

LEGAL AND TAX SYSTEMS IN MOLDAVIA (Late 16th Century - 17th Century): The Case of the Dedicated Monasteries

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Argument

The Ottoman regime in Moldavia, installed in the mid-16th century, influenced the quantum of internal duties as well, which followed the obligations to the Porte. We are referring to the augmentation of the number of fiscal obligations – of taxes, in Moldavia, particularly during the 17th century, and peaking in the 18th century (Constantinescu 1975, 110-118; Stoicescu 1971, 370-381; Vlad 1971, 1013-1026; Caproșu 1989). In this context, the old duties were converted into instalments coupled with the elimination of the tax immunities starting in the second half of the 16th century, the latter being reconsidered later on, in other forms. Under these circumstances changes also occurred in the way in which the defendants used to serve sentences, by tolerating financial restitutions instead of punishments. Even the most serious ones, like robbery (Romanian “jăcuire”, “tâlhășug”), could be paid off or even pardoned, under certain conditions, by the Prince in his capacity of highest judge of the country. On the whole, the corporal and custodial punishments were more and more frequently transformed into pecuniary punishments. This practice became part of the general plan of collection of the necessary cash for the Court, in order to meet the Ottoman requirements, and on the other hand the way to apply it at the level of social structures, within the Orthodox majority group and the minority ones, from an ethnic and denominational perspective.

A particular issue is that of the tax and legal immunities obtained by the monasteries of Moldavia. Among these privileges, the monasteries collected fines for the serious crimes (“important deeds”) like homicide (“death of man”). In other words, the way in which the prince and his digni-

taries¹ collected the criminal penalty became both a punishing modality and a source of revenues. We will try, to the extent to which sources allow us, to identify the legal competence of hegumens in the criminal code. We are aware of the limits to success in our approach due to the fact that, if in the case of monasteries in general we know the elements that composed the content of the juridical and fiscal immunities, the documents granting the same privileges to the dedicated monasteries are scantier. De jure, the investigation of the violations of laws was up to the Prince, who also collected the fine, established according to the gravity of the crime. Consequently, we insist upon this aspect pertaining to the relationship between two institutions, the State and the Church, in the period concerned, from the perspective of some legal and tax privileges conceded to the dedicated monasteries. The epoch of the Moldavian monasteries dedicated² to the Holy Places starts at the end of the 16th century, during Petru Șchiopu's rule. The St. Sava monastery was built in Iași in 1583, with the money from the monastery with the same name in Jerusalem, by the Greek monks coming from there, on a spot that Vodă gave to the monks of Jerusalem “to live there and make a church” (DIR 1951, 224-225, no. 277; Bădărău, Caproșu 2007, 45). The analysis of the tax and juridical immunities conceded to the dedicated monasteries of Moldavia over the 17th century, but not over the following one, are justified by the fact that at the beginning of the Phanariot period, the

¹ Dignitary stands for the Romanian “dregător” = until the 16th century, “dregători” were both the high dignitaries and servants; in the 16th century, there are dignitaries of high dignities, recorded in the documents together with boyars, but before them; in the 17th century, the notion of dignitary becomes synonymous with that of boyar.

² Although the phrase is used in historiography, no definition has yet been formulated, as the research on their legal status is still in its initial stage. From the standpoint of our research, we could however say that the monasteries “dedicated” to the Holy Places of the Orthodox East were a form of the Byzantine law of foundation, with a local adaptation of its norms.

dedication of churches in Moldavia starts taking a different turn by abusive interpretations of the founding law. This practice is announced from the end of the 17th century and will continue in the next century, causing serious problems in the observance of the ecclesiastic jurisdiction and of the privileged status of the Church in general. These are the arguments for our choice to analyse the years between the end of the 16th century and the 17th century.

Introduction

Although the diplomatic internal sources are as clear as possible, as our analysis will show, as far as the content of fiscal immunity that monasteries enjoyed is concerned, the monks' right to judge acknowledged by the court still needs necessary clarifications. As for the basis of church jurisdiction in medieval and pre-modern Moldavia, its Byzantine origin has already been shown. "Its exercise did not exclude the enforcement of the country's statute, of some customs, but its basis was the canonical and nomocanonical rule" (Georgescu 1980, 254). The Church enjoyed a wide juridical competence: the clergymen's canonical transgressions, the clergymen's civil and canonical matters, except for the serious accusations (as we will show especially in the chapter about the dedicated monasteries) whose investigations were kept in the domain of princely justice, the laymen's canonical transgressions, like: adultery, incest, fourth marriage, the spouse's abandoning, forbidden sexual relations, according to canons, the laymen's matters of separation, adoption, dowry, inheritance, tutelage, testaments (Sachelarie, Stoicescu 1988, 268).

