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# FAMILY RELATIONSHIPS, ATTITUDES AND COLLECTIVE SENSIBILITIES IN TESTAMENTARY DISCOURSE IN 17<sup>th</sup> AND 18<sup>th</sup> CENTURY MOLDAVIA

“Mankind is the only one which knows it has to die and knows this only due to its experience” (Voltaire)

**Abstract:** Credem că nici un document nu e mai revelator pentru a afla poveștile trecutelor vieți decât aruncînd un ochi asupra diatelor, documente prin care, mai amplu sau mai sărăcăcios, viața omului, cu bune și cu rele, cu regrete și împliniri, cu dedesubturi neștiute, și nebănuite în cele mai multe cazuri, ni se dezvăluie tocmai în clipa morții. Pornind de la învelișul acestor tipuri de acte și de la contextul în care ele încep să fie redactate, și mergînd mai departe spre o radiografie amănunțită a interiorului și, foarte important, spre consecințele asupra cadrului socio-cultural, intenționăm să creionăm tabloul în mișcare al „lumii pe care am pierdut-o”.

**Key words:** *diată* (testament), last wills, kinship, inheritance, land, death

I believe that each of us has asked himself at least once during his life who were his ancestors, how they lived or what they thought during their last moments. Starting from this idea, we believe that no document is more revealing in order to find out the stories of past lives than casting a glance at the “diate”, documents by which, more or less thoroughly, the man’s life, with good and bad, with regrets and achievements, with unknown mysteries, perhaps mostly unsuspected, is revealed to us upon death. Starting from the cover of this kind of documents and from the context which they begin to be written in and going further towards a thorough radiography of the inside and, very important, of the consequences regarding the social and cultural framework, we intend to draw the moving picture of the “world which we have lost”.

The interest for the research and the unveiling, from the dust of the archives or of some libraries, of this kind of sources has started to take

shape, following the European model,<sup>1</sup> in Romania as well, the last wills, published either alone or assessed as a group, leading to some important conclusions regarding the history of the family, the history of representations and collective behaviors.<sup>2</sup> To these works which we have noticed that most of them are from the new millennium it is worth to add those of Ștefan Lemny,<sup>3</sup> Simeon Florea Marian<sup>4</sup> and Ioana Andreescu and Michaela Bacou<sup>5</sup> whom are the first ones that dared to approach to death and to the attitudes upon and its representation through the eyes of history of mentalities or through ethnological and ethnographical research.

### **The socio-political context and the importance of documents**

The inhabitants of both Walachia and Moldavia had passed hard times during most of the Middle Ages and pre-modern period (Tartars' attacks, Turkish greedy, the conflicts in order to get to the throne). That is why people did not have time to write everything down, but only the very important events, most of them referring to land ownership. In other words, they have mentioned only special situations and actions, special because of their nature and consequences.

The difficult events that people had to face are sometimes mentioned in the old documents as a reference. For example, Măguța Mălăiasa, on January 1644, comes in front of the prince and complains "with great pains and many witnesses" that the privileges and the official documents she had for the Vepreuca village (in the county of Soroca), "are lost since the Kazaks' war, which had also destroyed the fortified castle of Soroca".<sup>6</sup> The prince's decision was to recognize the woman's possessions, sustained by the fact that her statement was supported by so many witnesses, "honest and old people". The consequences of such events affected the whole family, not only morally, but also materially. In the middle of the 17<sup>th</sup> century, Toader Căldărușă must sell the village of Zudureni in order to pay the ransom of 500 Hungarian coins for his wife and children. They have been held captive by Tartars who "have attacked the whole country altogether with the Kazaks from Dniester (Nistru) to the mountains and have burnt the outskirts of Iassy and Suceava".<sup>7</sup>

Still, we can but notice the fact that, in Romania, the historian has to confront a kind of documentation which is quite dry if we think about the 16<sup>th</sup> and 17<sup>th</sup> centuries, being compelled to provide a very general description of realities and without managing to emphasize its

particularities. As such, the individual is seen as a character which shows up at trials, passes inheritances, manages the lands of the children, but the private sphere, with its specific feelings and actions, remains quite in the dark. This situation starts to undergo some changes through the diversification of discourse type during the period immediately following the emergence, both in Moldavia and Walachia, of the codes of law (mid 17<sup>th</sup> century) and afterwards. Even clearer is the situation during the 18<sup>th</sup> century when more and more persons, even those less rich, start to put on paper not only the decisions regarding the transfer of proprieties, but also true life stories.<sup>8</sup>

