
PUNITIVE METHODS FOR UNFULFILLED TAXES IN MOLDAVIA (the second half of the 17th and the first half of the 18th century)

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On June 21, 1681, in the chancellery of Gheorghe Duca – at his third reign in Moldavia, characterized in “a «summum» in terms of the powers of this voivode” (Giurescu 2003, 110) – a letter was written reading “to the pious and honest kaymakam boyars of Iași”, namely Miron Costin high chancellor, Alexandru Buhuș great hetman and Toderășcu Iordachi Cantacuzino great treasurer (Iorga 1925, 77, note 1). This letter notified them regarding the princely decision of imprisoning the former great treasurer Gheorghe Ursachi, until he would pay back the debt he owed to the Liov merchant Alexandru Balaban. The conflict between the two former trade partners was famous at the time and it unfolded throughout an entire decade (Bejenaru 1927, 45-54); the political and economic rivalry between prince Duca and Ursachi the boyar would have been the cause of this long-term conflict (Chelcu 2003, 121-138). What stirred my interest within the contents of the letter dated the 21st of June 1681 was the sanction applied for failing to pay back a debt. I present as follows the command of prince Duca. “We, the prince, write to the pious and honest kaymakam boyars of Iași, whom we notify as follows: as you well know, we sentenced Ursachi the treasurer to pay a certain amount to the said Balaban. If Ursachi fails to pay a certain amount to the said Balaban, according to our decision, *he should be locked in the tower, for as long as the debt remains, and you should not let him out, because, as it is accustomed, the debtor must remain in prison*” (Iorga 1925, 77). For the debt of almost 140,000 *taleri* that Gheorghe Ursachi owed to the Polish merchant Alexandru Balaban, the latter sued the first. The lawsuit was monitored by the prince, which ended to the detriment of the former treasurer. For paying his debt, he was imprisoned and tortured at the prince’s order, while

his wealth was auctioned (Caproșu 1989, 145, note 361). Consequently, in this text, I will focus on the use of imprisonment as a method of coercing debtors in the second half of the 17th and the first half of the 18th century.

The elaboration of a list comprising the penalties set out in the codes of laws or approved by Romanian medieval and premodern law practice is due to the collective of specialists whose concerns were reunited in the treatise *Istoria dreptului românesc* (Istoria 1980, 447-457). The characteristics of prison as a punishment entailing deprivation of liberty until the debt is paid back are known thanks to the research conducted by Petre Strihan, Valeriu Șotropa and Tudor Voinea, published in *Dicționarul de instituții feudale din Țările Române* (Strihan, Șotropa, Voinea 1988, 243-245), an indispensable work instrument for a historical perspective on penalty. Consequently, benefiting from legal theorising and classifications, I propose an approach – using my own means and methods – to the application of imprisonment for failing to pay back a debt to the prince, for failing to pay taxes or for not returning debts owned to others, for various causes. I mention that, for both failing to pay taxes and failing to pay back debts from usurers – most of whom were Turks –, (Caproșu 1989) the penalty was applied by the prince, based on the monarchic views within Byzantine laws, according to which the prince has full powers. Namely, he had the right to elaborate laws, in his capacity as unique legislator and as the terrestrial image of “God’s will”; he had legal prerogatives, as he was the supreme judge of his subjects; he had the right to take any measures for preserving domestic peace. He also was entitled to request taxes, to determine their amount for each social category, to establish the contribution for the *harac*, to impose new taxes; furthermore, he had the right of *dominium eminens* on the country’s territory. The applica-

tion by the prince of punitive methods for debts is founded on this view of power. Consequently, debtors who failed to pay their monetary loans were imprisoned until they managed to get the money they owed. The princely servants who failed to collect the taxes they were in charge with had the same fate, a fate shared by the boyars who had borrowed money on behalf of the prince for his financial emergencies; when they failed to pay back the money to the creditors, they ended up in prison, also by the prince's will.

I highlight here the situations where prison was the punishment applied to those who failed to pay their debt *in cash*, resulted from a loan, after exceeding the deadline determined by the creditor. Whereas it was punished like an offence, debt in cash was not defined as such in the Byzantine codes of law. Hence, in a document of the 17th century, an unpaid debt of 1,000 *taleri* represented *the fault* for which the debtor in default was put in prison. The debtor was Enache *zlătar*, an employer at the mint (Caproșu 2000a, 35, no. 41), while the creditor was Prince Istratie Dabija himself: "they put him in prison because he owed 1,000 *taleri* to the prince", the document reads; he was released on a promise made by thirty warrantors. However, the lack of money determined him to flee to Rașcov, in the Land of Cossacks, and he left all the warrantors, along with his father, "to suffer the prince's wrath for *his own fault*." They managed to get themselves out of trouble and to pay back the prince by selling the fugitive's assets, namely "clothes and silvery and vines" (Caproșu 2000a, 35, no. 41).