The conceding of legal and tax privileges to the Church originates, on the whole, in the political thinking of the Byzantine emperors, transposed in juridical texts and transmitted to the Romanian principalities by the law they received. More precisely, in the idea of philanthropy manifested in the tax exemptions granted to churches (Sachelarie, Stoicescu 1988, 229). A particular problem is that of the juridical and tax immunities received by the monasteries of Moldavia since the moment they were founded. We should mention that in relation to the topic we will insist upon, there are other collateral preoccupations concerning the Byzantine influence in the Romanian area (Georgescu 1980), the system of immunities in the Romanian medieval society (Cazacu 1957,

463-500; Costăchel 1957, 211-314; Panaitescu 1957, 445-462; Muntean 2005), the juridical competence of the Church in Moldavia (Berechet 1938; Cronț 1938; Cronț 1975, 258-274; Cronț 1976, 338-359), or contributions with a mainly descriptive focus on the practice of dedicating the Moldavian monasteries to the Holy Places of Orthodoxy (Iorga 1914; Bodogae 1940; Beza 1932-1934, 195-197, 207-215; Beza 1934; Beza 1934-1936, 237-241; Beza 1936-1938, 1-6, 7-20; Beza 1937). That is why, in order to professionally approach this topic, we are to carefully peruse the documents, with special rendering of the passages that refer to the fiscal and juridical privileges that the dedicated monasteries benefited from. Moreover, prudence in the approach of this issue with implications, as we will see, in the Byzantine foundation law, requires a permanent relationship with the text of the document.

The epoch of dedications

At the time when one of the historians of the Romanian medieval law, Valentin Al. Georgescu, wrote the remarkable writing on the Byzantine influence upon the Romanian institutions up till the mid-18th century, he acknowledged, in a short passage, the complexity of the juridical regime of the dedicated monasteries: "was it a mere foundational dedication, a mere income appropriation, or a transfer in the property of the beneficiary of the dedication?" (Georgescu 1980, 173). This is a question that neither he nor others after him answered in a satisfactory way. The difficulty of the issue is to be found, on the one hand, in the parsimony of information contained in the juridical documents of dedication, issued in a full epoch of dedications, that is the 17th century, and transmitted to us; and on the other hand in a lack of thorough research on the historical sources dating from the late 18th century and particularly from the next one, when the debate on the secularization of the monastery fortunes was an ardent one³. Our belief is that only a thorough investiga-

³ In 1861, for instance, Ioan Brezoianu declared, in the work *Mănăstirile zise închinat și călugării străini*, to be in favour of the secularization of monasteries' wealth, arguing with the absence of a right of property of the Holy Places on the villages of the metochions, as well as with the absence of the jurisdiction of the local bishop as regarding the dedicated monastery. As for the history of the dedicated monasteries in the Romanian area and, particularly, as for the historical events accompanying the secularization of the monasteries' wealth, which occurred in 1863, see Popescu-Spineni 1963, the only synthetic contribution on this theme in Romanian historiography.

tion of the official or private acts issued over these years will bring fundamental information in the clarification of this problem. Maybe our contribution in the following of the paper will bring a piece of truth in this problem.

Petru Șchiopu is the prince with whom the period of dedications in Moldavia starts. His origins being in Muntenia⁴ and the fact that he was very much aware of the realities in the southern Romanian principality of the Carpathians facilitated the adoption of the model of dedications. The building of the future monastery had not yet started, and the Prince gave, in 1583, a building spot to the Greek monks of the St. Sava monastery from Jerusalem “to live there and to build a church”, for there “to be eternal prayer and memory of our majesty, and memory of our parents, and of our majesty’s brothers and lady and children and of other princes, those who the Lord will choose to be prince, after our life will pass, in the Principality of Moldavia and for the whole country and the whole of Christianity”(DIR 1951, 224-225, no. 277; Caproșu, Zahariuc 1999, 35-38, no. 23; Bădărău, Caproșu 2007, 45). The building place had been bought by the Prince himself, so it was a “princely right” and not “taken against somebody’s will or by some robbery” (DIR 1951, 225, no. 277; Caproșu, Zahariuc 1999, 37, no. 23).

