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Secularization of Monastic Estates (1863). Some Legal – Historical Aspects

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Abstract

According to many 19th century reports, a great number of monasteries from the Romanian Principates were dedicated to foreign monastic settlements and got to own great fortunes and lands. They were not used for the Romanian Church needs and the monastic life was increasingly degraded. After numerous tryings during the first half of the century, in 1863 Cuza's government promulgated a number of laws concerning the secularization of monastic estates (dedicated or independent), the clergy's payment from the State budget and the maximum amount of money for the Church needs. The state's interference in the life of the Church led to significant negative aspects. The interwar governments tried to repair the unjust law with little success, and also the post-revolution authorities returned some of the properties confiscated by the communist regime.

Keywords

Romanian Church, dedicated monasteries, secularization, law, monastic estates

The great Romanian generosity towards the Greek Orthodox sister Churches hardly tested by the brutal Ottoman rule, especially after the

XIV – XV centuries, recorded in countless history pages¹, did not limit only to the donations of sacred objects and substantial financial aid, but a plus of less controlled piety caused a lot of monastic settlements to be dedicated to the Holy Sites or even to some monasteries with significant land assets.²

The way these latifundia were managed directly by the representatives of those establishments, especially by abusive Greek monks, led even the pious Wallachian ruler Matei Basarab (1632-1654) to take action in order to stem this intolerant situation, but the events that succeeded proved that this was only an isolated episode. The rulers Șerban Cantacuzino (1678-1688) and Constantin Brâncoveanu (1688-1714) increased the number and wealth of the so-called “dedicated” monasteries.

The so-called Phanariote period caused the increase of further abuses in their administration in such a way as to scandalize even the most bigoted Christian, and determined the most enlightened, from the native clergy, to express their indignation towards this undue spoliation and especially towards the situation of flagrant violation of the State’s sovereignty, through the now obsolete “dedication” formula.³

¹ We mention here only the work of Steven Runciman, English byzantinologist, *Marea Biserică în captivitate*, trad. de Mihai Silviu Chiri, Ed. Sophia, București, 2013, 486 pp.

² There is a rich bibliography regarding the history of dedicated monasteries: G. Bengescu, *Memorandum sur les Églises des monastères, les biens conventuels et spécialement sur les monastères dédiés de la Principauté de Valachie*, Bucharest, 1858, 87 pp.; A. I. Comănescu, *Chestia monastirilor închinat pe la Sfintele locuri din Principatele Unite, Moldova și România*, București, 1859, V + 36 pp.; N. Istrate, *Chestia monastirilor închinat din Moldova*, Iași, 1860, 28 pp.; I. Brezoianu, *Monastirile zise închinat și călugării streini*, București, 1861, 167 pp.; Cezar Bolliac, *Monastirile închinat din România*, București, 1862, VIII + 660 pp.; *** *Memoriu asupra monastirilor românești puse sub invocația Locurilor sfinte din Orient*, București, 1863, 142 pp.; *** *Collection des documents diplomatiques et des pièces officielles concernant la question des monastères dédiés en Roumanie* (vol. I, 1858 – 1864, vol. II, 1864 – 1878), Constantinople, 1880, 238 + 153 + XLIX pp.; Ștefan Berechet, „Dovezi noi asupra secularizării averilor mănăstirești”, în *Biserica Ortodoxă Română* 14 (1923), pp. 1041-1053; Pr. Coman Vasilescu, *Istoricul mănăstirilor închinat și secularizarea averilor lor*, București, 1932; Marin Popescu – Spinei, *Procesul mănăstirilor închinat. Contribuții la istoria socială românească*, București, 1936, 160 pp., etc.

³ Lucian Predescu, *Enciclopedia României. Cugetarea*, Ed. Saeculum, București, 1999, p. 772.

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Concerning this situation, after the establishment of earthly reigns in 1822, during the reign of Grigorie Dimitrie Ghica (1823-1828) and the bishop tenure of the Holy Hierarch Grigorie Dascălul (1823-1829, 1833-1834) of Wallachia, even since 1823 a measure was taken: the removal of Greek abbots from the dedicated settlements and their replacement with holy abbots of Romanian origin.

However in 1827 the external pressures especially Greek and Russian caused the rethinking of this decision and the reinstalling of Greek abbots who continued with the same bad management.⁴

During the following decades the rulers of the Romanian Principalities adopted new measures through which they sought remedy for the situation, but the measures didn't have the desired consequences. So was the provision in the *Organic Law* that remained unapplied, which stated the dedicated monasteries contribute with 1/4 of their revenue to the budget of the Romanian Principalities. Other measures led to the abolition, on the May 31, 1863, of the Holy Sepulchre's Trusteeship that was once more disbanded in 1845 and then restored, and to the establishment, by Prince Gheorghe Bibescu (1842-1848), of a nine years period dedicated to the restoration of the dedicated monasteries, measure which was not applied either. None of these measures were taken into account by the leaders of the dedicated monasteries, the state of the worship places becoming dramatic, as the 1858 report of a committee consisting of representatives of the time's Great Powers shows.

However, simultaneously, a policy directed towards the control and the use of the revenues obtained from the non-dedicated ecclesiastical earthly establishments' properties was outlined. Although the State was not entitled to be involved in managing these particular properties, this was done through the so-called *Central House of the Church*, characterized in 1860 by Vasile Boerescu, Minister of Justice, as "a second treasury of the country" since its revenue of 13.3915 million lei budget represented about 1/6 of Wallachia's budget, amounted the same year to a total of 84.015 million lei.