The nature and the content of the documents which our analysis starts from compels us to focus our attention, on one hand, towards two aspects, those of substance, important in order to catch sight of the evolution and changes at the level of legal practice and discourse, those which influence and alter the relationships inside the family, but also of the interaction between family and society, between the private sphere and the public one, and, on the other hand, those for form's sake which fill in, by careful observation of the structure, and the way information is displayed, the image of the individual and his moral and spiritual shape.

Before going further we have to clarify the terminology that it is been used and also we have to specify that for the analyzed period (mostly for the 17<sup>th</sup> century) we will not find only one term used for these kind of acts: besides *diatǎ* (a derivation from a Greek word: *διατα* (tikin) [in Albanian language - djatǐ ] we have: *zapis* [from Slavic], *scrisoare*, *carte* (letter) and late in 18<sup>th</sup> century it is used the Latin word *testament* . In his turn, the word testament had more than one meaning: besides the definition we have already known - juridical unilateral, personal and solemn act, through which a person expresses his/her wishes that would be carried out/ fulfilled after his/her death (mostly regarding the wealth) - it can also mean: *leguire* (law), *așezământ*,<sup>9</sup> arrangements regarding the clergy that are fixed by the prince in the concordance with the Bishop or a measure through which a tax is abolished or diminished -for example the prince in 1729 speared the Guild of grave digger for all the taxes, "as the testament they (the grave digger) had from others princes [...]".<sup>10</sup>

The first testimonies regarding the manifestations of the exertion of the individual power as last act of will, which we cannot consider proper last wills, but which express clearly the individual's predisposition towards the written usage from later periods, are found in documents from as early as 15<sup>th</sup> century, under the form of bequests close to the moment of

death.<sup>11</sup> Lady Ana, the wife of voivode Alexandru, bequeathed, around the year 1419, "right before her death", some villages to the Bunavestire monastery<sup>12</sup>. From October 1440, it was preserved a strengthening document which reveals that Oană Porcu "has left, in good will, at his death, for the sake of his soul" a bequest, gifting "himself in his own voice" a village to the monastery from Bistrița.<sup>13</sup> If until this very moment it can be clearly noticed that the bequests which we mentioned are exclusively gifted to monasteries, from the second half of the 15<sup>th</sup> century there are left some notes with a personal nature - we talk here about arrangements regarding family members or intimates of the deceased person: from 1464 we have in the documents a testimony regarding the denunciation (trial) between pan Mândre and his family and pan Misea, for a village called Târnauca. Within this context, because "there had been many words between them" and to support his claims with evidence, Misea brought forth before the prince a "note of Bera" which clearly showed that this village was gifted to the defendant by his uncle Bera "of his own free will, together with all his other possessions, upon his own death".<sup>14</sup> From 1501 testimony we can find out that „Pan Dumșa postelnic, when death was upon him, he, at his death, passing away, bequeathed in his own voice, of his own will, to his servant Pașină, among his rightful lands, a village called Petricani, on Bașeu<sup>15</sup> and on 26 February 1547 we find Iliăș voivode confirming to Ion what was bequeathed unto him by his brother Ivanco, „at his death, when he passed away”.<sup>16</sup>

It is appropriate to make here two important comments. First and foremost, all these testimonies which have survived the passage of time are indirect mentionings, asserted by one person or another, before witnesses and noted in the acts of confirmation by which the prince was certifying the recounted deeds. Also, we do not believe to be an accident the fact that all the starting benefits of this exercise of personal will were aimed at monasteries.