Deprivation of liberty for a shorter or longer period was the consequence of committing an "act," and the execution of the sentence depended on its gravity. "*Gros*" [slammer], "*groapa ocnii*" [mine pit], "*pușcărie*" [prison], "*temniță*" [gaol], "*vartă*" [jail], "*opreală*" [lockup] are names encountered in historical sources for detention places, with various severity degrees concerning the regime applied to the persons convicted, who belonged to different social categories. Romanian Law specialists have shown that the dominant feature of this sentence to prison in the period under investigation here was intimidation, with the possibility of redemption using various means; this punishment had no corrective purposes, such as in modern law (Istoria 1980, 434). The literature in the field shows that imprisonment was applied mostly for debts and that it had a preventative

character (Strihan, Șotropa, Voinea 1988, 243). My research has revealed that in legal practice, remand custody – meaning temporarily arresting the offender while finishing the legal proceedings – was used until a sentence was pronounced, including for serious offences such as manslaughter, robbery and theft (Chelcu 2013, 77-97), until the act was redeemed or until the offender paid for what he/she did¹. The word *temniță* comes from Slavonic, where *toma* means dark (Olteanu 1975, 452) and *tomon* means full of darkness (Olteanu 1975, 452; Cronica 1922, 428²), reason for which *temnița* ended up designating the imprisonment place (Cronica 1922, 428).

In some sources of the time, gaol is the equivalent of "criminals' prison," of "jail," of "jailhouse" (Călători 1980, 456; Istoria 1980, 450). Detention conditions (Foucault 1997)³ for those who executed sentences involving deprivation of liberty are not hard to guess, given that the same place hosted "wrongdoers, guilty people, thieves and murderers, like in gaols, which was the fear and fright of everyone (...), the jail of thieves" (Letopisețul 1913, 99). As for Ursachi the boyar, whom prince Duca threatened with imprisonment indirectly, through a letter addressed to the dignitaries, Neculce says that they eventually "took everything from him and put him in gaol, with the thieves. And they took him out every day and whipped his feet until they damaged his veins, reason for which he limped until he died" (Neculce 1982, 283). During the reign of Dumitrașcu Cantacuzino, "cellars and the great *Divan* were full of people whom he punished in allsorts of ways, worse than during the reign of the evil prince Duca" (Costin 1872, 34). The detention regime during the days

¹ For theft, they stated: "the punishment is to pay back double the thing they took without permission, thus to pay twice its value if said thing is not present; if said thing is present, they should give it back and also pay the right price for it. This custom was legislated by the old legislators, and currently the younger ones have come together and they have changed this decision as follows: they should give back what they took and the judges will choose what to do with them, meaning to charge them with a fine or to put them in jail or in slammer, or to find other ways to punish the as they see fit, to prevent them from doing such things again" (Carte 1961, 76, Matter 15, Section 206).

² Temen, namely dark, black, ugly, cruel.

³ In his book about power in France in the last decades of the 18th century and the four decades of the 19th century, Michael Foucault point out the tendency of using deprivation of liberty as a universal punishment and of transforming the nature of the relation between the institutions of power and the delinquents into focusing on surveillance and therapy, not on revenge and punishment.

of Gheorghe Duca for those ending up in jail was a rough one, as also proven by one of the documents regarding coercing the dignitaries who had failed to collect the taxes that had assumed. “I could not bear anymore to see so much need and so many people killed every day,” complained Ștefan, the son of Hagi Panait *ușer* on August 15, 1682. In his own words, he was imprisoned because “I failed to succeed in a task assigned to be in the region of Cârlișău, to collect for the honey tribute, and I had a debt of sixty *galbini*; as I was in great need, I went to jail because of the others” (Caproșu 2000a, 507, no. 572). The person charged with putting the debtors in default in jail was the *vătav de aprozi* [usher bailiff] (Călători 1980, 451) through his fifty subalterns, as shown by Dimitrie Cantemir. Said bailiff had the task “of bringing to justice the accused who failed to show up on the set date and of coercing the debtors in default to pay their debt” (Cantemir 1973, 213).

However, debtors were also punished in the *vartă* (from the Polish *warta*, guard tower), which also meant the princely gate. A document of August 28, 1696 mentions the troubles of a warrantor because of three bad debtors, who had run away with the money for honey and tobacco to be given to some Turks who had pay them in advance. Because he had vouched for the three before the Turkish merchants, the warrantor Ursul the *bostanșy* had to take the consequences of failing to honour the order, as provided by the laws of warranties. Consequently, he was punished: “and they put him in prison, and he was held in the *gaol* of Bârlad for a year and then a bailiff brought him here, to Eși, where he was in the *vartă* for half a year” (Antonovici 1924, 155-156, no. XCIV). In early 18th century, the word also meant guard, sentry (Voinea 1988, 680), reason for which being held in the *vartă*, meaning in the watch tower of the princely court was more like remand custody pending a trial. The watch tower prison within the princely court was administered, even since the reign of Gheorghe Duca by the *seimeni* [tr.n. soldiers in charge of watching the court], as shown by the document of August 15, 1682, where Ștefan, the son of Hagi Panait usher, complained about the conditions within the prison “administered by the *seimeni*.” In the first half of the 18th century, the *seimeni* were also charged with guarding the princely court and the jailhouse (Stoicescu 1968, 198; Stoicescu 1988, 433). However, those “guilty” of failing to pay back debts