At that time there were 69 monasteries in Wallachia, of which 35 were dedicated and 122 monasteries in Moldova, of which 29 were dedicated. The church's property share related to the total agricultural and forested

⁴ Pr. prof. Mircea Păcurariu, *Istoria Bisericii Ortodoxe Române*, vol. III, EIBMBOR, București, 1994, pp. 113-114.

areas of the Romanian Principalities was of 16.55% for the non-dedicated monasteries and 11.14% for the dedicated ones, in Wallachia, and of 12.16% for the non-dedicated and 10,17% for the dedicated ones in Moldova, totaling about a quarter of the Romanian territory at that time.⁵

To get an even clearer picture of what dedication meant, in Moldova for instance, according to an official statistics from 1848, the 29 dedicated monasteries held in their administration 197 estates (including here arable land, forests, mills, ponds and fish ponds, velnies, pubs and inns, etc.). What is more surprising is the fact that of the 197 estates, 192 were leased, and only 2 were directly managed by the monasteries; also, for 3 of them we find no specification in the statistics, whether they were rented or not. As expected, these tenants (mostly secular), being appointed by the Greek abbots of the monasteries for a short period of time (maximum five years), indulged in all sorts of plunder actions towards the movable and immovable remembered heritage. Their main purpose was to gather in a short time as much money as they could from these estates, most of the money reaching back to the Greek abbots of these monasteries. The secular tenants of these estates were, after their nationality, 63 Romanians, 42 Greeks and 2 Hebrews (!).⁶ We can imagine what the situation was like if Hebrew tenants started to take part in the administration of a monastery's estates.

Also, according to an official statistics this time from 1855, Moldova's monasteries now held 215 estates (that is 18 more than in 1848), of which 101 were in the administration of the Holy Sepulchre, 87 of Mount Athos, 12 of Mount Sinai, 5 of Constantinople, 3 of Alexandria, 2 of Antioch and 5 of the Greek monasteries.⁷

Besides this, in terms of spiritual life and canonical discipline in the dedicated monasteries, the situation was even worse. Thus, a report written in 1858 by the representatives of the Great European Powers sent in the Principalities, shows the dedicated monasteries no longer had a monastic life and all their earnings were used by the ruling Greek abbots, or, in the best case, were sent to the Holy Sites. The report also emphasized those monasteries systematically evaded the obligation to restore and maintain

⁵ *** *Dicționar de istorie economică și istoria gândirii economice*, Ed. All Beck, București, 2005, pp. 132-133.

⁶ Ecaterina Negruți – Munteanu, „Moșiile mănăstirilor din Moldova închinat Locurilor Sfinte, după o statistică alcătuită la 1848”, în *Mitropolia Moldovei și Sucevei* 7 – 8 (1967), p. 499.

⁷ Pr. prof. Mircea Păcurariu, *Istoria Bisericii Ortodoxe Române*, vol. III, p. 117.

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the churches, schools or hospitals. The report was discussed by the representatives of the seven Great Powers and, through the *XIIIth Protocol*⁸ of the Paris Convention, which took place on the 1/13 April 1858, the two parties – the Romanian state and the Greek abbots – suggested they should reach an agreement, and if not, resort to arbitration.⁹

We are going to mention only that, at the beginning of Alexandru Ioan Cuza's reign (1859-1866), the dedicated monasteries of Moldova owed to the State 1.46652 million lei, and those in the Wallachia 19,490,124 lei, debt originating from the fourth part of their last years income, which they had to pay into the country's coffers as tax. In August 1863, this debt had risen to 28,889,020 lei¹⁰, an enormous sum for that time (8.103.370 million lei in current currency).

Faced with this disastrous situation, the Romanian priests and monks did not remain careless. Of these, the most outspoken contestants of dedication were Archimandrite Eufrosin Poteca and priest Grigorie Musceleanu.¹¹

The first one elaborating in 1842 *The History of Wallachia's monasteries* in *Prolegomena* or *Precuvântare* with great judgment and with a surprising farsightedness for his time, took a firm stand on the so difficult issue of the dedicated monasteries:

“now, if those good believer founders had so much godliness at the monks residing in this country, it's easy to think that they, in their simplicity, have had more reverence for the monks of Jerusalem, for the Holy Sites, at those of Sveta Gora, those of Sinai and those of all Greek places, who always came begging more strongly after the fall of Constantinople in the hands of the Turk-

⁸ This XIIIth Protocol refers to the issue of the dispute existent between the Romanian State and the dedicated monasteries. Among other things, it stated: “(...) in order to give a right solution to the misunderstanding that exists in this regard, between the Government of the Principalities and the Greek clergy, the interested parts are invited to understand each other through a compromise. In case they could not understand each other, within a year, things will be settled by arbitration. If the arbitrators didn't come to an agreement, they will choose a supra – arbitrator, and if they find the inability to agree on the supra - arbitrator, he will be appointed by the Sublime Porte, in agreement with the Guarantor Powers “(cf. A.D. Xenopol, Cuza Voda's reign, vol. II, Iași, 1903, pp. 315-316, including the text of the Protocol).

⁹ Pr. prof. Mircea Păcurariu, *Istoria Bisericii Ortodoxe Române*, vol. III, p. 114.

¹⁰ Pr. prof. Mircea Păcurariu, *Istoria Bisericii Ortodoxe Române*, vol. III, p. 114.

