



ACADEMIA ROMÂNĂ  
SCOSAAR

Anexa nr.6

## REZUMATUL TEZEI DE ABILITARE

**TITLUL:** Administrația habsburgică și cunoașterea vechiului drept românesc. Schimbările instituționale din Oltenia (1718–1739). Dinamica a două ordini juridice

**DOMENIUL DE ABILITARE:** Istorie

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**Habsburg Administration and the Study of Old Romanian Law.  
Institutional Changes in Oltenia (1718–1739):  
the Dynamics of Two Legal Orders**

The work comprises three distinct parts. The first offers a retrospective account of the author's scholarly career, which has focused for three decades on the social history of legal culture, judicial practices, evidence, debts and securities, property, taxation, normative language, and the critical editing of historical sources. The second part, which forms the core of the proposed thesis, examines an episode of changing sovereignty through the encounter between two ways of conceiving and exercising authority. Rather than reducing Austrian rule to a progression of reforms, the study explores how imperial administration was compelled to discover, describe, and interpret an already functioning legal order before attempting to reorganize it. The thesis proper consists of an introduction, four chapters, and conclusions. The final part outlines a program of doctoral research within SCOSAAR, devoted to legal culture and institutional transformations in the Romanian principalities and Southeastern Europe between the seventeenth and nineteenth centuries.

The central question of the thesis is not whether the Habsburg administration modernized Oltenia, but how it was able to govern a province whose institutions, privileges, judicial practices, and regulation of land tenure did not originate in the imperial order established after the Treaty of Passarowitz in 1718 – when sovereignty was transferred –, and whose system of rights and social mechanisms were not thereby automatically abolished. Methodologically, the thesis draws on an unusually rich documentary record: the Habsburg imperial bureaucracy produced conscriptions, reports, correspondence, instructions, registers, and inquiries that described local institutions in considerable detail, precisely because those institutions had become matters of administrative concern. These sources are examined alongside Romanian agrarian, fiscal, and judicial documents, with their distinctive terminology. The imperial archive is approached not as a neutral reflection of society, but as the product of administrative interests and specific situations of conflict. The guiding premise is one of reciprocal transformation: Habsburg power adapted its instruments of government to local realities, while Romanian law was itself altered through processes of classification, translation, verification, and control. Institutional change thus emerges as a negotiated process, unfolding at different speeds and often producing unforeseen outcomes across the various dimensions of historical transformation.

Chapter One – “Oltenia between Two Political Orders (1699–1718),” –uncovers the province's institutions before the advent of Habsburg rule, when Oltenia formed part of Wallachia's framework of counties, offices, jurisdictions, boyar and monastic estates, fiscal obligations, and agrarian relations. The *ban*, *vornici*, *ispravnici*, and other officeholders did not perform functions strictly differentiated according to modern criteria: their judicial, administrative, and revenue-collecting responsibilities overlapped. This configuration helps explain why the new sovereign authority could not simply establish itself as an institutional apparatus wholly external to local society. The transition from the Austro-Ottoman war to the

province's civil administration is examined within the context of a polycentric empire whose institutions and interests did not invariably conform to a single administrative will. Governing Oltenia entailed both asserting sovereign prerogatives and drawing upon the expertise of local elites, while imperial authorities also exercised power over the frontier province from geographically closer centers, such as Sibiu. The initial retention of certain offices, such as that of the *mare ban*, did not, however, imply that their powers remained unchanged. Similarly, intermediate offices, including those of the *vornici* and *ispravnici*, retained their traditional names while becoming subject to new networks of supervision.

Chapter Two – “The Habsburg Administration Confronts an Existing Legal Order” – shows how observation on the ground became a technique of government, with taxation as its principal field of application. Fiscal conscriptions, tax registers, the verification of exemptions and privileges, and the identification of resources transformed information concerning different kinds of obligations into an aggregate body of data that could be calculated and controlled. The thesis rejects the simplistic opposition between a local society grounded in oral practices and a Western administration founded upon writing: *anateftere* and treasury *catastife* demonstrate that the older Romanian fiscal system itself employed registers, written instruments, and procedures for apportioning obligations. The example of the *cislă* is instructive, since the distribution of burdens within a community according to the ability of people to pay contributions already embodied a principle of proportionality. The innovation introduced by imperial rule lay above all in the differentiation of the various components of administrative action, together with their scrutiny by an external authority and the consequent strengthening of central control. Fiscal conflicts concerned not only the amount of taxation, but also the mechanisms determining who was entitled to impose an obligation and by what procedure. In the administration of justice, the authorities encountered a plurality of forums, jurisdictions, and normative authorities – regulated by *obicei*, *pravilă*, princely *hrisoave*, *cărți de judecată* and privileges – which constituted neither a unified codified system nor a realm of arbitrariness. In litigation, these sources could be invoked alternatively, and their relative weight depended upon procedure, the jurisdiction of the adjudicator, and the strength of the evidence presented. Imperial attempts to bring order to these practices inevitably generated jurisdictional conflicts and difficulties of conceptual translation.