were not the only ones locked up here; political enemies shared the same fate. In the context of the 1717 movement of the Polish gang against the king August II of Saxony, who was also king of Poland, Neculce talks about the four Polish hetmans who were caught by “servants of various towns (...) and they took them to the servants’ *varta*, for servants to watch them” (Neculce 1982, 668). In the *vartă*, for moral rather than for monetary debts, the son of Batiște Veveli – former treasurer of Alexandru Iliăș, the one killed and “torn to pieces” (Costin 1958, 99) in 1633 by the revolted crowd – locked up the alleged murderer of his father, a certain Bosâie of Orhei. It is understandable why the revenge-seeking son did this “without the knowledge of the prince”, namely of Prince Iliăș, the son of Alexandru, given that the prince tried to prevent a new uprising of the crowd, like the one during his father’s reign⁴. The son of Crucean of Cruce was also detained in the “*vartă*” around 1672, for a debt of forty *vedre* of Crăstiiian wine⁵.

The historical sources regarding imprisonment for debts multiplied from the second half of the 17th century, compared to the first half of the century. They prove that the *gaol*, a generic name for the place where debtors were sanctioned for failure to pay, represented a place for temporary confinement. The persuasion methods for them were, in case of certain princes, far from mild; they forced the ones “in fault,” due to their “fault,” by using various means made available by the State in order to make them pay. However, in order to get back the money they had lent, creditors had to address the judiciary authority (the prince or dignitaries), which assessed the assets of the debtor in default, in order to determine whether their value equated with the sum they owed, as also shown in the code of laws. “The one who has a debt and wilfully wants to purchase an asset with the same value, he may not do this without a ruling, because his choice will not be noted in books and records; he must first of all assess the value in

⁴ “In that time, a son of Batiște the treasurer came with an order from Constantinople. And upon finding a man from Orhei, namely Bosie, who killed his father, Batiște the treasurer had him locked up in the *vartă*, without the prince’s knowledge. And when others saw that he was imprisoned, they started shouting and scolding regarding what happened. Once the prince found out, he ordered his release immediately and he commanded all that he did be forgotten and forgiven. And he even punished the son of Batiște” (Neculce 1982, 210).

⁵ National Archives Iași, Manuscrise/592, 46r.

detail and they take if deemed proper' if he takes the asset before, he will have to respect the subsequent decision of the court" (Carte 1961, 76, 77, Matter 13, Section 209)⁶. Compared to some for whom an unpaid debt of "doi lei" meant losing the estate⁷ (Catalogul 1970, 240, no. 1062), other ones were lucky because, even if the prince's people estimated the assets as less than the amount of the debt, they escaped confinement. This is what happened to Mirăuță Bedreag from Brașov, who was imprisoned after a debt of 1,960 lei, which he owed to Iliăș, the son of Enache the steward. "Because I could not pay – he narrates –, they put me in jail." He regained his freedom by giving up on his small pub with cellars situated at Podul Hagioaiei in Iași. His creditor accepted this compensation, although the buildings valued less than the amount he owed (Caproșu 2000a, 506-507, no. 571⁸; Caproșu 2000c, 418-419, no. 472⁹). Furthermore, the owner of a small pub in Iași was left with important damage because of a debtor while, out of the 1,200 de lei borrowed, he only gets back the equivalent of "three hundred lei and the space", namely the values of one of his warrantors, who was also a relative of his, after they had been assessed by the merchants (Caproșu 2000b, 56, no. 68)¹⁰.

Making the warrantors and the relatives of the debtor in default responsible for failing to pay the debts was a means used by the princely institution to get back the remaining amounts. If the debtor was unable to pay for the loan or if he escaped in Walachia¹¹ or in Poland¹² to avoid paying, or if he

died (Melchisedek 1869, 165-166; Catalogul 1975, 169, no. 650¹³; Caproșu 2000b, 527-528, no. 600¹⁴), the warrantors¹⁵ (Antonovici 1924, 155-156, no. XCIV¹⁶; Caproșu 2001, 137, no. 249¹⁷) or their relatives (Antonovici 1924, 162, no. XCIX¹⁸) were coerced by imprisonment to return the money to Treasury in case of taxes and to creditors in case of loans. Changing masters for Gypsies with unpaid debts¹⁹ and selling the estates, always making sure to respect the *protimisis* – "I asked all my free villagers to give me this money and nobody was willing to; and because Costantin Jora the *sărdar* was closer and that he had an estate there, I asked him from prison and from the tower twice and he rejected the offer saying he had no need of it", Ștefan, the son of Hagi Panait, complained on August 15, 1682 (Caproșu 2000a, 507, no. 572)²⁰ – represented the sacrifice made by those for whom jail was a presumptive danger or an unfortunate experience. The confinement period depended on how fast the debtors or their warrantors or the relatives who remained in the country or survived found resources to pay back the debts: "a couple of days" (Caproșu 2001, 137, no. 249²¹), "two months"²², "one year"²³, "a while" (Caproșu 2000a, 520-521, no. 585²⁴), "a lot of

¹³ A document of May 7, 1707.