The monastery built by the Greek monks in Iași receives the name of St Sava as well, and was already a metochion of the lavra of Jerusalem on 7 June 1600 (Caproșu, Zahariuc 1999, 73-74, no. 50). Later sources show that the monastery dedicated to the Holy Sepulchre served as a residence for the patriarchs of the Orthodox world and for the Greek bishops passing through Iași (Bădărău, Caproșu 2007, 165). At the beginning of the 17th century, the monastery acquires, first by means of donations made by nobles and private persons, then by purchasing itself, a wide domain⁵. Two churches, one in Cotnari (Caproșu, Zahariuc 1999, 162-163, no. 119), another one in the town

of Galați (Caproșu, Zahariuc 1999, 170-172, no. 122), become its metochions, with the approval of the Prince, with leave from the Metropolitan and from the three bishops of the country and with the consent of the princely Council. The monks’ obligation is to write the Prince and his family on the diptych of the founders (Caproșu, Zahariuc 1999, 195-195, no. 145).

The sources that have been preserved show it enjoyed a treatment identical with that of other dedicated monasteries in Moldavia. For instance, on 28 February 1627, Miron Barnovschi presents the monastery St Sava of Iași with the revenues from taxes and compensations for crimes from the village of Uricani, on the Bahlui, in the county of Cârlișatura. The document specifies by design that the village was bought by the prince – “lawful buying by my majesty” – ordering these “globnici”⁶ and “dușegubinari”⁷ not to collect the revenues from fines there. In our opinion, the statement: “the high bailiffs are not allowed to meddle there for taxes and for crimes, nor the dușegubinari for the compensations for crimes in that village. And if there will be such a man felonious or guilty of murder or for another punishment, than our above-mentioned servants will judge him according to his acts, as recorded above” (DRH 1969, 186-188, no. 156) suggests that the prince concedes the jurisdictional competence to his officials, except for murders and thefts. As for the rest, we deal with a fiscal aspect of the issue, and not with the juridical non-intervention of his representatives in the village in question. Beyond the annual contribution to the tribute, the village of the metochion of the big lavra from Jerusalem is presented with exemptions from the other obligations towards the princely Court, and the monks are re-issued, one month later, the right to collect the fines. All of them, together with the revenue from trial fees, had a precise destination: the monks’ livelihood and the maintenance of the monastery (DRH 1969, 188-190, no. 156).

On 26 March 1618, Radu vodă Mihnea, in compliance with the wish of Lady Maria, the daughter of Petru Șchiopu voievod, dedicated to the Holy Sepulchre of Jerusalem the Galata monastery of Iași, in accordance with the Byzantine law of foundation (Caproșu, Zahariuc 1999, 168, no. 121). The

⁴ Petru Șchiopu was the son of Mircea voievod (1509-1510), nephew of Mihnea cel Rău (1508-1509) and brother of Alexandru II Mircea. Mihnea cel Rău was the son of Vlad Țepeș. The kinship with the ruling family of Moldavia is made by the matrimonial alliance between Maria Voichița, first cousin of Vlad Țepeș, and Ștefan cel Mare/Stephen the Great; of this marriage was born Bogdan III, father of Ștefăniță. It results that Petru Șchiopu was Bogdan III’s nephew by marriage and Ștefăniță’s third cousin (see Nicolaescu 1915).

⁵ The domain of the St. Sava monastery of Iași is the topic of another of my papers, which I am working on now.

⁶ *Globnici* = low officials, in charge with collecting the fines.

⁷ *Dușegubinari* (*deșugubinari*) = low officials in charge with collecting the financial penalties for crimes like murder and robbery.

gesture was justified, first of all, by the difficult situation in which the monastery was, overwhelmed by “great weakness and poverty”, as a consequence of the conflicts that had occurred at the end of the 16th century and the beginning of the next one, of the thefts, and also of a defective administration by the monks living in the monastery – “they did not fear God in their hearts, but were careless”, “they spent everything and squandered thoughtlessly” (Caproșu, Zahariuc 1999, 168). What follow are the conditions that the founder establishes for the administration of the sanctuary: “our men of prayer who are going to live from now on in the above mentioned monastery of Galata should count the revenue coming yearly from all houses and vineyards and beehives, for this to be nourishment for the monks and for the memory of the founders who presented and had mercy on the holy monastery” (Caproșu, Zahariuc 1999, 169). It becomes quite clear that the dedication was made by observing the norms of the law of foundation: inheritance of the status of founder, agreement from the local bishop, endowment of the monastery with material resources, listing of the Prince and of his family in the “holy and great and godly diptych”. What draws our attention is the additional element compared to usual foundations: the obligations following from the status of metochion of the sanctuary of Jerusalem. The document reads: “What will remain from that revenue, that year, is to be collected and sold by the hegumen of the holy monastery to make money, *but with the knowledge of, and letter to, our father and superior, the metropolitan of Suceava*, and should be sent, with the seal of his Holiness, to the above mentioned glorious city of Jerusalem and handed to the great patriarch” (Caproșu, Zahariuc 1999, 169) (our emphasis). The text reveals that the lavra of Jerusalem had the right to the remaining surplus, transformed in money, after having ensured the monks’ necessities and the maintenance of the monastery. Very important for the juridical situation in which the recently dedicated monastery found itself, was the fact that the revenue sent to Jerusalem had to receive the consent of the local bishop, that is of the metropolitan.

