191.

23 *Bune i ustanci u BiH u XIX veku*, 111.

agreement by which the Porte and the Monarchy agreed on the details related to the occupation. The convention confirmed the sultan's sovereignty over Bosnia and Herzegovina, which the Ottoman representatives had insisted on since the signing of the Berlin Treaty. On the other hand, the temporary occupation was not mentioned on this occasion. In addition to these, certainly the most important issues, the Constantinople Convention guarantees a number of rights and freedoms (Art. 2), it is envisaged that Bosnia and Herzegovina's revenues will be used only for its needs (Art. 3) that Ottoman money will remain in use. 4) etc. The issue of occupation of the Novi Pazar Sandzak is regulated by Art. 7-10.²⁴

3. ORGANIZATION OF GOVERNMENT IN BOSNIA AND HERZEGOVINA AFTER THE OCCUPATION

After the occupation of Bosnia and Herzegovina, the question arose as to who these areas belonged to and how they should be managed? Despite the fact that the conquest of these provinces came through the joint military engagement of both parts of the Monarchy, the issue of their administration could not be treated as common. The reason for that was the Austro-Hungarian settlement from 1867, which decisively defined common affairs - finance, diplomacy and the army. These affairs were managed by joint ministers. Therefore, Bosnia and Herzegovina in some way belonged to Austria and Hungary.²⁵

As the question of who and how would exercise administrative power in Bosnia and Herzegovina was raised at the very beginning of the occupation, on September 16, 1878, a decision was made to establish a special commission that was to exercise that power on behalf of the joint government. The commission consisted of representatives of three joint ministries (army, foreign affairs and finance) and one representative each of the Austrian and Hungarian governments. The following year, on February 26, the Tsar transferred the administration of Bosnia and Herzegovina to the joint Minister of Finance, within whose ministry a special bureau for the affairs of Bosnia and Herzegovina was established. Beginning on March 11, 1879, the Bosnian Bureau took over the management of all executive affairs in Bosnia and Herzegovina, acting as a body superior to the Provincial Government. On the other hand, the Bosnian commission retained only an advisory role.²⁶

24 See: *Balkanski ugovorni odnosi 1876-1996, I mom (1876-1918)*, ured. Momir Stojković (Beograd: Službeni glasnik Savezne Republike Jugoslavije, 1998), 151-152.

25 Leon Bilinski, *Bosna i Hercegovina u uspomenama Leona Bilinskog* (Sarajevo: Institut za istoriju u Sarajevu, 2004), 48.

26 Dževad Juzbašić, „O nastanku paralelnog austrijskog i ugarskog zakona o upravljanju Bosnom i Hercegovinom iz 1880. godine”, *Politika i privreda u Bosni i Hercegovini pod austrougarskom upravom*,

As a result of long negotiations between the governments of Austria and Hungary on the manner in which Bosnia and Herzegovina would be included in the system of dualistic rule, on February 22, 1880, the Law on the Administration of Bosnia and Herzegovina was passed in the parliaments of both countries.²⁷ The law stipulates that Bosnia and Herzegovina, as a separate area, is managed by the Joint Ministry of Finance, while the Joint Government supervised the interim administration.²⁸ The Bosnian Bureau, which existed within the joint Ministry of Finance, continued to govern Bosnia and Herzegovina through the Provincial Government in Sarajevo.