¹¹ Pr. Gabriel Cocora, „Cum a fost privită de preoțime secularizarea averilor mănăstirilor închinată”, în rev. *Glasul Bisericii* 11-12 (1963), pp. 1050-1053.

ish people, using all the masteries of humility. This way they took on over 50 monasteries only in our Valachia so that an immeasurable piety, unbalanced with the public law, caused only little monasteries in the Romanian Countries to stay unalienable from the national public law”.¹²

Further, the erudite Wallachian Archimandrite shows the consequences of this situation:

“Now, welcoming the foreigners, feeding the hungry and other things from their own wealth, it is a Christian thing to do, and dividing acres from the bosom of the country, receiving so many foreign layers in the bosom of our state, as many dedicated monasteries as they are, it is against public law, it is a great state abuse. However, this abuse, after a good understanding of the public and nations law, of the natural law, of the political right and finally of the right of national ownership of our century, can justify itself even more, without any remorse, that these monasteries are built, like all of them, for the monks who would live in them and are also equipped with food for these monks.

Now this condition is not respected because there are no monks and no religious order in them. So the condition was violated: they have lost the gift right, even after the civil codex”.¹³

Faced with this clear situation so contrary to the most elementary logic and principles of public law, Archimandrite Eufrosin Poteca concluded, not without a sarcastic nuance: “There will still be disputes; there will always be devotion to God; the resurrection of the dead will always be confessed, but godliness in some monasteries where there are no monks cannot be”.¹⁴

Priest Grigorie Musceleanu distinguished among the parish priests who strongly supported the immediate resolution of this situation that could not continue. In the *Church (Biserica)* religious newspaper, whose founder was, priest Musceleanu published several articles against the dedicated monasteries and the Greek abbots at their lead. In one of them, entitled *God protects Romania*, he shows his readers that “the earthly dedicated

¹² G. Dem. Teodorescu, *Viața și operile lui Eufrosin Poteca*, București, 1883, p. 74.

¹³ G. Dem. Teodorescu, *Viața și operile lui Eufrosin Poteca*, p. 74.

¹⁴ G. Dem. Teodorescu, *Viața și operile lui Eufrosin Poteca*, p. 77.

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monasteries are some mourning centuries in which Romania sighed seeing the Phanariots blaming their good doers, the Romanians".¹⁵

The country's political leadership did not remain impassive in the face of the Romanian dedicated monasteries' iniquities. Thus, the very first Prime - Minister of Romania, the great historian and statesman Mihail Kogălniceanu (1817-1891; Prime - Minister between 1863 and 1865¹⁶) stated that

"the reason why the state is now placed in the most favorable position that allows it to take the lead of the monastic estates from the hands of these private foreign trustees, it is because they were unfaithful custodians (...) for two centuries, says he, the founders' will was not respected, for two centuries, the foreign monks, with revenues of Romanian fortunes, gave example of scandal and used the possessions of the dedicated monasteries to support an anti-national policy and to combat the Romanian nationality". "It would be a national sin, conclude Kogălniceanu, that so many fortunes be left in the hands of some foreign monks who are always rebellious at the country's laws." Therefore, "let these unfaithful trustees and bad depositaries be discharged of the evil accomplished mission. The ungrateful looses his gift.

Bargaining that were not kept, are broken ...".¹⁷

One fact that remains particularly significant in all the actions taken by Kogălniceanu in order to support the secularization of the dedicated monasteries¹⁸ is drawn from his own confession:

¹⁵ Pr. Grigorie Musceleanu, „Dumnezeu protejă România”, în rev. *Biserica*, an II, nr. 28/15 decembrie 1863.

¹⁶ Nicolae C. Nicolescu, *Enciclopedia șefilor de guvern ai României (1862 – 2006)*, Ed. Meronia, București, 2006, pp. 207-213.

¹⁷ Mihail Kogălniceanu, *Discursuri parlamentare din Epoca Unirii*, Ed. Științifică, București, 1959, p. 167.

¹⁸ Regarding the contribution of Mihail Kogălniceanu in the secularization of monastic estates, and other church reforms of the time, see: C. Drăgușin, „Legile bisericești ale lui Cuza și lupta pentru canonicitate”, in the magazine *Studii Teologice* 1-2 (1957); Nestor Vornicescu, „Mihail Kogălniceanu, întemnițatul de la Râșca”, in the magazine *Mitropolia Moldovei și Sucevei* 3-4 (1968), pp. 147-184; Al. Zub, „Preocupări de istorie ecleziastică la M. Kogălniceanu”, in the magazine *Mitropolia Moldovei și Sucevei* 3-4 (1973); Pr. V. Palade, „Probleme de organizare și administrație bisericească în opera lui Mihail Kogălniceanu”, in the magazine *Mitropolia Moldovei și Sucevei* 1-2 (1974), pp. 39-63.

“I do not claim that through secularization, the Principalities should forget the great mission that was left to them by our ancient rulers, to protect and preserve the Orthodox faith in countries once cradle of Christianity and today subjected to the Crescent Moon... Let us remember the Patriarchates of Antioch, Jerusalem and Alexandria were sustained and supported only by the help of the Principates. This mission is beautiful. Principates must not forget that they are given this mission to preserve Orthodoxy in the Muslim East... Romania must fulfill it in the future too. But I add once more: we are going to help the East Orthodoxy with money, but neverwith land,”¹⁹

Faced with this sad situation, even from the first year of his reign, Cuza's government began to take various measures against the abuses of the Greek monks, especially increased during 1863. Thus, many abbots were removed from their posts for insubordination to the civil authority²⁰, the lawyers of the Greek monasteries were banned from pleading before the Romanian courts unaccompanied by Romanian lawyers, the exit or entry of foreign monks without the approval of Ministry of Religious Affairs (to prevent the export of valuable objects and documents) was banned, it was again decided that the leasing of the monastic estates be done only by the Ministry of Religious Affairs.²¹

By a royal order on May 31, 1863, the Trustee of the Holy Sepulcher, which had been reestablished before the election of Cuza²², was abolished. On June 18, 1863, based on a report made by Alexandru Odobescu, then ad interim minister of Religious Affairs and Public Education, a new lordly order was given through which the inventory of the valuable objects and documents of the dedicated monasteries was ordered, following that the items needed during the religious services be placed under the supervision of archpriests or local bodies of the state, and those which were not used during the service, along with the ownership documents, be submit-

¹⁹ Mihail Kogălniceanu, *Discursuri parlamentare din Epoca Unirii*, p. 167.

