

фидеикомисом је налагано да ће убудуће неподељену имовину добијати најстарији или најмлађи син. Свој процват институт породичног фидеикомиса доживљава у седњевику праву. Буржосака револуција укида овај институт али га једино *Code civil* избацује из употребе. Аустријски грађански законик, као и Немачки грађански законик су познавали и регулисали институт породичног фидеикомиса. Измене и допуне тих кодификација су институт породичног фидеикомиса укинуле што је и логично с обзиром на чињеницу да за таквом врстом правила није било потребе. Српски грађански законик је такође познавао породични фидеикомис што је разумљиво када се зна да је рађен по угледу на Аустријски грађански законик. Наравно да је касније, 1921. године институт породичног фидеикомиса укинут јер је престала да постоји потреба за таквим институтом због промењених друштвених околности.

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## **FAMILY FIDEICOMMISSUM IN ROMAN LAW AND SOME EUROPEAN CODIFICATIONS**

### ***Summary***

*Originally, fideicommissum represented the wish of the testator related to, for example, the place of burial, or the wish related to concluding marriage, etc. Such wishes in those times were not legally binding, but rather created moral obligation for the persons to whom they were directed to execute them. It was a wish, or a request made by the testator to be fulfilled by the persons who inherited his estate. Later on, it was Augustus who instituted fideicommissum as legally binding by favouring it in particular cases related to property rights. Fideicommissum was very similar to one other institution which also originated from Roman law, the legate. However, this institution exclusively referred to property, which was not the case with fideicommissum. These distinctions were lost in Justinian's Code where they became synonyms. In postclassical law, another institution emerged, called family fideicommissum (fideicommissum familiae relictum), which made family property inalienable. Thus, this fideicommissum ordered that family property be inherited by the eldest son (primogenitura), or the youngest son (ultimogenitura). This*

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*institution was fully applied in the Middle Ages becoming the basis of the social order of those times. It was abolished by bourgeois revolution and was not accepted later on in modern legislations. Fideicommissum was the part of Austrian Civil Code, as well as Serbian Civil Code which originated from it.*

**Key words:** *Fideicommissum, legate, Augustus, family fideicommissum, Austrian Civil Code, Serbian Civil Code*