The provincial government for Bosnia and Herzegovina was formed by an order of October 29, 1878, and officially began its work on January 1, 1879.²⁹ On the one hand, in its work it was subordinated to the Joint Ministry of Finance, while on the other hand it represented the supreme administrative body for administrative-territorial bodies in Bosnia and Herzegovina (district areas, district offices and county offices).³⁰

The way in which the work in the Provincial Government was organized was initially similar to the organization of the Department for Bosnia and Herzegovina within the Joint Ministry of Finance. Thus, each department decided cases that were under its jurisdiction, while cases of a political nature were resolved in the Presidium of the Provincial Government.³¹ Initially, the Provincial Government had three departments: for internal administration, for justice and for finance. As early as 1893, the Construction Department was founded. On that occasion, the official names of the existing departments were partially changed.³²

At the head of the Provincial Government was the head of the Provincial Administration, who since 1912 has held the title of Provincial Superintendent.³³ Both civil and military (occupation) aspects of Austro-Hungarian rule in Bosnia

knjiga CXVI (Sarajevo: Akademija nauka i umjetnosti, 2002), 11-47. See also: Ferdo Hauptman, „Djelokrug austrougarskog Zajedničkog ministarstva finansija“, *Glasnik arhiva* 3 (1963): 16; Hamdija Kapidžić, *Hercegovački ustanak 1882. godine* (Sarajevo: Veselin Masleša, 1958), 23; Drago Borovčanin, *Izgradnja bosansko-hercegovačke državnosti u uslovima NOR-a* (Sarajevo: Svjetlost, 1979), 32.

27 See more about that: Juzbašić, „O nastanku paralelnog austrijskog i ugarskog zakona o upravljanju Bosnom i Hercegovinom iz 1880. godine“, 11-47.

28 *Ibid.* See also: Imamović, *Pravni položaj i unutrašnje-politički razvitak BiH od 1878. do 1914.*, 32; Borovčanin, *Izgradnja bosansko-hercegovačke državnosti u uslovima NOR-a*, 32; Hauptman, „Djelokrug austrougarskog Zajedničkog ministarstva finansija“, 18-19; Omer Ibrahimagić, *Državno-pravni razvitak Bosne i Hercegovine* (Sarajevo: Vijeće Kongresa bošnjačkih intelektualaca, 1998), 24.

29 „Bosansko-hercegovačke novine“ 35, December 29, 1878.

30 Edita Radosavljević, *Zemaljska vlada za Bosnu i Hercegovinu – Sarajevo 1878-1890* (Sarajevo: Društvo arhivskih radnika Bosne i Hercegovine, 1989), 5.

31 *Ibid.*

32 1. Political-administrative department, 2. Finance department, 3. Judicial department, 4. Construction department. *Ibid.*

33 *Ibid.*, 6.

and Herzegovina were concentrated in his hands. The fact that the military and civilian authorities in the occupied provinces were not separated is a specific feature of the internal organization of Bosnia and Herzegovina, considering that in no other Austro-Hungarian province could the provincial leaders perform the function of military commander at the same time.³⁴ This was, among other things, the reason why high-ranking military personnel were elected to the position of the country's head.³⁵ At the same time, the head of state was responsible for the affairs of the civil administration before the joint Minister of Finance, and for the issues of military administration before the Ministry of War.³⁶

In addition to the head of state, the government also consisted of civilian *adlatus* and department heads. The introduction of the civil *adlatus* function came under the influence of Benjamin Kállay. At the session of the Joint Government held on June 3, 1882, in an extensive memorandum, Kalaj explained in detail the need to implement certain reforms in Bosnia and Herzegovina that would be aimed at strengthening the role of the joint Ministry of Finance.³⁷ Among other things, his proposal was to introduce the function of "civil *adlatus*", which would take over the affairs of civil administration.³⁸ Since Kalaj was considered the best connoisseur of the situation in the Balkans in the Monarchy, his proposals were accepted, which was confirmed by the imperial decision of July 29, 1882. The order on the authority of the civilian *adlatus* of the head of the Provincial Government for Bosnia and Herzegovina carried out a kind of reform of the administrative system of Bosnia and Herzegovina.³⁹ The reform consisted of a separation of civil and military administration. Namely, at the head of the entire administration was the Provincial Chief, to whom a general was assigned as an assistant to conduct military affairs, while all the affairs of the civil administration were transferred to the civilian *adlatus*.