²⁰ We mention here only the abbots of the monasteries Putna and Văcărești; for the complete list of the abbots dismissed in this first stage, see: A. D. Xenopol, *Domnia lui Cuza Vodă*, vol. II, pp. 328-329.

²¹ For more details on these measures, see: Pr. Nicolae Șerbănescu, „150 de ani de la nașterea domnitorului Alexandru Ioan Cuza”, în rev. *Biserica Ortodoxă Română* 3-4 (1970), pp. 371-375.

²² Marin Mihalache, *Cuza Vodă*, Ed. Tineretului, București, 1967, p. 164.

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ted to the Văcărești (Bucharest) and Golia (Iași) monasteries, under military guard. This mission would be carried out by representatives of the Ministry and the Metropolitan Churches, and in the counties by deans and Prefecture delegates.²³

The committee established with this occasion inventoried those assets in a relatively short time, thus preventing, in a good measure, their alienation. On this occasion, there were other dismissals of abbots, who were accused of alienation of documents or of insubordination to the civil authorities.²⁴

In parallel with these measures taken in the country, a lively external diplomatic activity concerning the problem of secularization was held. In August 1863, Costache Negri, our country's representative in Istanbul gave the Ottoman Porte a note from the Romanian Government, which proposed a solution to the problem, by offering a 80,000,000 lei compensation to the Holy Sites, of which 28,889,020 lei were to fall, representing the Romanian state debts to the dedicated monasteries. In addition to this amount, the Romanian Government offered 10,000,000 lei for the establishment of a secular school and a hospital in Istanbul that would receive anyone, regardless of their nationality or religion.²⁵

But the representatives of the Holy Sites refused the generous offer with support from the Ottomans.²⁶

That being the case on the day of December 13/25, 1863 the Romanian Government, with the consent of the ruler Alexandru Ioan Cuza, presented to the House of Representatives, the *Bill for the secularization (nationalization) of monastic estates*²⁷, Mihail Kogalniceanu being the Prime-Minister and Dimitrie Bolintineanu being the Minister of Religious Affairs.

²³ For Bucharest, this committee was comprised of the following scholars: George Sion, Nicolae Filimon și Cezar Bolliac.

²⁴ The Greek abbots of the following monasteries: Sărindar, Mihai Vodă, Sfânta Ecaterina, Mărgineni, Hotărani, Mislea și Butoiu were dismissed for document alienation, and for disobedience, the abbots of the monasteries: Sfântul Gheorghe Nou, Negoiești, Plătărești, Comana, Cașin, Tazlău, Frumușica, Soveja, Sfântul Sava, Galata, Barnovschi, Nicorița, Cetățuia, Bârnova, Probota, Popăuți, Ioan Gură de Aur and Banu.

²⁵ C. C. Giurescu, *Viața și opera lui Cuza Vodă*, Ed. Științifică, București, 1966, p. 195.

²⁶ Leften Stavros Stavrianos, *The Balkans Since 1453*, C. Hurst & Co. Publishers, London, 2000, p. 352.

²⁷ The Bill for the secularization of monastic estates was published in the *Official Gazette* no. 249 of December 14/26, 1863, p. 1041 and in the magazine *Church*, second year, no. 28 of December 15, 1863, p. 215.

Even that day, “with minor editorship modifications” in the middle of an atmosphere full of enthusiasm, it was voted “in greater unanimity”: 93 white votes (“for”) and 3 black votes (“against”). By this vote being decided the secularization of these fortunes, considered “dead hand” it was finally given a “national solution to the problem of the so-called Romanian dedicated monasteries”.²⁸

After counting the votes and determining the outcome, the President of the Chamber, the Metropolitan Nifon of Wallachia (1850-1875, between 1865-1875 Primate - Metropolitan), said, among other things: “And now, gentlemen, after I as president of the Assembly announced the result of the voting I come as hierarch and head of the Romanian Church to call the blessings of Heaven upon the works of the Government and the Assembly”.²⁹ It is no need to mention that the overwhelming majority of Romanian Orthodox clergy and believers have received this measure with joy considering it an act of justice for the Church and the Romanian people.

The law was promulgated by Cuza, on December 15/27, and was published in the *Official Gazette* on December 17/29, 1863, date on which it took effect.³⁰

The law concerning the secularization of monastic estates included nine articles. Even from the first article it was unequivocally stipulated that “all the monastic estates in Romania are and remain fortunes of the State.” Thus, its effect was expanding to the properties of the not dedicated monasteries and even to those of the Diocesan Centres, although initially it was only about the secularization of the dedicated monasteries.³¹

²⁸ C. C. Giurescu, *Viața și opera lui Cuza Vodă*, pp. 194-195.

²⁹ Cf. *The Official Gazette (Monitorul Oficial)*, no. 249 of December 14, 1863, p. 1041.

³⁰ The text of the law promulgated by the ruler (*Legea nr. 1251/1863*) was published in *Monitorul Oficial (The Official Gazette)*, nr. 251 of December 17/29, 1863, p. 1053.

³¹ After the historian Giurescu, “this generalization had been imposed by the consideration that only the secularization of the dedicated monasteries’ estates was brought before the international fora by those concerned, as a discriminatory, unjust and xenophobic measure, favoring the not dedicated monasteries, with Romanian leadership and striking the dedicated monasteries with Greek leadership. Through the secularization of all the monastic estates, such an argument, which would have surely impressed the Guarantor Powers, would have been canceled from the start. This way, we could see that it’s not about a discriminatory measure, which favors a category of monasteries and disadvantages another one, but a general measure for all the monasteries” (cf. C. C. Giurescu, *Viața și opera lui Cuza Vodă*, p. 195).