¹⁴ A document of March 27, 1721. Prince Duca also kept "for a year in gaol" Gheorghe Ursachi great treasurer (Costin 1872, 22).

¹⁵ National Archives Iași, M-rea Sf. Sava-Iași, XXXI/9. A document of October 12, 1677; M-rea Brazi, XXXI/7. A document of March 15, 1678; M-rea Doljești, XXbis/15. A document of August 10, 1710.

¹⁶ A document of August 28, 1696.

¹⁷ A document of May 25 <1742 (7250)>.

¹⁸ A document of November 15, 1705.

¹⁹ Such was the case of Vasile, "a Walachian Gypsy," who came to Moldavia and who, in his own words, "was in great debt and because I was not able to pay it back, they locked me up with the debtors," redeemed afterwards on May 28, 1718, by Antioh, the son of Bejan Hudici treasurer: "for this money I accepted to be his servant and slave forever" (National Archives Iași, M-rea Doljești, XXbis/28. A document of May 28, 1718).

²⁰ The attention for respecting the pre-emption right when selling estates in order to reacquire freedom, featured in other documents, too: Codrescu 1888, X, 52 (a document of March 12, 1649); Solomon, Stoide 1939, II, 37-38, no. XXXVIII (a document of 10 august 1686); Iorga 1909, XVI, 411, no. 2 (a document of 12 April, 1738); Caproșu 2001, V, 242-243, no. 434 (a document of June 1744).

²¹ A document of May 25 <1742 (7250)>.

²² National Archives Iași, M-rea Brazi, XXXI/7. A document of March 15 1678.

²³ National Archives Iași, M-rea Sf. Sava-Iași, XXXI/9. A document of October 12 1677.

²⁴ A document of May 31, 1683.

⁶ This criminal code of laws does not include a punishment for the debtor in default. Acquiring money borrowed with a certain purpose: "Whoever takes the money lent to someone and does not give it anymore it will be considered theft and said person will be punished" and "Whoever takes money from someone to keep them and spends them for himself, will not be punished for said amount if given to him; however, he will be punished for given to him for keeping in a sealed bag, which he opens or people taking money without having this right: "whoever claims to be a princely servant and takes money from debtor, but is subsequently proven to be a fraud, he will be punished as a thief, for having spent the money for himself" (Carte 1961, 69, Matter 13: *For theft without arms*, Section 137 and 140; 70, Matter 13, Section 145) are considered theft and sanctioned as such, not as unpaid debt.

⁷ National Archives Iași, Manuscrise/572, 125v.

⁸ A document of August 1, 1682.

⁹ A document of July 20, 1714.

¹⁰ A document of November 20, 1693.

¹¹ National Archives Iași, M-rea Brazi, XXXIV/25. A document of January 30, 1695.

¹² National Archives Iași, M-rea Doljești, XXbis/15. A document of August 10, 1710.

time in jail”²⁵ or other imprecise terms. Such was the case of Ambrosie, who paid “for his head to a certain Turk, a said Alâş *ceauş* of Dii <Adriano-ple>, who was indebted to this Turk during the reign of prince Radu, and he was put in jail until the reign of prince Gaşpar, when he was still in prison,” until he was redeemed by Ionaşco Cujbă treasurer (Codrescu 1888, 52), as shown in a document of mid 17th century.

It must be mentioned that imprisonment was the punishment for many debtors to Turkish merchants. The presence of Turkish merchants in the Romanian Principalities is one of the consequences of increased Ottoman political and economic domination in this space. Regarding Moldavia, it has been noted that, whereas until the second half of the 17th century, the economy of his country was in some kind of a balance between the influence of western economy and of the Ottoman economy, starting with the last decades of the century, the balance weighed more in favour of including Moldavia in the Ottoman economic system, a trend accentuated in the first half of the 18th century (Murgescu 1988, 5, 514-524; 6, 587-596; Murgescu, Bonciu 1993, 541). In this new economic conjuncture, the presence to the north of the Danube of Turkish merchants becomes more and more visible. These merchants were specialized in trading honey, wax and animals, products necessary to the Ottoman market, including to garrisons, military campaigns and to the empire’s capital Istanbul (Alexandrescu-Dersca Bulgaru 1992, 73). Besides the purely commercial activities, Turkish merchants also practiced usury: they lent money: depending on their capital, to the prince, to boyars or to mere citizens such as urban inhabitants or small landowners (Rădvan 2011, 180-205). The new political climate where the princely institution lost a significant part of the authority in the relations with the Ottoman subjects allowed the Turkish merchants – especially the Lazi (Gemil 1984, 353-354, no. 162)²⁶ – to enforce their presence in Moldavia in that period and to commit abuses. The inhabitants of the country were most affected by the fact that these

merchants asked for high interests for the money they lent.²⁷ These abuses, despite efforts made by princes, could only be eliminated towards the second half of the 18th century²⁸, when the economic climate began to change, (the Ottoman economy diminished because of the progress made by the western one).