With the arrival of Leon Bilinski to the position of joint Minister of Finance on February 19, 1912, certain reforms in the system of Bosnian-Herzegovinian administration took place again. Namely, submitting a memorandum to the emperor, the then head of state Oskar Potiorek made certain proposals regarding the reorganization of the administration in Bosnia and Herzegovina. The changes

34 Sućeska, *Istorija države i prava naroda SFRJ*, 192.

35 The function of the Land Chief was performed by: Josip Filipović (1878), Herzog Württemberg (1878-1881), Hermann Dahlen (1881-1882), Johann Appel (1882-1903), Eugen Albori (1903-1907), Anton Edler (1907-1909), Marijan Varešanin (1909-1911), Oscar Potiorek (1911-1914).

36 Borovčanin, *Izgradnja bosansko-hercegovačke državnosti u uslovima NOR-a*, 32.

37 Kapidžić, *Hercegovački ustanak 1882. godine*, 323-325.

38 The function of civil *adlatus* was performed by: Baron Fedor Nikolić (1882-1886), Baron Hugo Kutscher (1886-1904), Baron Isidor Benko (1904-1912), Baron Julius Rohányi (1912-1913), Nikola Mandić (1913-1915).

39 Collection of Laws and Orders for Bosnia and Herzegovina from 1882, 313-315.

proposed by Potiorek concerned the position of the head of the provincial government, then the attraction of an autochthonous element for cooperation with the provincial government, as well as the division of competencies between the joint ministry of finance and the provincial government. He emphasized that the transition from the former absolutist to the constitutional rule requires the necessary changes in the executive itself.⁴⁰

What Potiorek especially insisted on was the abolition of the function of civilian *adlatus* by amending the order from 1882, and to introduce instead the position of „vice president of the provincial government” who would be directly subordinate to the head of the provincial government. In addition, he thought that it would be convenient to elect someone from the local population to that position, because in that way the mistrust that exists between the Parliament and the Provincial Government, which is also the main cause of their poor cooperation, would be overcome. He further insisted that part of the powers of the joint finance minister be transferred to the provincial government, which would be in line with the first paragraph of the national constitution, which governs the country and enforces laws, while the ministry should exercise only supreme supervision. . The culmination of his demands was certainly to attend the sessions of the joint ministers in those cases when issues concerning Bosnia and Herzegovina were discussed. At the end of his memoir, Potiorek emphasized that the members of the Parliament have the same opinion on the mentioned issues, and that the proposed changes would be welcomed in Bosnia and Herzegovina itself.⁴¹ Therefore, it can be noticed that the demands of Oskar Potiorek regarding the reorganization of the administration of Bosnia and Herzegovina undoubtedly moved in the direction of strengthening the position of the head of state, at the expense of weakening the role of the joint Minister of Finance.

As a result of Potiorek’s commitment, at the session of joint ministers held on March 14, 1912, the Draft Decree on the Power of the Provincial Head in Bosnia and Herzegovina and his Deputy was adopted.⁴² This decree abolished the function of the civil *adlatus*, and the management of the administration of Bosnia and Herzegovina was transferred to the head of state. The head of state remained subordinate to the joint finance minister, but his competencies were now much broader. He was the one who chaired the sessions of the provincial government, appointed all the officials and led the entire policy in Bosnia and

40 Hamdija Kapidžić, „Previranja u austro-ugarskoj politici u Bosni i Hercegovini 1912. godine”, *Glasnik Arhiva i društva arhivista Bosne i Hercegovine* (1961): 225-226.

41 *Ibid.*, 226-227; Dževad Juzbašić, „Aneksija i stavovi austrougarskih vojnih krugova prema upravljanju Bosnom i Hercegovinom”, *Politika i privreda u Bosni i Hercegovini pod austrougarskom upravom, knjiga CXVI* (Sarajevo: Akademija nauka i umjetnosti, 2002), 306-307.