We can ask ourselves then whether the concern for the soul and the noting of gifts with this purpose were not a priority in the conscience and the usage of the 15<sup>th</sup> century people, taking to a secondary level the concern for setting in order the inheritance of one's heirs? Or, just maybe, it's about the fact that the monasteries, having a direct and permanent interest, strove to obtain and preserve all these sorts of documents which guaranteed the ownership and unrestricted control of certain goods. Without doubt, a certain role was played by the fact that, as we mentioned already, being confirming acts, issued by the princely chancellery, it goes without saying that they had a longer life, more so it was one of the few

institution which possessed the tools to create these documents. Still, if we cast our gaze deeper at the custom practices, would we not be more entitled to consider these documents by which bequests were granted to monasteries as being exceptions to the rule? Taking into account the oral character of the manifestations of the legal tenets, we are of the opinion that the division of the inheritance occurred silently, without the need for a special act, the rights and legal tenets being naturally respected by the entire community, the necessity for writing them down arising only for those cases unforeseen by the custom law.

Going further with this reconstruction, starting from the 18<sup>th</sup> century, we can see the development, beside the sort of testimonies mentioned above, the last will written before a lot of people, „good and elder” and written down, usually by the father confessor of the testator. Still, we notice that the notings following oral last wills, the bequests under the form of “last words”<sup>17</sup> are encountered within the documents until late towards the middle of the 18<sup>th</sup> century. The fact that, even from the 18<sup>th</sup> century, a lot of indirect testimonies regarding this sort of documents reach us - if not in greater numbers, then at least in an equal number to that of last wills - entitles us to believe that the act which acknowledged an ownership and not the last will stays, until late towards the modern period, one of the most important documents. Only through the reforms from the 18<sup>th</sup> century and early 19<sup>th</sup> century<sup>18</sup> the last wills start to spread under their written form as independent documents, well shaped in regard to their form, their content and the consequences generated within the framework not only in the important social and legal changes which take place during this period, but also within the context of the generalization of writing, which becomes accessible to social groups other than the high aristocracy.<sup>19</sup>

We have, as such, at the border between medieval and modern, a manifestation of the custom simultaneously with that of the written laws, in a rather consistent process, and though orality. The natural question which arises within this context is to what extent this oral wills and the way in which this information reaches us - by means of a disputation (we have in mind here the trials disputing the ownership during which are mentioned or even brought forward as evidence, written wills) - can be credible?

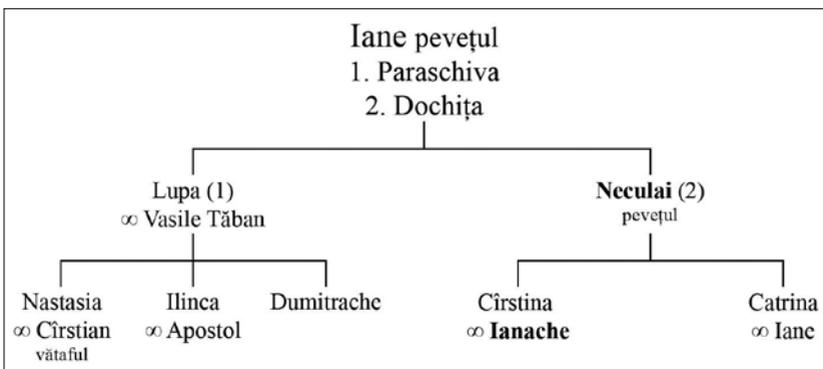
In comparison with the western Europe, where the testaments have a written form even from the 13<sup>th</sup>, 14<sup>th</sup> century and they were composed at a notary office,<sup>20</sup> for the Romanian territory (Moldavia and Walachia) these solemn acts of will would be formulate, for the 16<sup>th</sup> and the first half

of 17<sup>th</sup> century, only in an oral form, as we already said, in the private sphere but in the presence of certain public (the witnesses). Starting with the second half of the 17<sup>th</sup> century all this kind of papers were written by a specialized person, a clerk or by priests or other person from clergy, these persons being one of the few categories to know how to write.

What kind of consequences had the fact that the document was written by dictation?