The donation, to the newly built monastery of Galata, of the criminal fines that had to be collected in several villages under its possession, was made by its founder, Petru Șchiopu, in 1583 (Caproșu, Zahariuc 1999, 38, no. 24), confirmed by Ieremia Moghilă a few years later (Caproșu,

Zahariuc 1999, 63-64, no. 40). Therefore, before being dedicated to Jerusalem, the monastery of Galata was presented, by a special act of Mihail vodă Moghilă on the 28 November 1607, with the “taxes and compensations and deaths of people, all of those that would happen in the villages of the holy monastery, from all estates, so that they can take all taxes, as *ciubote*⁸”. The confirmation of these exemptions was justified by the necessity to continue to grant them: “as it was under other departed princes and as they have a deed from the departed father of my majesty, Simion voievod” (Caproșu, Zahariuc 1999, 110-111, no. 79). As far as the jurisdiction upon the monastery villages was concerned, the prince ordered that the princely court people – *pârcălabi*⁹ and *mari vâtafi*¹⁰ – should only try the villains, leaving the others in the care of the hegumen. Vodă’s order was for his officials to judge “justly and take the trial fees from everybody, according to the sentence, and they should not make any other loss, and not take more than the trial fees” (Caproșu, Zahariuc 1999, 111). The same urge to a trial that should be “with justice and good people” as well as the collection of the trial fees/the *ferâie*¹¹, again with “justice, and without any other meddling in the taxes and compensations” came from Miron Barnovschi in 1626, when he conceded the monastery of Galata the right to collect the criminal fines from its villages. The purpose of their collection was well defined: “for them to serve, for our men of prayers from the holy monastery, for clothes and shoes” (DRH 1969, 77-78, no. 59). The tone of the princely decisions sounds much more vehement than the one 20 years ago. The statement by design of the collection of the *ferâie*, which was supposed to go to the Court Treasury, and of it alone “with justice” suggests the existence of abuses committed by his people in observing the established order¹². The prince also

⁸ *Ciubote* = a tax paid by those who, because of their passivity towards the acts of the authorities, forced the princely official to go to subject them to distraint.

⁹ *Pârcălab* = a princely ruler with military, administrative and judiciary rights; at the beginning of the Romanian State, he was the commander of the towns.

¹⁰ *Mare vâtaf* = bailiff, princely servant working in the districts, with fiscal, administrative, judiciary and military attributions.

¹¹ *Ferâie* = a variable tax collected by the judiciary authority from the winning litigant in order to release the decision proving its juridical status.

¹² In some cases, the abuses of the princely officials materialized in the non-observance of the regime of exemption that the monasteries were conceded and are explicit in the documents of the time (DRH 1969, 399-400, no. 294).

threatened them with the gallows for violating the order. The monastery of Pângărați was presented with taxes and compensations (*gloabele* and *dușegubinile*), provided that they were taken “with justice, from he who is guilty according to the law” (DRH 1969, 89, no. 69). The term of “justice” (rom. *dreptate*), met in Romanian in the 17th century was synonymous with that of law (rom. *justiție*) (Sachelarie, Stoicescu 1988, 267). The Church’s sentences were accepted, in *Cartea românească de învățătură* [*Romanian Book of Teachings*], if they “legislated fairly” (Rădulescu 1961, 171), so the observance of principles, of norms, was requested in court¹³.

Another case is that of the monastery of the Dormition of the Mother of God, also known as the Barnovschi monastery, built by the pious prince; this was dedicated, on 9th December 1627, to the church of the Holy Sepulchre of Jerusalem. In the document of dedication, the prince presented his foundation with the village of Toporăuți in the region of Cernăuți, which he exempted of all taxes (DRH 1969, 348-353, no. 266). It was stated that the village “was a right of inheritance of my majesty”, “his parental estate”, as another document states (DRH 1969, 501, no. 358). Among other things, it forbids the *globnici* and the *dușegubinari* to collect the fines from the wrongdoers of the village in question. Insisting upon the ones collected as a result of homicides (“every killing of human being”), ordering the governors to leave those in the monks’ care. The destination of these exemptions was clear: “to send them to the monks living in the monastery of Jerusalem, to have them for footwear and clothing, and for other necessities of that holy place and of the church of God” (DRH 1969, 352, no. 266)¹⁴. A few days later, Miron vodă Barnovschi repeated the founding gesture, by confirming the villages of Șipote,

in the region of Hârlău, and of Munteni, in the region of Vaslui, to the monastery of the Dormition in Iași, dedicating it, together with its villages, to the same holy establishment (DRH 1969, 359-364, no. 270). The two villages were also possessions of the Prince, the former acquired for “good service” from the previous princes, the latter being a “princely right, ascribed to the district of Vaslui”. The exemptions conceded to the two villages, in this previous example again, are meant to ensure the living of the monks from the Holy Sepulchre.