42 Bulletin of Laws and Orders VI / 1912, 113-114.

Herzegovina. In addition, at the request of Potiorek, there was a division of responsibilities between the joint Minister of Finance and the provincial government, with all branches of government transferred to the government, with the reservation that the ministry as the supreme authority still retains the right to control.⁴³ Also, the head of the provincial government, as an army inspector, received the supreme military authority in the area of the 15th and 16th Corps, where he was directly subordinate to the emperor. Thus, the exercise of the highest military and the highest civilian authority belonged to one person - the Landlord. This order also introduced the position of deputy head of state, who represented the highest civil servant and who worked on the instructions of the head of state.⁴⁴

The reorganization of the administration in Bosnia and Herzegovina also led to changes in relation to the departments that made up the provincial government. Namely, by the Order on the Organization and Power of the Provincial Government for Bosnia and Herzegovina⁴⁵, approved by the Tsar on May 29, 1912, the number of departments was increased from four to six: political-administrative, financial, prejudicial, economic, construction and worship departments, and teaching.⁴⁶

The communiqué issued on the occasion of the mentioned administrative changes emphasized that the joint Ministry of Finance was guided by the intention to satisfy the wishes of the BiH legislation for the expansion of autonomy in the country.⁴⁷ This organization of the Provincial Government was maintained until the end of the Austro-Hungarian rule in Bosnia and Herzegovina.

When it comes to the administrative-territorial division of the country, it remained the same as it was during the Turkish rule. Bosnia and Herzegovina was divided into six district districts headed by district heads. The district districts were divided into district offices headed by county heads. The offices were further divided into county offices with branch managers headed by. There were initially 48 county offices, but their number later increased to 54. In contrast to the county offices, the number of county offices was reduced from 24 to 23 over time.⁴⁸

43 Juzbašić, „Aneksija i stavovi austrougarskih vojnih krugova prema upravljanju Bosnom i Hercegovinom“, 307-308. See also: Azem Kožar, „Uloga civilnog adlatusa u upravljanju Bosnom i Hercegovinom“, *Zbornik radova Ustavno-pravni razvoj Bosne i Hercegovine (1910-2010)* (Tuzla: Pravni fakultet Univerziteta u Tuzli, 2011): 24.

44 Kapidžić, „Previranja u austro-ugarskoj politici u Bosni i Hercegovini 1912. godine“, 228.

45 Bulletin of Laws and Orders for Bosnia and Herzegovina from 1912, 167-168.

46 Juzbašić, „Aneksija i stavovi austrougarskih vojnih krugova prema upravljanju Bosnom i Hercegovinom“, 309; Radosavljević, *Zemaljska vlada za Bosnu i Hercegovinu – Sarajevo 1878-1890*, 6.

47 Kapidžić, „Previranja u austro-ugarskoj politici u Bosni i Hercegovini 1912. godine“, 228.

48 Radosavljević, *Zemaljska vlada za Bosnu i Hercegovinu – Sarajevo 1878-1890*, 6.

4. THE IMPACT OF CHANGED CIRCUMSTANCES ON THE LEGAL SYSTEM IN BOSNIA AND HERZEGOVINA

Although the Austro-Hungarian government, after arriving in Bosnia and Herzegovina, emphasized its intention to carry out certain reforms in relation to the previous social, economic, political and legal order, this task proved to be more difficult in practice than it seemed at first. A special problem was the way in which the former Ottoman legal system would be replaced by a new Austro-Hungarian one. The Austro-Hungarian government entered this process very cautiously. On the one hand, it received the reception of certain Ottoman regulations; while on the other hand, it approached the independent normative regulation of certain areas.