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The other articles of the Law stipulated: the registration of the secular estates' incomes "between the ordinary incomes of the State's budget" (Art. 2), the allocation of an amount, "once and forever" and "only under the form of aid, according to its dedication intention", to the Holy Sites "to which were dedicated some of the earthly monasteries" (art. 3), the obligation "of the religious communities of the down places" to give "annual reports on the use of the above-called capital's revenues" (art. 4) and their obligation of "not using even the smallest part of the capital" and neither of "using the revenue in any other way than its special destination, that of maintaining the East Orthodox Church and the charitable establishments joined to it" (art. 5).

The affected amount will fall "in a maximum of 82 million lei, in the currency of Constantinople", also including "31 million lei the Holy Sites owe to the Wallachia after previous stipulations" (art. 6, para. 2). In addition, the Romanian state was also affecting "an amount of 10 million lei in the same currency, for the foundation of a secular school and a hospital in Constantinople that will welcome Christians of all rites" (art. 7).

These "settlements" would be led by a board chaired by "Romania's agent in Constantinople" and composed of two Romanian members appointed by the Government and also of two members "elected by the religious communities of the Holy Sites" (art. 8).

Finally the Romanian Government would take back from the Greek abbots, all "the ornaments, books and sacred vessels and documents that have been entrusted" "according to the inventories found in the country's archives" and would also take measures "to ensure the 51 million lei capital, and also to use that capital's incomes" (see full text of the Law in the Annex).

In this way about a quarter of the country entered into State ownership after the secularization (25.26% - 27.69% according to some – in the Romanian Country and 22.31% in Moldova³²). Even if the *Law for the secularization of monastic estates* in 1863 solved somehow the problem of the dedicated monasteries' estates outside the country, it created another problem on the other hand, that of the Romanian Orthodox Church, which remained without its own means of maintenance, especially since the takeover of the non-dedicated church's properties was made without stipulating any compensation in the text of the Law.

³² C. C. Giurescu, „Suprafața moșiilor mănăstirești secularizate la 1863”, în *Revista de Istorie* 2 (1959), pp. 155-156.

In the new situation created by the nationalization of its assets, from supporter of the educational and philanthropic acts, the Romanian Church became dependent on the state's support, which proved either insufficient, either totally absent in many cases. The archives confess a sad and unfortunately generalized state of affairs, in which the requests for the aid necessary for repairing often minor, but basic necessities that could not be done from its own funds, were deferred or denied by the Ministry of Religious Affairs because of lack of funds, although the State was the beneficiary of the secularization of the churches' assets. A lot of churches of great artistic value belonging to the secular monasteries were left derelict, and some secular properties were bought by influential politicians.³³

The state's interference in the life of the Church led to significant negative aspects. The autonomy of the Church towards the State remained just a canonical principle which could not be implemented. In the future, the Church leaders will repeatedly appeal to the financial support of the State.³⁴

The problem of the parish priests and other servers of the church's salaries was left, according to the communal Law of April 1/13 1864, on behalf of municipalities, so on behalf of the City Hall, and after that, the Law for the regulation of the rural property of August 14/26, 1864, stipulated that the parishes receive a cultivable area of 17 acres in Wallachia and of 8 acres and a half (about 8.5 ha³⁵) in Moldova. Beyond the fact they offered insufficient support in relation to the specific needs these stipulations were only partially applied, so that the Church's and its servants' situation worsened greatly.

A very important document concerning the funding of the Church by the State is the *Organic Decree for the regulation of the monastic tagma* or the *Law of monasticism*. Published on November 30, 1864, this decree brought some regulations concerning the monastic life. Stipulations of Chapter IV, article 6, are of interest for our topic which stipulated the Min-

³³ Mircea Cricovean, „Church Financing in the Context of Monastery Estates Secularization”, in *Managementul Intercultural 2* (2014), p. 116.

³⁴ Pr. prof. Mircea Păcurariu, *Istoria Bisericii Ortodoxe Române*, vol. III, Ed. Trinitas, Iași, 2008, p. 110.

³⁵ L. Botezan, „Problema agrară în dezbaterile parlamentare din România în anul 1862”, în vol. *Studia Universitatis Babeș - Bolyai*, series *Historia* 1 (1961), p. 107; vezi și: N. Adăniloae, D. Berindei, *Reforma agrară din 1864*, Ed. Academiei Române, București, 1967, 361 pp.

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istry of Religious Affairs would have to provide amounts in the budget to be allocated for the livelihood of the monks and nuns³⁶. Chapter IV, article 7 of the Decree stipulated the enactment of a regulation for financial-economic maintenance of the monasteries. We should note that, following the secularization of the monasteries, over 200 monasteries and hermitages were forced to change their legal status from a monastic one to a parochial one.

Unfortunately, other monasteries were transformed into hospitals, orphanages or prisons or remained derelict.³⁷

In a so-called *Memorandum concerning the status of the Romanian priests and their moral and material position*, published in 1888, the worthy to remember Melchisedec Ștefănescu, Bishop of Roman, characterizing in detail this difficult state of the Church and its servants, said:

“The assets of the Church were taken by the State and their revenues are used to other destinations, apart from a minimal part still reserved for supporting some religious institutions, like dioceses, seminaries, some monasteries and those who are doomed to a soon demolition; yet, little help is given to the former monasteries, reduced to simple communal churches, in rural and urban districts... therefore, the Church and its servants remained at the expense of the rural and urban municipalities. But nothing to improve the status of the churches and priests was done ...”³⁸

It was hoped that the situation would improve with a new special law, which has already been promulgated on May 29/June 10, 1893, under the name of the Lay clergy and seminaries Law³⁹. It stipulated the takeover of

³⁶ C. Drăgușin, „Legile bisericești ale lui Cuza și lupta pentru canonicitate”, p. 92.