As regards the administration of the village of Toporăuți, Miron vodă did not agree to send an official from the monastery, but he insisted in favour of the local one, and after his death the “villagers will name there another *ureadnic*¹⁵, whoever they will choose” (DRH 1969, 352). Moreover, like in the case of the monastery of Galata, the prince stated that the surplus of “wheat and crops and other nourishments, they <the monks> should sell it there and send the money to the hegumen of the monastery in the town of Iași, and the hegum should send it to the holy and great church of Jerusalem” (DRH 1969, 352). In other words, the Court preserved somehow the right to control, from the administrative point of view, the dedicated village, by the fact that it established the exact trajectory of the donation that the metochion would send to its lavra. The participation in the administration of the wealth of a sanctuary was one of the privileges that founders received. Therefore, there is no question of a separation of the village from the control of the Court. The difficulty in elucidating the legal regime of the dedicated monasteries starts from the very contradictory formulas that we find in the documents regarding the manner in which the dedicated villages are to be administrated; Miron Barnovschi states, in the same document, that the people from Toporăuți “should listen to the people that the patriarch of Jerusalem will send here” (DRH 1969, 352). In another document that we will analyse further on, Cyril <Lucaris>, patriarch of Constantinople, said that the recently dedicated monastery and the two villages will be “administrated and ruled by His Beatitude the patriarch of Jerusalem, Theophanes (...) and by the monks of the Holy Sepulchre sent by him in the country”, and that the estates should “stay free,

¹³ “According to law and to justice”, principles that had to be observed in trials, is a phrase that we can frequently see in the 17th century documents. According to Daniel Barbu, “the law seems to be, indistinctly, both the imperial statute, the received Romano-Byzantine law, and the customary law. (...) As law remains exterior to justice, this would be nothing else but the name given to the equilibrium between the relations of power; its place would be somewhere at the fragile point of balance where the individual interest, defined according to the social status of its bearer, could seem to be legitimate in relation to other particular or general interests. The justice of the ancient Romanian documents probably resembles the *equity* of common law” (Barbu 2000, 58).

¹⁴ The exemptions are confirmed by Moise Movilă, on 25 August 1633 (DRH 1971, 444-446, no. 349) and on 13 January 1634 (DRH 1974, 18-19, no. 17).

¹⁵ Ureadnic = high official.

not enslaved, independent, exempted, not violated and not looked into by any prince or boyar, by princely exemption, so that they would be submitted from now on, with no possibility for them to be taken and separated, to the holy church of the Holy and life-giving Sepulchre” (Caproșu, Zahariuc 1999, 254).

On 21 May 1628, in Constantinople, the ecumenical patriarch of the time confirmed, by his signature, the dedication shown above, on Miron Barnovschi Moghila voievod’s demand – “and a letter of ours was requested by the mentioned founder and prince”, the documents in question reads (Caproșu, Zahariuc 1999, 251-254, no. 186). The authority of the “patriarchal letters” in the “confirmation and preservation of dedications” was invoked (Caproșu, Zahariuc 1999, 251-254, no. 186). The gesture of the ecumenical patriarch cannot be understood unless we are aware of the canonical tradition, that is the principles and norms according to which the Church was organized and ruled. “The capacity of ecumenical judges (*titulus universalis*)” attributed to the patriarchs of Constantinople, which allowed them to participate in internal trials as well (Georgescu 1980, 98) had been established by the canons made and adopted since the foundation of the ecclesiastical institution. By the canons 3 of the Second Ecumenical Synod of Constantinople (381), 9, 17, 28 of the Fourth Ecumenical Synod of Chalcedon (451) and by canon 36 of the Quinisext Ecumenical Synod in Trullo (Constantinople, 691-692) the primacy of the Ecumenical Patriarchy of Constantinople was established, a honorific one first (canon 3 the Second Ecumenical Synod) (Milaș 1931, 99), and a *de facto* one afterwards, manifest in the ordination of bishops and in the jurisdictional attributions in relation to the other patriarchal chairs (Milaș 1931, 97-101, 207-218, 233-236, 257-296, 403-404). Canon 36 of Trullo, the order of the first ecumenical chairs is: “the chair of Constantinople should benefit from identical prerogatives with the throne of ancient Rome and be equal to that in the ecclesiastical matter, being the second after it, followed by the chair of the great city of Alexandria, then that of Antioch and then the one of the city of Jerusalem” (Milaș 1931, 403). We are not interested in the debates on the relation of the patriarch of Constantinople with the bishop of “ancient” Rome, whose result is included in the text of the invoked canons as well (see also Floca 2005, 90-11, 17-18, 101-104, 138-139).