Of the accepted Ottoman regulations, the most important are the Ottoman Civil Code (Medžela), the Law on Land Possession (Ramadan Law), the Law on Deeds, the Laws on Waqfs, the Commercial Law, etc. In order to modernize some of these regulations were changed over time, and as a result of this process in 1883, two new laws were passed - commercial and bill of exchange.⁴⁹ In addition, Austro-Hungary took over the so-called Ottoman tanzimat legislation (Safer order), then various secular and religious regulations on family, inheritance and waqf law among Muslims.⁵⁰

Unlike civil law, where normative activity was mainly reduced to the reception of existing legal regulations, work in the field of criminal law was much more dynamic. Thus, on September 1, 1879, the Criminal Code came into force, and on January 1, 1881, the Criminal Procedure Code came into force.⁵¹

The more intensive normative activity of the Austro-Hungarian government was related to the process of establishing administrative and judicial power in Bosnia and Herzegovina. In this regard, numerous laws, orders, as well as other legal regulations have been passed.

Thus, although since the establishment of the new government, the aim was to adopt new regulations that would enable the building of the rule of law, the fact that Ottoman regulations remained in force in certain areas until the end of Austro-Hungarian rule cannot be disputed. These are primarily those Sharia regulations that referred to the marital and family rights of the Muslim population.

49 Collection of Laws and Orders for Bosnia and Herzegovina from 1883 (Commercial law 308-439, Amendment law 450-476)

50 Mustafa Imamović, „Pravni system i zakonodavstvo Bosne i Hercegovine 1878-1914”, *Anali Pravnog fakulteta u Beogradu*, 1-3 (1972): 240-241.

51 *Ibid.*, 242.

5. CONCLUSION

By the decision of the Berlin Congress from 1878, Austro-Hungary was entrusted with the mandate to occupy Bosnia and Herzegovina. On that occasion, it was promised in writing that in that way the question of the sultan's sovereignty over this province would not be touched, which was confirmed by the Constantinople Convention a year later. Internally, the occupation led to a series of changes. First of all, the former Muslim Turkish government was replaced by the Catholic Austro-Hungarian one, which resulted in migratory movements of the population. There is a mass emigration of the local Muslim population and the settlement of the foreign Catholic population. Also, a different administrative apparatus has been established. At the head of the Bosnian-Herzegovinian administration was the Provincial Government, which was subordinate and responsible for its work to the Austro-Hungarian Joint Ministry of Finance. In addition, the Austro-Hungarian government worked on changes to the Ottoman regulations that were in force. These changes were most visible in the area of criminal law, as well as regulations concerning the organization of administrative and judicial power.

REFERENCE LIST

Books and articles

- Момир Стојковић уред. „Блакански уговорни односи 1876-1996”, I том (1876-1918), Београд: Службени лист Савезне Републике Југославије, 1998.
- Билински, Леон. *Босна и Херцеговина у успоменама Леона Билинског*. Сарајево: Институт за историју у Сарајеву, 2004.
- Боровчанин, Драго. *Изградња босанско-херцеговачке државности у условима НОР-а*. Сарајево: Свјетлост, 1979.
- Буне и устанци у Босни и Херцеговини у XIX веку, Београд, 1952.
- Вркатаић, Лазар. *Појам и биће српске нације*. Нови Сад: Издавачка књижарница Зорана Стојановића, 2004.
- Гаврановић, Берислав. *Босна и Херцеговина у доба Аустроугарске окупације 1878. године*. Сарајево: Академија наука и умјетности СР Босне и Херцеговине, 1973.
- Ибрахимагић, Омер. *Државно-правни развитак Босне и Херцеговине*. Сарајево: Вијеће Конгреса бошњачких интелектуалаца, 1998.
- Имамовић, Мустафа. „Правни систем и законодавство Босне и Херцеговине 1878-1914“, *Анали Правног факултета у Београду*, бр. 1-3, год. XIX, Београд, 1972.