In 1739 Neculai *peveț*,<sup>21</sup> a 70 years old man, living peacefully his life, is suddenly forced by circumstances to ask for prince's justice; the problem was his "fortune": he owns a house with a yard and basements but his nieces and nephews of his step sister think that they should have all these because those houses were inherited by their mother from their grandfather. This misunderstanding seems to occur as a consequence of the fact that the testament of Iane *pevețul* was lost during the ruling of prince Petriceico<sup>22</sup> when our character Neculai and his parents were held captive by Tatars. But the priest Ursul that happened to be the (father) confessor of Iane (the grandfather) and the person in charge with drawing up the document wrote for Iane another document which replaced the testament, in which he told the story as he remembered it. Therefore, thanks to a second person appointed to write the testament our character received the blessing of the prince to own, as he had done before, the house on Ulița Rusească. So, what we wanted to point out here is the fact that the information that reached us is of a third hand: from the testator and his confessor to the authors of the trial's paper.

A testimony which strengthens the idea of the "frailty" of the information reaching us through oral/dictated testaments dates from 18 February 1756, when it is noted the complaint of Ioniță Chirițoiu. He testifies that, upon



the death of his cousin Gheorghe Dedu from Voetin, “at the writing of his last will he did not say that his relatives must not sell his lands to other than the Sf. Ioan monastery from Focșani, but the monk who wrote the last will put this in the testament”<sup>23</sup>.

### **What is the meaning of and what does this act of will symbolize?**

The introductions’ dimensions and the details of testaments are determined not only by the evolution of writing or mentality of those times (we have brief sentences for the end of the 16<sup>th</sup> century and for the first half of the 17<sup>th</sup> century) but also by the status of the testators: the great boyars or the clergy, wanting (wishing) to be an example for the society spent a considerable part of the letter to point out different principles of life or of Christian morality.

“As our God the Creator made the man immortal, but for his disobedience he received death [...] which is not possible to run away from and not knowing the day or the hour of each man’s death. Because of this, myself as well, knowing my duty of death and paying attention to the words spoken by our Lord Christ in the Holy Gospel which says: “be on guard as you do not know at what hour the Lord comes”<sup>24</sup> (year 1749).

“Being asked our God, Jesus Christ by his disciples when it would be the end of the world, His Holiness said that no one is allowed to know that, not even Angels but only God knows [...]. So that, I, Cârstea, God’s servant being old and weak I have decided and I arranged with all my knowledge and my competence how I want my belongings to be inherited and, before death comes, I wish everyone to know what my wills are.”<sup>25</sup>

Another remark, pertaining to the way in which a testament is made, refers to the fact that, being composed at home it could tempt the author to postpone the date of writing until the last minute and, through this, to have not enough time to judge correctly, or to modify his/her dispositions. Aspra Paladi confesses in her will that “being ill for a considerable period of time and being afraid that death will come soon, I am writing without delay this letter of mine and I let it in the hands of my husband”<sup>26</sup>. Even if in front of death people should come with fear and forgiveness in their soul, sometimes the testator could show disagreement regarding the behavior of one of his/her relative and discriminate one in favor of

another. This is the case of Gligoraș de Sinehău who decided to punish his son-in-law - because he behaved with no respect - by modifying the first testament and changing his part of inheritance, - he gives his son-in-law a part from Sinehău village instead of a part from Zamostie village – the part received after the changing being probably not as good as the one he got in the first place.<sup>27</sup>

Because this kind of behavior was not an isolate case people felt the need (we are referring especially to the second half of the 18<sup>th</sup> century) to draw models containing pieces of advice about the spirit in which a testament should be done. Besides the fact that summarizing all the practices until that moment, we can use the pieces of information from this kind of documents, if we read them in mirror, to get clues about principles that were not respected. The testator is invited to make his last wishes with the fear of God and not to disadvantage the relatives just because they had an argument and not to let the patrimony to strangers because after their death the family will break the testament and all the damnation will be on them (on the testators).<sup>28</sup> This kind of prescriptions may lead us exactly to those principles that they were not used to be looked up.