Conclusions

Therefore, over the 17th century, the princes confirmed for the dedicated monasteries the tax and legal exemptions, just like in previous centuries. The monasteries of Galata, Dormition of the Mother of God (also called Barnovschi), St. Sava, Cetățuia, Hlincea, St. Paraschiva, and others also¹⁶ dedicated to the Holy Sepulchre of Jerusalem, are awarded their exceptional fiscal status (Sachelarie, Stoicescu 1988, 371), due to the *poslușnici*¹⁷ serving the sanctuaries, to the exemptions of fiscal obligations, to the collections of financial penalties in exchange for the crimes committed by the inhabitants of the immunity estates, as well as to the right to judge them, except for murders and thefts. In other words, the Court gave up its attributions and those of its representatives in juridical matters, as well as the collection of taxes and the services it was entitled to from the inhabitants, in favour of the monasteries in question. It clearly results that these monasteries benefited from the same tax and legal regime as the non-dedicated ones. As for the jurisdiction on the inhabitants of the dedicated villages, in all the documents by the end of the 17th century that we have perused, the Prince transfers to the hegumens the judging attributions, except for the cases of murder and theft, which still fall within his competence: “And no other should meddle with them, and deal with them, no one should try them or tax them, but their hegumens, except for cases when dead people or real robberies are involved, then the court should try them and sentence them and tax them”, is shown in a document from the end of the century¹⁸. Here too, one invokes the observance of the orders left by the founders of the establishments in question: “so what the ancient princes, founders of these holy monasteries, established and agreed upon should be kept, as the founders’ agreements comprised much mercy in all that was” (Caproșu 2000, 48, no. 56).

A specificity of the practice of dedication in Moldavia is the fact that the villages that were conceded tax exemptions or were allowed to collect criminal fines were estates of the Prince that

¹⁶ Bârnova, Dealu Mare, Dumbrăvița, Bistrița, Tazlău, Cașin.

¹⁷ *Poslușnici* = a peasant that was exempted from taxes and services to the Court in favour of some churches or monasteries.

¹⁸ Document from Constantin Duca voievod, from 1 July 1693, by which he confirms for the monasteries of the Holy Sepulchre the exemptions received from other princes (Caproșu 2000, 45-48, no. 56).

made the gesture of dedication: villages belonging to the district of a town, villages that were inherited or obtained by “good and faithful service”; the place where the monastery had to be built was also a “right princely place”.

From the dedication documents, from the documents of confirmation of the dedication by foreign hierarchs (the case of the Monastery of the Dormition of the Mother of God in Iași, whose dedication was confirmed by the patriarch of Constantinople), from those where the Romanian monks’ revolt against the foreign ones, arrived after the dedication, is reflected, we find out that the hegumens of the dedicated monasteries were appointed by the foreign beneficiary, whom they depended on from an administrative point of view. As far as their legal competences were concerned, the documents give us very little or, sometimes, no information at all. In the very serious criminal cases, like murder or robbery, it is very clearly stipulated that such defendants remained under the jurisdiction of the princely Court. Valentin Al. Georgescu makes a step forward and says that the hegumens of the dedicated monasteries, Greek by origin, “had canonical juridical attributions at a lower, but not negligible level” (Georgescu 1980, 93). But our research points out two aspects: 1) the dedication of monasteries in Moldavia was a founding act, because this process observed, at least at its beginnings, the norms of the Byzantine law in the case of the foundations of religious establishments; 2) both in the 15th-16th centuries and in the starting period of the dedications, the monasteries of Moldavia benefited from administrative, fiscal and juridical privileges conceded by the princely court. The ampleness of the privileges varied along the investigated years, and their wideness or narrowness should be related to the capacity of the princely court to ensure an apparatus able to control the territory of the country from the bureaucratic (fiscal and juridical) standpoint. The consolidation of this apparatus is more and more visible starting with the 16th century, so that in the following century the Court succeeds in supervising, by its representatives, the whole territory of the country. Naturally, the phenomenon was not without consequences. Some of them are to be found in the limitation of the right to try conceded to monasteries. If in the 15th century, the hegumen and his legates had a full juridical competence over the inhabitants of the monastery villages dedicated or confirmed by the prince,

including serious criminal actions like murders or thefts, at the end of the same century the princely court restricted these juridical competences. So that in the 17th century, the princely officials from cities and districts are the ones who try, in the name of the Prince, the serious criminal acts committed in the ecclesiastical domains. As a result of this process, in the documents of confirmation for the dedicated monasteries, the conceding of fiscal exemptions for the villages dedicated with the monastery is mentioned along with the fact that the trying of the inhabitants of the estates fall in the competence of the officials, the Prince preserving the competence of the cases of murder and theft.