³⁷ A. Moraru, *Biserica Ortodoxă Română între anii 1885 – 2000. Biserică. Națiune. Cultură*, vol. III, tom.I, EIBMBOR, București, 2006, p. 521.

³⁸ Melchisedec Ștefănescu, *Memoriu despre starea preoților din România și despre pozițiunea lor materială și morală*, Roman, 1888.

³⁹ In 1893, the Conservative government led by Lascar Catargiu wanted to pass the Law of the lay clergy and seminaries. Take Ionescu was the artisan of the law, the Minister of Cults and Education. This law regulated the wages of the parish priests, their schooling, the appointment criteria, as well as some administrative issues (the maintenance of the churches, the fixing of the parishes, the administrative and disciplinary control in the church, etc.). Since then, the problem of the priests' wages passed into the state's care. The law also imposed the criteria according to which the salary of a priest was established and a minimum and a maximum salary. The Law of the lay clergy, desired by the conservative governance, brought both advantages and disadvan-

the towns and villages priests' wages by the State budget, stipulation that continued somewhat, until today. But neither this law managed to solve the difficult problems faced by the institutions and Church servants.

Regarding the maintenance of the difficult situation of the Orthodox Church's units over the coming decades, it is significant that, in the period after the forming, on December 1, 1918, of the Great Romania, the Minister for Religious Affairs, Alexander Lapedatu presented a statistics which showed that, at that time, only 3% of the Orthodox parishes in the Old Kingdom and 2% of the Transylvanian Orthodox Churches could support themselves entirely from their own means, while the situation for other denominations was the following: 5% of the Greek - Catholic parishes, 21% of the Unitarian Hungarian, 23% of the Reformed Hungarian, 53% of the Catholic Hungarian and 85% of the Lutheran parishes.

In presenting the consequences of the *Law concerning the secularization of monastic estates* from 1863, we cannot neglect the situation of the monastic community worsened to the point the number of the dwellers reduced drastically, as the *Organic Decree for the regulation of the monastic tagma* (In presenting the consequences of the *Law concerning the secularization of monastic estates* from 1863, we cannot neglect the situation of the monastic community worsened to the point the number of

tages to the Church. It put order in matters never regulated. Meanwhile, it sanctioned the dependence of the Church to the State. Iosif Gheorghian, Primate - Metropolitan of Romania (1886 - 1893, 1896 - 1909) and close to the liberal opposition, didn't agree with the adoption of the law as proposed by the Government, resigning, as a protest from the high office. Take Ionescu and the Conservative Government started to look for a prelate more sensitive to the power's initiatives. They found him in the person of Ghenadie Petrescu, Bishop of Arges (1876 - 1893, Primate - Metropolitan between 1893 and 1895). The laity made a lot of perseverance in electing Ghenadie. The 2nd article of the Synodal Law of 1872 stated: "In order to be raised to the dignity of Metropolitan or Bishop, the candidates should possess the Bachelor or Doctor in theology at the Orthodox Faculty of Theology." Because Bishop Ghenadie did not fulfill this condition, the Minister Take Ionescu imposed to the Chambers the repeal of the article. And so, the new Metropolitan was imposed by politicians, in total contempt of the law. "Double mistake," said Titu Maiorescu in a speech at the Chamber, "by the repeal of a good law and by the proposal of a bad choice." In 1895, following the election, the Conservative Government falls, and is replaced by a Liberal Government led by Dimitri A. Sturza. In these circumstances, the acute problem concerning the return of Iosif Gheorghian at the seat of Primate -Metropolitan arises. Judged on May 20, 1895 for unfounded accusations (innovation in religion, sacrilege, cupidity), Metropolitan Ghenadie was deposed and exiled to the Căldărușani monastery.

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the dwellers reduced drastically, as the *Organic Decree for the regulation of the monastic tagma (the Law of monasticism)* stopped the access to the monastic life of men under 60 and women under 50 years, besides the candidates with theological superior studies the monastic life of men under 60 and women under 50 years, besides the candidates with theological superior studies. Therefore for a long period of time the monasteries were not able to perform their traditional role of spiritual, cultural and religious art houses as before. Perhaps such measures inspired the communist regime, when it adopted the nefarious *Law - Decree No. 410 of October 28, 1959* concerning the monks and nuns.⁴⁰

In the interwar period by the *Law for equipping the monasteries in the country with areas of forested and agricultural land* of March 20, 1937, amended in the subsequent years and as a gesture of partial repair of the secularization act, the Romanian State attributed "in full and perpetual use" forested areas totaling 20,000 ha to some monasteries located in all the regions of the country and known for their vast cultural, spiritual and educational activity.

With the establishment of the atheistic totalitarian regime which occurred in 1948, there began the mass confiscation of the properties belonging to the religious cults in Romania, under the pretext of their nationalization. The laws under which this nationalization was made were: *The Constitution of the Popular Republic of Romania, of April 13, 1948 (in particular art. 44-45)*⁴¹, *The Nationalization Law, the Law - Decree no. 177 of August 22, 1948*⁴² and *the Law - Decree no. 176 of August 3, 1948 for the takeover of the churches, congregations, communities or individuals' assets by the state, which served for the functioning and maintenance of general education, technical or vocational institutions*⁴³. The Nation-

⁴⁰ The decree stipulated, inter alia, the exclusion from entering into monasticism of the following categories: minors, persons who have less than seven elementary grades, persons who have committed infringements from the monastic rules, those who have been convicted of common law, "counterrevolutionary elements" and those known for "hostile manifestations" against the communist regime. The decree was applied retrospectively, so that, in just one year, it managed to abolish a number of 92 monasteries for lack of inhabitants, a number of about 4,750 monks and nuns being forced to leave the monastic life, cf. Dr. George Enache „Decree 410/1959. A brief report at 50 years after its adoption”, in the newspaper Lumina, October 28, 2009, p. 1.