Anyway, a total act of injustice, we refer mostly to the parent - child behavior, is not to be found in documents. Instead, what we find is a partial punishment by favoring one son or daughter against another. (Serafim) Tomiță's letter, a codicil in fact, will support our affirmation. After writing the first testament in March through which he divides his patrimony into four parts (and just mentioning that he gives a larger part to Gligorașco), he had doubts regarding the right understanding of his message and so, he decided to modify his testament at the mid of April "because [he is referring to his sons who did not help him] not a good word could be said about you"<sup>29</sup> and because "you behaved as you were not my sons"; more than that, "you were ashamed of me and you felt embarrassed about the place where I was a monk".<sup>30</sup> He had received comfort, as he testifies in his codicil, only from one of his sons, from Gligorașco, who was taking care of him, looking after him so that he gives him "a part and a half more than to the others" and also with the possibility to choose any part he wants from the entire patrimony. My supposition here was, first, that the extra part that Serafim gave to his son, apart from the amount that he already received through the testament represents in fact the part of the soul (a delimited part from someone's fortune destined to cover the costs of the funerals and commemorations), but the fact that Tomiță Serafim was a monk and probably already paid for all his soul needs suggests the fact that this was the way in which a father rewarded his respectful child.

## **The consequences: the testaments implications. To make a will and to donate**

It is known that, in both Wallachia and Moldavian societies there are two types of modalities of inheriting one person: *ab intestate* or through a document (usually through a testament - oral or written, as we have already seen). But the major problem appears when a person does not have legal successors and he or she is forced to find solutions to avoid breaking into pieces his/hers patrimony but also, very important, to avoid being left without a proper religious ceremony after passing away. Therefore, in this position we identify in documents three major behaviors. We have noticed that both great and small families of boyars often practice the raising of remote members on the hierarchy of kinship or the reinforcement of some already-established solidarity, through adoption (“taking into one’s heart”), precisely to avoid the spread of the heritage. And with no less importance, our sources mention two other situations: the living husband/wife designated as the only heir through will or the whole fortune donated to a monastery.

What does the code of law tell us regarding the capacity to make a will?

The fact that a testator could give himself with all his belongings to a relative chosen from his large group of kinsmen and this would be in the spirit of Moldavian written law: *Cartea Românească de Învățătură* specifies that a person, at his death could give his belongings, no matter their value, to whom he wants and that person (the beneficiary) could take into possession those parts without any other approval or obstacles [“a man at his death, if he bequaethes with his last word much, few, what he had, to whom he wanted, that man could himself, by his own will, without a trial, to take that remnant without any obstacle and without any quarrel”].<sup>31</sup>

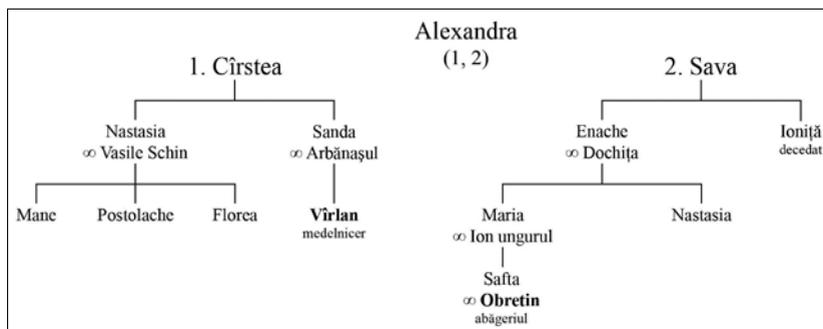
But the practice shows us the empty half of the glass<sup>32</sup>. As proof, I want to present here the case of Vârlan’s testament which was contested by few of his collateral relatives. In March 1742, during a long trial we find the sons of Vasile Schin trying to obtain a house on Hagioaiei Bridge from Obretin, Safta’s husband and Maria’s son in law. They mention during the trial that the house was bought with the money obtained from their aunt’s dowry, and their cousin, Vârlan, son of their aunt Sanda, did not have the right to transmit it to such a distant relative. Alexandra, Vasile Schin’s mother-in-law, had two husbands: Cârstea (father of Nastasia, Vasile Schin’s wife and Sanda, married with Arbănașul) and Sava (Enache’s father of; see the annex). Being asked to show evidence for owning the house, Obretin shows Vârlan’s will to the Prince Council (Divanul Domnesc) in

which it is written that Vârlan chose to give himself with all his belongings to Obretin and Safta but the house was sold to him for 180 lei. Because the property was not donated but sold during Vârlan's life (he received from this sum of money 30 lei) the prince decided that the close relatives like Vasile Schin and Nastasia's children should possess the house. "Even if Vârlan made a testament to their hand, for the selling of that house [...] they (Safta and Obretin) could not be owners because they are not the real heirs/successors", belonging to somebody else's ancestry.