The content of the dedication and confirmation of the dedication documents, at least for the starting period of this process, reflect to an overwhelming extent the fiscal aspect of the gesture made for “the soul’s salvation”, according to period documents¹⁹; “the love they had for God and for the holy churches and monasteries and for the men of prayers to God, whom they presented and strengthened, for the salvation of their souls and for their eternal memory (Caproșu, Zahariuc 1999, 232), from an “excessive piety” a historian would say (Popescu-Spinieni 1963, 7). So, this is about the process by which the Holy Places that benefited from metochions, acquired the usufruct upon their villages²⁰. Dimitrie Cantemir’s testimony regarding the appropriation, with leave from the prince, of the surplus is in agreement with the

¹⁹ As for the reasons for the dedications, there are opinions that doubt the princes’ piety, the precarious condition and the lack of church servants, stated in the texts of the documents in question: “political causes, that imposed the princes, the candidates to the throne, to the boyars, to some hierarchs – as it is known – the interest to dedicate to foreign establishments some sanctuaries from the Principalities, with a view to creating means of pressure and sources of income with a wider circulation and less controlled by the Porte”; “under the mask of some great canonical and dogmatic principles, the conscious and essential objective was that of political and economic nature” (Georgescu 1980, 93). Dimitrie Cantemir explained the practice of dedications as a sign of piety: “but if the prince or the boyar is afraid that after his death the monastery would fall down or will be ruined, he dedicates it to a bigger lavra, from the places mentioned above. After that, the archimandrites of these lavras are obliged to look after this monastery and take care that there are always monks with an immaculate life and good habits” (Cantemir 1973, 359).

²⁰ “*metoc/metochion/ (Μετοχή = participation, dependence) means in the donors’ language rather usufruct than property. And the income sent to the holy places represented only the amount of money left after the reparation of the metochion, after the payment of taxes and duties fixed in times of war” (Bodogae 1940, 73, note 1).*

texts of the sources corresponding to the 17th century: “of the revenues of the monastery, they leave there only what is necessary for the nourishment of the monks, the rest of its is collected for the necessities of the big lavras and is sent there every year” (Cantemir 1973, 359). At the beginning of the dedication epoch, the provisions included in the documents were not observed everywhere by the foreign monks that came along with the dedication, which led to many complaints and even conflicts between the “local” Romanian monks and the foreign ones²¹; this caused the metropolitan Anastasie Crimca, founder of the monastery of Dragomirna, to throw in a note on a manuscript on 16 March 1610, a triple curse in the case the monastery of Dragomirna were to be dedicated to “the Holy Mount or to Jerusalem, or to transfer the possession of our monastery to the Patriarchy or the metropolitan, or to change the monks of the Principality of Moldavia or appoint a hegumen from a foreign monastery” (Caproșu, Chiaburu 2008, 149-150)²².

²¹ See the trial document of 30 June 1626, in the case between the Greek and the Moldavian monks for the monastery of Aron Vodă in Iași, dedicated by Radu Mihnea voievod to the monastery of Saint John the Baptist of Sozopolis (Hurmuzaki 1915, 121, no. CCXXII; DRH 1969, 106-108, no. 87). “The number of the monasteries dedicated to the Holy Places is rising, a fact that caused discontent among the Romanian clergymen and believers, because of the many abuses of the Greek hegumens and monks sent to administrate them” (Păcurariu 1981, 216). The conflict between Romanian and Greek monks started by the dedication of Moldavian monasteries to the Holy Places, is the topic of another study we are working on.

²² This note was left by Anastasie Crimca as a result of the “tendency of the rich and of the rising influence of the Greek clergy in Moldavia” (Grigoraș 1958, 304).

Consequently, it is the precarious financial condition of the sanctuary and the lack of monks or, on the contrary, the prevention of the monastery’s ruin²³ with the help of the monks from the Mount of Athos, for instance, who were known for their qualities of good administrators (Bodogae 1940, 72-73), the appeals of the Eastern churches to our princes’ cultural generosity (Popescu-Spineni 1963, 26), and first of all the wish of the founders of new monasteries, built at the end of the 16th and the beginning of the 17th century, to ensure the material and spiritual wealth of the sanctuaries by relating them to holy places of the Orthodox East. The Romanian princes became thus heirs of the Byzantine, Bulgarian and Serb tradition of patronage of Mount Athos (Bodogae 1940, 73), of Jerusalem or of Antioch. A relation can be seen between the Greeks’ – and, on the whole, the Balkan inhabitants’ – coming to Moldavia in the second half of the 16th century and the process of dedication. As we know, the donations of the Romanian princes to the Holy Places were not absent before the dedication of the first churches. But by placing the monastery villages under the protection of the Greek monks, especially, a sure source of income was ensured for the maintenance of the monasteries and for the monks’ living, at a time, above all, when the Orthodox world, under Ottoman dominance, could hardly find resources of existence.