In this context, certain justifications of deprivation of liberty were a commonplace for the situations when, wishing to get back the sums lent or those used as down payment for the promised merchandise, the Turks asked the support of the prince to force debtors to pay. I present several examples in this respect: “as I was in jail for a debt I had to a Turk that I was not able to pay” (Iorga 1909, 411, no. 2²⁹); “we had a debt of four lei to a Turk and for it we were seized and locked up”³⁰; for the payment of debts “for beehives and honey to the Turks, to get his brothers out of jail, who had been imprisoned for the brother’s debt” (Antonovici 1924, 162, no. XCIX³¹); or, as a certain Irina, the wife of the deceased Mărdari of Dolheşti complained, for the debt left by her husband, for which “the Turk took me by the neck down to his house” (Melchisedek 1869, 165³²). Another such example is, “after my brother’s death (...) I was left with a debt to the Turkish merchants that he had made during his lifetime, for which the creditors put me in jail” (Caproşu 2000b, 527-528, no. 600³³). The pressure on the warrantors and the relatives of the debtors in default to pay their debts was allowed by the princes in the second half of the 17th century and the first half of the subsequent century. Because they had no land ownership rights, it was vital for them to recuperate the credits or the amounts given as

²⁷ For the political and socio-economic consequences of usury until mid 18th century, see Caproşu 1989.

²⁸ Grigore II Ghica, the Walachian prince in the period 1733-1735, after having spent seven years on the Moldavian throne, “had all their chambers demolished and banished them on the other side of the Danube. And to the Turkish merchants left he drastically limited the freedom they had enjoyed before upsetting the poor by burdening them with increasing interest for they money they had lent and then cashed in themselves. During the reign of this prince, no Turk was entitled to cash in money from a poor, but the land administrators judged every case and made justice. The prince also ordered for the interest not to exceed from ten to twelve” (Cronica 1965, 362-363).

²⁹ A document of April 12, 1738.

³⁰ National Archives Iaşi, M-rea Brazi, XXXIV/25. A document of January 30, 1695.

³¹ A document of November 15, 1705.

³² A document of 1707.

³³ A document of March 27, 1721.

²⁵ National Archives Iaşi, M-rea Dolheşti, XXbis/28. A document of May 28 1718.

²⁶ These merchants make their presence noticed as early as 1679, when their excesses in Moldavia and Walachia entail the first reactions, and the Porte gives orders for these agitations caused to the rural and urban inhabitants of the two countries to be quashed by the Ottoman dignitaries, the only ones with jurisdiction on them.

down payment for the products they were to purchase from Moldavia.

The periodical contributions to the State, namely the taxes or other obligations imposed on the boyars and monasteries in Moldavia, represented a difficult moment for many, given the impossibility of paying them, which led to their imprisonment in princely jails. The princely servants or dignitaries and the landowners in the dependant villages who failed to collect taxes in time were also sent to prison³⁴. The same fate awaited those who leased from the prince or from high dignitaries certain taxes whose value had not been given to the Treasury³⁵.

The multiplication of taxes or the conversion of the old ones into money (predominant in the 17th century and mostly in the 18th century, given the need of money to pay the tribute and other financial obligations to the Porte), the existence of an evolved tax system compared to the previous centuries, on which the princely institution based the intransigent regime of monitoring the execution of tax obligations, the abuses committed by this system to the detriment of tax payers are known mainly because these situations were mentioned

³⁴ I mentioned the case of Ștefan, the son of Hagi Panait, locked up to the “*seimeni*” for the debt “of a task... in the region of Cărligătura”, of August 15, 1682 (Caproșu 2000a, 507, no. 572).

³⁵ In the first half of the 17th century, detention for unpaid debts was a punitive measure applied by the prince, as attested by the few documents preserved. For instance, an unpaid rest from the tithe to be collected in the region of Tutova sent Mătiiaș to prison, as shown in the list of villages of Dumitrașco Ștefan great chancellor and of his wife, Zinica. In order to get the 200 *talerei*, the debtor in default ended up selling – with the consent of his relatives – the estate of Pășcani, on Bistrița, with places for mills at Sărata, in the region of Bacău, to the great chancellor, according to the list that he made on April 20, 1627. “And Mătiiaș used this money to pay to Necula Catargiul chamberlain from prison for some money unpaid from the tithe at Tutova” (DRH 1969, 245, no. 186). In 1648, Pavăl (a court captain from the region of Vaslui, who was also in charge with collecting the court tax from this region) had been detained for the same offence as his foregoer, namely failure to pay the tax obligations of his job: “he had a debt from a court tax in the region of Vaslui”. He regained his freedom using the financial support of Racoviță Cehan second chancellor, who bought parts of the villages of Dolhești and Botneni in exchange for the amount he needed so badly, thus getting “him out of prison” (Ghibănescu 1914, 298–299, no. CXC VII, dated to April 27, 1648). It is true that Pavel the captain had tried to recuperate the remaining amount by abusing his dignitary function, namely by collecting the tax in kind (he took 10 oxen from several people that he controlled and then he sold the oxen to the customs officer). However, Pavel took the oxen unjustly from the court servants, reason for which the latter complained to the prince about the injustice that they had suffered (Ghibănescu 1914, 297–298, no. CXC VI).