⁴¹ Published in *Monitorul Oficial*, part I, no. 87 bis. of April, 13, 1948.

⁴² Published in *Monitorul Oficial*, part I, no. 204 of September, 3, 1948.

⁴³ Published in *Monitorul Oficial*, part I, no. 204 of September, 3, 1948.

alization Law of 1948 refers to the *Law no. 119 of June 11, 1948, for the nationalization of industrial, banking, insurance, mining and transport enterprises*⁴⁴, through which the Romanian State nationalized all the resources of the soil and subsoil, which were not in its property at the date of the entry into force of the Popular Republic of Romania Constitution from 1948, and also of the individual enterprises, companies of any kind, private associations, industrial, banking, insurance, mining, transport and telecommunications associations, etc.

Among other things *The Law - Decree no. 177/1948* stipulated: the prohibition of any relationships between the Orthodox Church and the abroad churches, swearing loyalty to the State, the nationalization of schools and church properties and the abolition of the Diocese Army, which had its headquarters in Alba Iulia Municipality.

The normative acts after 1989, concerning the compensation for the serious infringements brought to the property right in the communist regime, also followed the regulation of the forested areas' problems, received "in full and perpetual use".

Thus, the *Law no. 1 of January 11, 2000 for the restoration of the property right over the agricultural and forested lands*⁴⁵, requested, according to the stipulations of the *Law no. 18 of February 19, 1991 and of the Law no. 169 of October 27, 1997*, that

"The religious structures (...) which had in use or endowment forested estates, acquire in property surfaces up to 30 ha of the forests they had in administration or endowment. The difference of the unassigned surface will be reconstituted in the form and the ownership structure existing at the time of the nationalization of the forested lands by the communist regime" (art. 29, para. 31-32).

As we can see, at the time of the elaboration of the *Law no. 1/2000* the legislator had the intention to attribute in property the areas received in full and perpetual use, even if it had some limits concerning the maximum area.

For the surfaces exceeding the limit of 30 ha, the *Law no. 1/2000* foresaw their return "in the form of property or initial use". But this stipulation was unenforceable and didn't produce any effects so far. None of the methodological norms' annexes of the *Law no. 1/2000* stipulates and can't

⁴⁴ Published in *Monitorul Oficial*, part I, no. 133 bis. of June 11, 1948.

⁴⁵ Published in *Monitorul Oficial*, part I, no. 8 of January, 12, 2000.

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stipulate the concrete way through which the use of a forested area is returned. For this reason, the forested areas allocated for a specific and noble purpose and for covering the needs that remain today, can't be used by their beneficiaries because of a legislative framework, and, although the law proposes an act of reparation, it is unable to pursue this goal.

The laws regulating the possibility of returning the secularized church properties or the properties confiscated by the communist regime are: *The Emergency Ordinance of the Government (EOG) no. 94 of June 29, 2000*⁴⁶, the *Law no. 501 of July 11, 2002 for the approval of the EOG no. 94/2000* regarding the restitution of some properties that belonged to the religious cults in Romania⁴⁷, the *EOG no. 209 of December 22, 2005 supplementing the EOG no. 94/2000*⁴⁸, the *Law no. 247 of July, 19, 2005 on the reform of property and justice*, as well as some additional measures (which amends and supplements all the previous land laws)⁴⁹ and the *Law no. 165 of May 16, 2013 on the measures necessary in completing the restitution, in kind or compensation, of the estates abusively taken during the communist regime in Romania*.⁵⁰

The authorities entitled to decide on the restitution of the church's estates are: a) the local, urban or municipal Commissions implementing the land laws, b) the land fund county Committees, and c) the Commission for the restitution of some immovable properties that belonged to the religious cults in Romania - Bucharest and competent Courts (action for failure - recovery of possessions).⁵¹

Concerning the Church's right to own movable and immovable properties and to dispose of them according to its own needs and regulations

⁴⁶ Published in *Monitorul Oficial*, part I, no. 308 of July 4, 2000 and republished in *Monitorul Oficial*, part I, no. 797 of September 1, 2005.

⁴⁷ Published in *Monitorul Oficial*, part I, no. 561 of July 31, 2002.

⁴⁸ Published in *Monitorul Oficial*, part I, no. 1194 of December 30, 2005.

⁴⁹ Published in *Monitorul Oficial*, part I, no. 653 of July 22, 2005.

⁵⁰ Published in *Monitorul Oficial*, part I, no. 278 of May 17, 2013.

⁵¹ The introductory action, accompanied by the fact (the evidence) and law (the laws) reasons, is submitted to the court by the defendant or to the home where the property is claimed, according to art. 107, 1 of NCPC (New Code of Civil Procedure). But the courts are of first instance and their sentences are not final and can be appealed to the Court. If the civil request is monetised and the amount exceeds 500,000 lei, the action is brought before the territorially competent Court. The last word in civil matters belongs, in general, to the Appeal Courts, and with few exceptions, to the High Court of Cassation and Justice (Bucharest).

without any interference from the State, we mention the *Law no. 213 of November 17, 1998, concerning the public property and its legal regime*⁵² and the *Law. 489 of December 28, 2006, on the religious freedom and the general regime of religions* (especially art. 27, 30-31)⁵³. As its own laws, we remember the *Statute for the organization and functioning of the Romanian Orthodox Church* (especially art. 32, para. k) art. 98, letter l), art. 102 lit. m), art. 170-170), supplemented by the *Regulation for the management of the church's estates* and the *Regulation for the administration and operation of the parochial and monastic graveyards within the eparchies of the Romanian Orthodox Church*.