²³ Constantin Cantemir dedicates his monastery, Mira, to Mount Athos because “the country is in great weakness. Among others, there are no worthy priests, to maintain the due church and monastic order. He makes the dedication so that time would not ruin his memory” (Popescu-Spineni 1963, 20).

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Justiție și fiscalitate în Moldova (sfârșitul secolului al XVI-lea - secolul al XVII-lea): cazul mănăstirilor închinat

Cuvinte-cheie: justiție, fiscalitate, mănăstiri închinat, pedepse, privilegii fiscale.

Rezumat: O problemă aparte o constituie imunitățile fiscale și juridice dobândite de mănăstirile din Moldova. În șirul acestor privilegii, se încadrează încasarea de către mănăstiri a amenzilor pentru infracțiunii grave („faptă mare”), precum omuciderea („moartea de om”). Amenda penală percepută de domn sau de dregătorii săi devine atât o modalitate de sancționare, cât și o sursă de venituri. În măsura în care sursele ne-au permis, am identificat și competența judiciară a egumenilor în materie penală. Dacă în cazul mănăstirilor, în general, se cunosc elementele ce compuneau conținutul imunităților juridice și fiscale, mai sărace în informații sunt actele de acordare a acelorași privilegii mănăstirilor închinat. De drept, cercetarea faptelor de încălcare a legilor aparținea domnului, care percepea și amenda stabilită în funcție de gravitatea faptei săvârșite. Insistăm asupra acestui aspect ce ține de relația dintre două instituții, Domnie și Biserică, în cazul mănăstirilor închinat.

Epoca închinărilor mănăstirilor din Moldova la Locurile Sfinte începe la sfârșitul secolului XVI, în timpul domniei lui Petru Șchiopu. În secolul XVII, domni confirmă mănăstirilor închinat scutirile fiscale și juridice la fel cum procedau în veacurile anterioare cu celelalte lăcașuri de cult. Și aceste mănăstiri beneficiau de același regim fiscal și juridic precum cele neînchinat. În ceea ce privește jurisdicția asupra locuitorilor din satele închinat, în toate documentele de până la sfârșitul secolului XVII pe care le-am parcurs domnul transferă egumenilor atribuțiile judecătorești, mai puțin în cazurile de omor și furturi, care rămân de competența lui.

Юстиция и налогообложение в Молдавии (с конца XVI по XVII в.): на примере преклоненных монастырей

Ключевые слова: юстиция, налогообложение, преклоненные монастыри, наказания, налоговые привилегии.

Резюме: Одним из вопросов средневековой истории Молдавии являются правовые и налоговые привилегии преклоненных монастырей, приобретенные ими в период с конца XVI по XVII век. В число этих привилегий входил сбор штрафов за тяжкие преступления («faptă mare»), в том числе за «человекоубийство» («moartea de om»). Уголовный штраф, налагаемый господарями или их сановниками, являлся не только способом наказания виновных, но и источником дохода. Исходя из той информации, которую предоставляют нам исторические источники, мы постарались определить, входило ли рассмотрение уголовных дел в компетенцию настоятелей (игуменов) преклоненных монастырей. Если юридические и налоговые привилегии монастырей в целом нам в основном известны, то привилегии преклоненных монастырей отражены в исторических документах очень скудно. Право расследования нарушений законов принадлежало господарю, который взимал с преступника определенный штраф в соответствии с тяжестью совершенного преступления. В случае преклоненных монастырей действовал тот же принцип взаимоотношений между этими двумя институтами – Властью и Церковью.

Эпоха молдавских монастырей, преклоненных Святой Горе (монастырям Афона), берет своё начало с конца XVI века, в период правления Петра Хромого. В течение XVII века господа предоставляли преклоненным монастырям те же налоговые и правовые привилегии, что и другим монастырям ранее. Что касается юрисдикции над жителями сельских поселений, принадлежащих преклоненным монастырям, то из всех рассмотренных документов, относящихся ко времени до конца XVII века, следует, что господарь передавал суд игуменам, за исключением рассмотрения случаев убийств и краж, которые оставались в компетенции господаря.

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