Chapter Three – devoted to Habsburg intervention in Oltenia's institutions –, traces the transition from gathering information to making political decisions. Examining the notion *vechiul obicei* occupies a central place in the argument. It is shown as signifying more than the antiquity of a practice: it becomes a legal argument when invoked by boyars to defend their powers and exemptions, by monasteries to uphold their privileges, and by imperial authorities to preserve services advantageous to the treasury. In this way, the legal tradition of the newly acquired territory appears not merely as an obstacle confronting Habsburg government, but as a language in which that government had to justify its own decisions. A memorandum submitted by the boyars on 12 June 1723 provides a telling example. Addressing certain claims advanced by the Imperial Chamber over the province's market towns – which overlapped with rights previously exercised by the voivodes of Wallachia –, it illustrates how custom could set limits to the expansion of imperial jurisdiction. Other documents, however, explicitly associate the sovereign's discretionary power with the country's older practice, under which the prince

possessed the authority to grant privileges. The coexistence of these two forms of argument suggests that political and social actors did not inhabit two clearly separated normative worlds: depending on their interests and particular circumstances, they drew upon ideas belonging to both legal orders. The chapter also examines the Romanian political elite, revealing the boyars as both indispensable partners and opponents of change. Cooperation alternated with disputes over revenues, appointments, responsibilities, and fiscal oversight, while the figures of prominent administrative intermediaries – such as Nicolae de Porta – impart to this sphere of institutional translation a remarkable visibility. In agrarian relations, where the principal stakes of government concerned personal status and the nature of services owed, official discourse distinguished personal dependency – expressed through the status of *rumânie* – from the actual obligations arising from residence on or use of an estate: release from *rumânie*, for example, did not automatically extinguish *clacă* and *dijmă*. Otherwise, research into monastic privileges shows that such things as exemptions, grants, and founders' rights could not be translated into the fiscal categories of the imperial administration without substantial losses for their former beneficiaries. Operations such as verification of titles or restriction of certain immunities consequently brought significant changes to relations between ecclesiastical authority and the imperial system.

The year 1739, when Oltenia returned to Wallachian authority, did not mark a straightforward restoration of the situation prevailing in 1718. Nevertheless, the thesis avoids treating every instance of continuity beyond that chronological threshold as evidence of enduring Austrian influence. The recurrence of certain procedures or formulas is explained primarily by the continued circulation of actors, practices, and documents. The legacy of Habsburg administration is therefore sought chiefly in the spheres of the repertoire of available solutions and of techniques for recording social realities, as well as on the layer of the capacity to reconsider the relationship between centre and province.

Chapter Four constitutes the most analytically ambitious part of the thesis. Having reconstructed the chronological encounter between the two administrative systems, it returns to legal and institutional questions in order to identify a “normative grammar” of old Romanian law. In seeking to reform the province, the Habsburg authorities inadvertently preserved, through their inquiries and the disputes they adjudicated, remarkably extensive descriptions of earlier Romanian institutions. The documentary dossier and lexicon accompanying the analysis seek to reconstruct the historical meanings of terms rather than assign them convenient modern equivalents. Thus, *milă* is not invariably identical to privilege as understood in imperial law; *rumân* cannot automatically be translated as serf; *vornic* does not correspond to a modern prefect; and *pravilă* does not simply function as a modern legal code. Attention is drawn to the ways in which shifting meanings reflect complex social relations and multifaceted administrative competences.

The chapter further demonstrates that establishing rights of landed property required checking the consistency of successive series of confirmatory *hrisoave*. Habsburg scrutiny of these privileges reveals different legal techniques: an earlier *hrisov* might have been confirmed by successive princes, with each such confirmation placing it in a new position along the chain of legitimating practices. This fact explains Habsburg concern with originals, copies, and seals, as well as with the scope of the legal effects of *milă*. Registers likewise attracted considerable

attention because, in fiscal matters, a *catastih* could serve both as an instrument of state control and as a means by which taxpayers defended themselves against abuses. Old Romanian law thus emerges as a richly documented order, rather than a merely oral tradition.

The final section of Chapter Four argues that institutional translation was not merely a lexical exercise of secondary importance, but one of the conditions under which power could be exercised. Rendering *obicei* as *Gewohnheit*, *Gebrauch*, or *consuetudo*; *pravilă* as *leges municipales* or *Statuta provincialia*; *moșie* as *possessio* or *fundus*; and *clacă* as *Robot* – choices that varied with the language of the document – produced useful approximations but also misleading equivalences. In selecting a term, an official singled out particular features of an institution for the purpose of making it intelligible to superiors. What could not be accommodated within the resulting classification risked being overlooked, reinterpreted, or transformed.

The conclusions critically reassess the paradigm of linear modernization, according to which a bureaucratic state supposedly uprooted a rudimentary local legal order. Oltenia instead illustrates the development of a flexible administrative capacity through engagement with the prevailing legal pluralism. Imperial authority did not abolish local custom, privilege, jurisdictions, and archives at a stroke; it sought to understand, rank, and put them to new uses. Romanian law, in turn, did not remain untouched, since the encounter with fiscal verification, written reporting, and jurisdictional oversight altered the ways in which actors articulated and defended their rights. A central aim of the thesis is this shift in perspective: Habsburg administration is examined not only as an agent of reform, but also as the unintended creator of an archive of old Romanian law. This approach makes it possible to observe institutions of old Romanian law more closely than contemporary Romanian documents alone permit. In front of Romanian voivodes, *legea țării* required no explanation. In front of the Habsburg authorities, otherwise, it had not only to be explained; its continuing validity and enduring authority also had to be demonstrated.

The program of activity within the SCOSAAR doctoral school, presented in the final part of the habilitation thesis, adopts the approach developed here as the guiding principle for training future doctoral candidates. Topics concerning justice, property, family, taxation, critical documentary analysis, and normative transfers are brought together under the broader question of how a legal order is produced and established. Emphasis is placed on direct engagement with primary sources, alongside terminological analysis, appropriate comparisons and original interpretations. The continuity between the retrospective account of the author's scholarly development, the research presented in the habilitation thesis, and the proposed doctoral-school program is thus underscored. It is shown that, together, they constitute a coherent whole.