Today the Romanian state financially supports only a portion of the salaries of the church's staff. The maintenance, the strengthening, the restoration and the reparation of worship places and other church buildings, which ensures the active presence of the Church in society and of God in the souls of men, become mostly the responsibility of the believers communities also affected by the economic – financial crisis faced by the contemporary society.

In this regard, in order to help the Church in its many activities, on behalf of the Romanian Orthodox Church's clergy and believers His Beatitude Patriarch Daniel said, with full justification that "today, more than ever (...) the full restitution of the church's properties (land and buildings) confiscated by the communist regime it is urgently needed".⁵⁴

In other words, since 1990 the Romanian Orthodox Church has regained the opportunity to fulfill its mission in freedom and to conduct a broad social-philanthropic and cultural-educational activity in the benefit of the Romanian society. Thus, in 2015, the Romanian Patriarchate had a number of 766 social, health and educational institutions, conducting a total of 489 pastoral-missionary, social-charitable and cultural-educational projects for the Romanian communities in the country and lately, abroad. Within the philanthropic activity in 2015, direct *financial aids* amounting to 11,605,048 lei and *material aids* estimated to 22,912,063 lei were granted.⁵⁵

⁵² Published in *Monitorul Oficial*, part I, no. 448 of November 24, 1998.

⁵³ Published in *Monitorul Oficial*, part I, no. 11 of January 8, 2007.

⁵⁴ http://basilica.ro/stiri/150-de-ani-de-la-adoparea-legii-secularizarii-averilor-mnastireti-din-1863_11603.html (accessed 25.11.2015).

⁵⁵ <http://patriarhia.ro/fapte-ale-credinei-i-iubirii-milostive-8660.html> (09.03.2016).

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For the maintenance, the consolidation and the restoration of the worship places, mostly historical monuments of the cultural-national heritage and for supporting the multiple activities of the Church in the benefit of the Romanian society, the restitution of the church's properties confiscated by the former communist regime in Romania is imperious. The restituted buildings should not be sold to foreigners, but will be used for the establishment of educational, social - charitable, medical and cultural institutions.⁵⁶

Annex:

LAW NO. 1251 of December 15/27, 1863, for the secularization of monastic estates

ISSUER: THE PARLIAMENT OF ROMANIA

PUBLISHED IN: The Official Gazette no. 251 of December 17/29, 1863

ALECSANDRU IOAN I.

With God's mercy and the national will, to the Lord of the United Romanian Principalities;

To all present and future I wish you health:

I strengthened and I strengthen, I promulgated and I promulgate the following:

(Extract of the minutes of the Elective Assembly).

Art. 1

All the monastic estates of Romania are and remain estates of the State.

Art. 2

The revenues of these estates fall into the ordinary incomes of the State budget.

⁵⁶ http://basilica.ro/stiri/secularizarea-averilor-bisericesci-1863-motivatii-si-consecinte-sesiune-de-comunicari-stiintifice-a-academiei-romane-la-palatul-patriarhiei_11608-.html, accessed (26.11.2015).

Art. 3

An amount is affected to the Holy Sites to which some of the earthly monasteries were dedicated, and only under the title of aid, according to the intention of their dedication.

The maximum of this amount will be of 82 millions lei, in the currency of Constantinople, once and for all, here being included 31 millions lei which the Holy Sites owed to the Romanian Countries after previous stipulations.

ART. 4

The religious communities of the lower places will be obliged to give an annual account concerning the use of the the so-called capital.

Art. 5

In no circumstances and under no word, the religious communities will be able to quench the smallest part of the capital, nor use its revenues out of their special destination, the maintenance of the East Orthodox Church and of the charity establishment joined to her.

Art. 6

The Government will take back from the Greek abbots the ornaments, books and sacred vessels, with which our ancestors' piety endowed these settlements; and also the documents which were entrusted to the abbots, according to the inventories found in the archives of the country.

Art. 7

Another amount of 10 millions lei will be given, in the currency of Constantinople, for the foundation in Constantinople of a secular school and a hospital, where Christians of all rites will be welcomed.

ART. 8

The establishments cited in Art. VII will be put under the direction of a Council presided by the Romanian Agent of Constantinople, and composed of two Romanian members appointed by the Government and of two members elected by the religious communities of the Holy Sites.

Art. 9

The Government will take measures to ensure both the 51 millions lei capital and the use of the capital's incomes.

This law was passed by the General Assembly of Romania, during the meeting held on December 13, 1863, and was adopted by the majority, with seventy-nine No. 97 votes against three No. 3, and one abstention.

L.S.

Vice-President,
Ioan Ghica
Secretary,
Pâcleanu

To the office Director, I. Codrescu

We make known and order that the things presented here, invested with the seal of the State and listed in the Official Gazette, be submitted to Courts, Tribunals and Administrative Authorities, in order to be written in their records and to be observed, and our Minister, State Secretary of the Department of Justice, is responsible in following their publication.

Given in Bucharest, on December, 15, 1863.

ALECSANDRU IOAN

State Secretary Minister,
at the Internal Department
and President of the Council,
Cogălnicenu

State Secretary Minister,
at the Justice Department

A. P. Ilarianu.

Seal Place

No. 1.251.