in chronicles. More than others before him, Gheorghe Duca left to the successors the image of a prince who does not accept compromises when it comes to collecting contributions. This is why he used coercion to obtain the amounts established. Hence, prison “for money” was a common method in that period, which stirred the disapproval of contemporaries, as provided in *Letopisețul Țării Moldovei de la Istratie Dabija până la domnia a doua a lui Antioh Cantemir (1661-1705)*. “So prince Duca cast his wrath on everyone and burdened the country with taxes (...) thus filling the jails with people and poor women, starving. Many died in gaols. The boyars and their wives without wealth were locked up and deprived of liberty for money. For that hatred and wrath, they all hated prince Duca and they prayed to God to save them from his hand” (Letopisețul 1913, 73; Neculce 1982, 265–266). The new tax burdens that also included the privileged categories³⁶ led to dissatisfaction. This entailed a far from positive description of prince Duca: “a great tyrant and unbelievably covetous, he came up with the worst punishments and he began, claiming honesty, to take the wealth of rich boyars and of those who had money, such as burghers, merchants and many villagers” (Călători 1980, 451), and the “country”, according to Ion Neculce, “was burdened with taxes, because there were many expenses at the Treasury” (Neculce 1982, 210).

The money contributions to the Treasury – necessary for court maintenance, for paying the tribute and for other obligations to the Turkish dignitaries – had an ascending trend in the Romanian Principalities. During the reign of Iliăș Alexandru, the monks at the monastery of Neamț were forced to “pay the sheep tax and to pay money like other monasteries for the vine hectares, a *taler* for each hectare and a half.” Because they had no money to pay, they were forced to sell ten good oxen and a horse to Gheorghe Ursache great treasurer of the village of Telebeciți, in the region of Suceava, for 250 lei (Balan 1937, 37–38, no. 27). Because the taxes multiplied, so did the coercion methods for collecting them. The collecting of

³⁶ For instance, *ialovița*, a new tax for cattle owners, was imposed on the court servants (Constantinescu, Stoicescu 1988, 228; see also Chelcu 2003, 133) or the sheep tax to be taken from boyars and monasteries: prince Duca “made a habit of taking sheep tax from the great boyars and the monasteries; he was so greedy for more money, just like the prince, the great treasurer, the merchant, the customs officer ...” (Costin 1872, 19).

sheep tax brought a lot of sorrow to the Suceava magistrate Gavrilaş Stârcea. Because he failed to collect it in time, the great hetman Dumitraşcu Cehan with attributions in this region gave the princely servant “a severe punishment”, namely imprisonment. He got out of jail by selling his goods – “to take the money for neighbour/s, Gypsy/ies or estate/s.” The account of the events occurred on August 10, 1710 is impressive because of the pains suffered by Bejan Hudici the Porte magistrate, who had chosen to be a warrant for paying up the debt that his nephew – the princely servant Gavrilaş Stârcea – owed to the Treasury, because he had not managed to collect the sheep tax in the region of Suceava. Here is a fragment of this document: “I, Gavrilaş Stârcea former magistrate of Suceav(a), wrote a letter to my uncle, Bejan Hudeci the Porte magistrate, to inform him that the sheep tax in the region of Suceava taken from Dumitraşcu the hetman, the brother of prince Mihai, I failed to recuperate 65 lei. And for this money, the hetman gave me a severe punishment (...)”³⁷.

The debts made by boyars while doing their jobs were recuperated, according to N. Stoicescu, using another artifice: because he could not pay the salaries of soldiers, he allowed them to determine the debtors in default to give them the money precisely to pay for their salaries. The documents dated to the second half of the 17th century and the first half of the 18th century are testimonies to this practice. Namely, during the reign of prince Ştefăniţă, the son of Vasile Lupu, Constantin Bujoran, the son of Anghelina and the nephew of Crâstea great magistrate remained in debt “for a pig tax in the region of Tecuci of two hundred lei, and the clerks were allowed to seize the money from him” within a week. Because he did not have the money, he sold the estate of Bujorani to Pătraşco Danovici third chancellor (Iorga 1904, 23, no. 40³⁸).

In order to pay for the debts made to get the throne or for other urgent needs, the princes imposed to the boyars – as early as mid 17th century – the payment of certain amounts of money, as *loans*, to be recuperated from taxes (Caproşu 1989, 109). In order to cover the money necessities of the prince, the boyars appealed to usury, which led to them “being saddled with debt” (Caproşu

1989, 109). Because the money was not given back to creditors, the latter made complaints to the prince, and thus the boyars ended up in jail.

The procedure used by the princes to get money rapidly – the “loan” – is nothing new, as it had been practiced before the 17th century, too. The climate was however different; the environment became less secure and more tense. First, the princely institution no longer had estates to guarantee to the lenders that they would get their money back, not even by granting them land ownership. In the second half of the 17th century and in the subsequent one, considering that the princes’ need for money increased, almost the only way of getting the money back or even of gaining for those who lent money to the prince was to remain in a dignitary function.

