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# **UVOD U ŠERIJATSKO PRAVO**

## **Introduction to Sharia Law**

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INSTITUTE OF COMPARATIVE LAW

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INTRODUCTION TO SHARIA LAW

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## PREDGOVOR

Institut za uporedno pravo već petnaest godina objavljuje monografije koje se bave osnovama prava neke zemlje ili grupe zemalja. Obzirom na broj monografija koji je od sada objavljen, možemo slobodno reći da se radi o ediciji, na koju je Institut za uporedno pravo veoma ponosan. Ovog puta se monografija, odnosno, Zbornik radova, iz ove edicije odnosi na šerijatsko pravo. Postoje tri razloga što je u Institutu za uporedno pravo doneta odluka da se objavi Zbornik „Uvod u šerijatsko pravo“. Prvi razlog je što je ovom pravnom sistemu u Srbiji posvećeno malo pažnje i što se ovim pravom bavi veoma mali broj stručnjaka u oblasti prava. Drugi razlog se odnosi na osnovne karakteristike šerijatskog prava. Naime, šerijatsko pravo se sastoji iz verskih propisa, čije izvore nalazimo u svetoj knjizi Kuranu. Kuran sadrži 6236 izreka, od kojih se 500 odnosi na pravo. Treći razlog se odnosi na praksu, odnosno, na pitanja koja su svakodnevno prisutna, a odnose se na primenu pravila šerijatskog prava u postupcima, u kojima je prisutan element inostranosti. Postoje i drugi razlozi koji su doprineli objavljivanju ove monografije, odnosno, Zbornika radova, ali su navedena tri najvažnija.

No, istraživači Instituta za uporedno pravo nikako nisu mogli sami da objave ovaj Zbornik. I u objavljivanju ranijih Zbornika iz ove edicije su učestvovali autori iz drugih institucija. Ipak, obzirom na temu ovog Zbornika, situacija je bila drugačija. U pomoć su pozvane kolege iz Novog Pazara, odnosno, sa Departmana za pravne nauke Državnog univerziteta u Novom Pazaru. Zahvaljujući i njima, ovaj Zbornik je objavljen. Osim njih, u pisanju članaka za ovaj Zbornik su učestvovali i autori sa Pravnog fakulteta Univerziteta u Sarajevu. Naime, niko ne može da poznaje neki pravni sistem bolje od onoga koji se njime bavi i koji ga proučava više godina ili nekoliko decenija.

Ovaj Zbornik obuhvata 18 članaka. Oni se bave različitim temama šerijatskog prava. Te teme su vezane za islamsku pravnu tradiciju, osnovne pojmove u šerijatskom pravu, nastanak šerijatskog prava, pravnu prirodu šerijatskog prava, primenu šerijatskog prava u pojedinim evropskim zemljama, itd. Isto tako, članci se odnose i na regulisanje pojedinih pitanja šerijatskog krivičnog prava, zatim na pojedina pitanja braka u šerijatskom pravu, kao i na regulisanje šerijatskog naslednog prava. Naravno, članci obuhvataju i druge oblasti.

Verujemo da će ovaj Zbornik naći put do velikog broja čitalaca, ne samo pravnika, već i onih koji se zanimaju za šerijatsko pravo iz drugih razloga, odnosno, onih koji žele da shvate šta je šerijatsko pravo. Upravo je i navedeno jedan od ciljeva objavljivanja ovog Zbornika.

## FOREWORD

For fifteen years, the Institute of Comparative Law has been publishing monographs dealing with the basics of the law of a country or group of countries. Considering the number of monographs that have been published since now, we can freely say that this is an edition of monographs, that the Institute of Comparative Law is very proud of. This time, the monograph, that is, the Collection of Papers, from this edition, refers to Sharia law. There are three reasons why the Institute for Comparative Law decided to publish the Collection „Introduction to Sharia Law“. The first reason is that little attention has been paid to this legal system in Serbia and that very few legal experts deal with this legal system. Another reason relates to the basic characteristics of Sharia law. Namely, Sharia law consists of religious regulations, the sources of which can be found in the holy book of the Qur'an. The Qur'an contains 6236 sayings, of which 500 refer to law. The third reason refers to the practice, that is, to the issues that are present on a daily basis, and they refer to the application of the rules of Sharia law in proceedings, in which the foreign element is present. There are other reasons that contributed to the publication of this monograph, ie, Collection of papers, but the three most important are mentioned.

However, the researchers of the Institute of Comparative Law could not publish this Collection on their own. Authors from other institutions, also, participated in the earlier publications of this edition. However, considering the topic of this Collection of papers, the situation was different. Colleagues from Novi Pazar, that is, from the Department of Legal Sciences of the State University in Novi Pazar, were invited to help. Thanks to them as well, this book was published. Apart from them, authors from the Faculty of Law of the University of Sarajevo also participated in writing the articles for this Collection of papers. Namely, no one can know a legal system better than the one that deals with it and studies it for several years or several decades.

This Collection of papers includes 18 articles. They deal with various topics of Sharia law. These topics are related to the Islamic legal tradition, basic concepts in Sharia law, the emergence of Sharia law, the legal nature of Sharia law, the application of Sharia law in some European countries, etc. Also, the articles refer to the regulation of certain issues of Sharia criminal law, then to certain issues of marriage in Sharia law, as well as to the regulation of Sharia inheritance law. Of course, the articles refer to the other areas as well.

We believe that this Collection of papers will find its way to a large number of readers, not only lawyers, but also those who are interested in Sharia law for other reasons, ie, those who want to understand what Sharia law is. This is, also, one of the goal of the publishing this book.

Belgrad, October 2020.

Editors