- Имамовић, Мустафа. *Правни положај и унутрашњо-политички развитак БиХ од 1878. до 1914.* Сарајево: Магистрат, 2007.
- Јакшић, Гргур. *Босна и Херцеговина на Берлинском конгресу.* Београд: Научна књига, 1955.
- Јузбашић, Цевад. „Анексија и ставови аустроугарских војних кругова према управљању Босном и Херцеговином“, *Политика и привреда у Босни и Херцеговини под аустроугарском управом, књига СХVI*, Сарајево, Академија наука и умјетности, 2002.
- Јузбашић, Цевад. „О настанку паралелног аустријског и угарског закона о управљању Босном и Херцеговином из 1880. године“ у *Политика и привреда у Босни и Херцеговини под аустроугарском управом, књига СХVI*, Сарајево: Академија наука и умјетности, 2002.
- Капицић, Хамдија. „Превирања у аустро-угарској политици у Босни и Херцеговини 1912. године“ у *Гласник Архива и Друштва архивиста Босне и Херцеговине*, књига I, Сарајево, 1961.
- Капицић, Хамдија. *Херцеговачки устанак 1882. године.* Сарајево: Веселин Маслеша, 1958.
- Кожар, Азем. „Улога цивилног адлатуса у управљању Босном и Херцеговином“, *Зборник радова уставно-правни развој Босне и Херцеговине (1910-2010)*, Тузла: Правни факултет Универзитета у Тузли, 2011.
- Малбаша, Анте. *Босанско питање и Аустро-Угарска у свијетлу политичког дневника Ј.М. Ваернреитера.* Сарајево: Босанска пошта, 1933.
- Mowat, R.V. *Select Treaties and Documents to Illustrate the Development of the Modern European States – System.* Oxford: Oxford University Press, 1915.
- Поповић, Васиљ. *Источно питање.* Београд: Г. Кон, 1928.
- Радосављевић, Едита. *Земаљска влада за Босну и Херцеговину – Сарајево 1878-1890.* Сарајево: Друштво архивских радника Босне и Херцеговине, 1989.
- Сућеска, Авдо. *Историја државе и права народа СФРЈ.* Сарајево: Свјетлост, 1979.
- Ћоровић, Владимир. *Илустрована историја Срба (шести део).* Крагујевац: Империа књига, 2011.
- Haris, David. *Diplomatic History of the Balkan Crisis of 1875-1878. The first year.* London: Humprey Milford, Oxford University Press, 1936.
- Хауптман, Фердо. „Дјелокруг аустроугарског Заједничког министарства финансија“, *Гласник архива, бр.3*, Сарајево, 1963.
- Чаушевић, Ценана. *Правнополитички развитак Босне и Херцеговине (документи са коментарима).* Сарајево: Магистрат, 2005.
- Шишић, Фердо. *Окупација и анексија Босне и Херцеговине.* Загреб: Матица хрватска, 1938.

Periodics

- „Босанско-херцеговачке новине“ бр. 35, 29. децембра 1878. године

Other sources

- Зборник закона и наредаба за Босну и Херцеговину из 1882. године
- Зборник закона и наредаба за Босну и Херцеговину из 1883. године
- Гласник закона и наредаба за Босну и Херцеговину из 1912. године

ОКУПАЦИЈА БОСНЕ И ХЕРЦЕГОВИНЕ

Сања Савић⁵²

Правни факултет у Источном Сарајеву

Апстракт: *Опсежна дипломатска акција са којом је Аустро-Угарска монархија започела 1875. године у коначници је резултирала Берлинским конгресом и добијањем мандата да окупира Босну и Херцеговину. Тај чин је довео до низа промена, како у погледу међународноправног положаја окупиране територије, тако и у унутрашњим питањима. Аутор се у раду бави приликама које су предходиле окупацији Босне и Херцеговине, начином на који је она извршена, као и унутрашњим променама до којих је довела, стављајући посебан акценат на организацију власти и правни систем.*

Кључне речи: *окупација, Босна и Херцеговина, организација власти, правни систем.*

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