The tension appeared when the princes tried to reward as quickly as possible the creditors that helped them get the throne; subsequently, they always sought new ways of rewarding those who could extend an uncertain reign. This tension and uncertainty is transferred domestically from the prince to his dignitaries. This game of fate included – besides the prince – the boyars who, in hopes of a gain, obtained dignitary functions in exchange for the money given to the prince. Some of them were sent to jail while their families ended up ruined. Some of the boyars became victims of abuses, as it occurred during the reign of Iliaş Alexandru, who used the loan as a method to pay the creditors and at the same time to punish those who rose against his father (Caproşu 1989, 109) Gheorghe Duca – the money-thirty prince – was also abusive: he forced the dignitaries to borrow and to give him more money than they could have ever collected from the inhabitants of the country. “And he made them borrow more money than they could have paid back” (Neculce 1982, 265; Letopiseţul 1913, 73), the chronicler says. On top of everything, the change of princes led to the fall into disfavour of the new prince, by leaving the boyars unable to pay the debts.

Once launched, a rapid method for the quick collection and non-restitution of money was also practiced by the Moldavian princes Constantin Duca (Caproşu 1989, 80-81) and Mihai Racoviţă (Caproşu 1989, 83-86), thus outraging the boyars who suffered from it. One of such victims was Nicolae Başotă great treasurer of Mihai Racoviţă during his second reign; he was one of the boyars

³⁷ National Archives Iaşi, M-rea Doljeşti, XXbis/15.

³⁸ A document of May 2, 1661.

“who had spent during the days of prince Mihai, some at the Treasury, others at the Storage, some others at the Granary, some other poor boyars who received an order from the prince to borrow money from Turkish merchants and then they were left uncovered; the noble houses were in great debt and waste because of the loans. And some of prince Mihai’s boyars, when he was exiled, had princely confirmations; so, they had amounts of money given from those confirmations, and these amounts were for those they had borrowed” (Costin 1872, 74-75). Hence, these amounts were never given to Prince Nicolae Mavrocordat³⁹.

This also happened to a former treasurer, as he himself depicts in the documents comprised in *Catastiful*, drafted up in 1721, and in its *diatele*, elaborated successively until 1749 (Iorga 1909, 370-388; Ghibănescu 1930, 19-20). From the beginning, the boyar states the things he had to go through. “Whatever I, Neculai Bașotă former treasurer, had left of the estates I gave to my sons and sons-in-law, whatever remained, I sold and gave to the creditors who had lent me money during the days of Prince Mihai, from the prince’s orders, during my days as a treasurer, for which he never paid me back; I have no other debts left unpaid; I paid for all my outstanding debts, as detailed below” (Iorga 1909, 371). Beyond doubt, “the long shame and poverty” (Iorga 1909, 383) that the former high dignitary had suffered determined him to embrace the monastic life. In this will, written in Iași, on March 3, 1728, this time friar Nicodim describes the dramatic circumstances he had to endure and that changed definitively the course of his life. “I, Nicodim the monk Bașotă, former great treasurer (...), after becoming poor, because of the things that occurred in the treasury during the days of prince Mihai; because I was in debt (after selling all the wealth gathered since I was young) for money I had borrowed and for Treasury commerce. Because I was left with nothing, my son-in-law Ilie of the Treasury took care of all my necessities all the time I was a layman

and after I became a monk” (Iorga 1909, 381) In a “new order” for another daughter of his, Maria, the wife of Andreiaș Turculeț *medelnicer*, of August 1733, the former great treasurer brings extra information regarding the causes of his economic and social demise. “While I was a great treasurer during the second reign of prince Mihai, it so happened that I spent 7,000 *galbeni* from the money belonging to the State and the treasury, as shown by the accounting and the signature of prince Mihai. I got no money to pay back and I found myself in the middle of a storm: they took my house (after the deposition of prince Mihai); prince Neculai came and let the creditors get a hold of me and *they put me in jail, and I stayed there for a year*, a time during which the creditors and the princely servants went to my house and they took everything they found, even worthless items. Thus, I became so poor that I could not cover my daily expenses; I was still in debt to various people” (Iorga 1909, 382). The “creditors” may have been Hagi Ismail (Caproșu 1989, 118), Hussein the *serdar* (Caproșu 1989, 121) or Toma the merchant (Caproșu 1989, 129), from whom the former dignitary had borrowed money with interest, but failed to return the loans.

Therefore, in this stage of the research, it may be stated that imprisonment for debts was an efficient preventative coercion method for obtaining or recuperating the outstanding debts and the loans taken from various creditors. The method was so effective partly because the princes assumed it; the repression mechanism was based on the fact that the debtors in default wanted to regain their freedom: they were given a chance to do that by paying the debt. The pressure put on the debtors in default often fell on their warrantors (who had guaranteed for the outstanding amounts) and on their family (who was made responsible for this “guilt”, mostly when the debtors fled the country to escape punishment because they had no means to give back the money to the tax collectors or the creditors). Even when the debtor died, the debts were not erased, but they were passed on to warrantors and relatives. External political and economic constraints and the excessive tax policy promoted by most Moldavian princes in the second half of the 17th century and the first half of the subsequent century may be reasons for enforcing imprisonment for debts during this time range. Thus, prince Gheorghe Duca (who reigned in Moldavia three times:

³⁹ However, it seems that Nicolae Mavrocordat promoted in Walachia the policy of his Moldavian predecessor in terms of asking for money, namely imprisoning those who failed to accomplish the princely task in this respect. “The misdeeds of the current Walachian prince <Nicolae Mavrocordat> are very serious, because he had imprisoned not only the wealthy boyars, but also the noble widows, whom he coerced in order to get money”, according to an act of September 18, 1716 (Iorga 1925, 90, no. LIII).

1665-1666; 1668-1672; 1678-1683) was right to invoke the “custom” of imprisonment for Gheorghe Ursachi until he paid up his debts as a legal practice. Hence, the great treasurer paid, according to the chronicler, “250 bags of money” to get out of the jail he stayed in for a year (Costin 1872, 22). However, the reign of prince Duca was one of the worst in terms of tax excesses and thus repression, which really gave a really hard time to those persons who became debtors in default

(concerning monetary debts). Generally, imprisonment for debts had a temporary character, ranging from a couple of days to a year or more. The prince – in his capacity as legal authority – decided the deprivation of liberty for the debtor in default as the last solution for recuperating the outstanding amounts of money. This was actually more of a coercion method, meant to discourage similar attitudes; it was not a conviction, as it occurred for criminal offences.

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Metode de constrângere pentru neplata datoriilor în Moldova (a doua jumătate a sec. al XVII-lea - prima jumătate a sec. al XVIII-lea)

Cuvinte-cheie: dări, împrumuturi, datorii, infracțiune, pedeapsă, temniță, ocnă.

Rezumat: Obiectul cercetării noastre îl constituie aplicarea pedepsei cu închisoare ca metodă de constrângere aplicată datornicilor în a doua jumătate a secolului al XVII-lea și prima jumătate a secolului al XVIII-lea, folosind-ne de surse documentare (edite și inedite) și narrative din acest interval. Beneficiind de teoretizări și clarificări de ordin juridic, propunem o abordare, cu mijloacele și metodele proprii istoricului, a folosirii acestei metode de constrângere în cazul nereturnării datoriei făcute fie către domnie, prin neonorarea dărilor, fie către particulari, din diverse cauze, fapte considerate, în epocă, drept infracțiuni.

Ispășirea sentinței se făcea în concordanță cu gravitatea acesteia, datornicii fiind închiși în diverse locuri de detenție, având grade diferite în ceea ce privește regimul de executare a pedepsei: gros, groapa ocnii, pușcărie, temniță, vartă, opreală. Înviniții proveneau din categorii sociale diferite. Caracteristica dominantă a privării de libertate, în perioada aflată în atenția noastră, a fost intimidarea, cu posibilitatea răscumpărării vinei prin diverse mijloace, lipsindu-i, însă, finalitatea corectivă, proprie dreptului modern.

În acest stadiu al cercetării noastre putem spune că pedeapsa cu închisoare pentru datorii a fost o metodă de constrângere preventivă, provizorie și eficace de recuperare a banilor de pe urma dărilor restante către stat sau a împrumuturilor făcute la diverși creditori. Eficiența metodei a constat, în primul rând, în asumarea ei de către domnie, al cărei mecanism de represiune a mizat pe dorința redobândirii libertății de către rău-platnic, punându-i la dispoziție o cale de obținere a acesteia, și anume plata datoriei.

Принудительные методы взыскания долгов в Молдове (вторая половина XVII в. - первая половина XVIII века)

Ключевые слова: подати, ссуды, долги, правонарушение, наказание, тюрьма, долговая яма.

Резюме: Объектом нашего исследования, основанного на документальных (опубликованных и неопубликованных) и устных источниках, является наказание в виде лишения свободы по отношению к должникам во второй половине XVII и первой половине XVIII века. Предлагаем рассмотреть применение этого метода наказания как в случае неуплаты податей в казну, так и за невозвращение долгов физическим лицам, что в ту эпоху считалось преступлением.

Способ отбывания наказания назначался в соответствии с тяжестью провинности; должники содержались в различных местах заключения, отличавшихся по режиму содержания. Осужденные принадлежали к разным общественным сословиям. Основной целью лишения свободы в рассматриваемый период было устрашение, с предоставлением возможности искупить вину различными способами, однако без исправительной составляющей, присущей современному праву.

На данном этапе нашего исследования можно сказать, что наказание лишением свободы являлось превентивной, временной и эффективной мерой взыскания задолженностей перед казной или кредиторами. Эффективность этой меры заключалась главным образом в том, что она осуществлялась властью и основывалась на стремлении неплательщика вновь обрести свободу, чего он мог достичь лишь путем возмещения долга.

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