In conclusion, Obretin and Safta kept all Vârlan's belongings, except the house which had to be returned by the end of April on the day of Saint George commemoration (they were allowed to stay for another two month because it was winter).<sup>33</sup> As a consequence, Nastasia and Vasile Schin's sons had to return 180 lei in two weeks term which points out on one hand that the patrimony is more valuable than the money (they can have the money but they cannot have the house) and, on the other hand, that the juridical details play a very important role. Here we do not have an issue referring, in fact, to the testament but to an action that was committed before, which was not in the spirit of the common law. If a testament is built on a doubtful deed, it could be very easily contested.

In the end, we remark that the value of a testament rests upon the testator's whole life's deeds and, even if the will is valid from a juridical point of view, it could not be respected if the actions that preceded the writing of it were not valid from the point of view of laws' codes.

Somehow in contradiction with the case we just presented above, we have the situation of Safta Andonas who sells a house of her sister according to her last wish: "Ilinca decided "cu limbă de moarte" (in her last moments of life) to sell the house and with half the money to take



care of her and the other part to give it to her children as it is known also by her (father) confessor, to whom she confessed before death. And me, Safta, noticing her children's feud with Gheorghie (to whom Safta sold the house) I admonished them not to bother him".<sup>34</sup> Because we did not find any contestations of this paper signed by "good people" we tend to believe that Safta was allowed to act as she did and, in fact, her children had known and approved at that time their mother's choice and their contestation was just an attempt to see if they could get more. In this spirit is made the donation of Măriuța Voiculeasca who "gives herself" with all her belongings to priest Ioan but, the document says, "cu învoiața a tot neamul meu" (with the assent of all my family)<sup>35</sup>.

### **Wife, widow, stepmother. The kin complexity and the intricate inheritance**

First, we would like to point out some ideas about the donations and we briefly present what is happening when the living husband/wife is designated as the only heir through will, and, secondly, to emphasize that situation when the widow had to face the injustices produced by her relatives.

A considerable number of characters, in those moments of deep sorrow, prefer to abandon themselves in the arms of their spouses and at the same time to offer them all their entire life's acquisitions. On one hand these documents show us the most beautiful and clear proof of affection.

Here is what Chiriac wrote on February 15<sup>th</sup> 1670: "I, Chiriac [...] write and testify through this deed of mine what kind of life I had with my wife, Alexandra [...]. By God's mercy, we have had children but now, as adults, God took them away from us. Our life was good since the day of our marriage; thus, we have decided: all we have, villages, possessions, vineyards and gypsies (servants) will belong to one another. And no one of my brothers or of my relatives must interfere in my decision and claim something, not even a piece of thread".<sup>36</sup> In the same direction, we find Enachie's confession, a last wish on his deathbed. He leaves everything (houses, stores and vineyards) to his wife, Despa, "because she has taken great care of me. And if one of my relatives does not let her in peace and looks for a fight, I curse that man".<sup>37</sup>

How can we explain otherwise Chiriac last deed than a proof of a lively and deep affection? The understanding and their calm living

together determine the two spouses to resign themselves to the death of their children and, as a last act of their strong feelings that have united them during their lives, they do not want to name a heir, but to share between them their belongings. If most of the examples of testaments show that the man desires his wife to inherit his fortune, more than the cases in which the woman wants her husband to inherit hers, we may analyse it as a form of protection. The woman was thus seen as “weak” and vulnerable in front of a society mostly masculine. The law mentions the fact that when a couple does not have any direct heirs, the fortune has to be shared between the widow and the deceased’s relatives, but this clause was valid in both cases: the husband also had to give back his wife’s dowry to her family. The studied cases show us that in fact, living together for a long time even without heirs, gives the moral right to the wife to inherit her husband’s patrimony.

But the things were not so simple because, usually, the deceased’s relatives demanded parts of the inheritance where there were no heirs. We have Mărica’s case, Simion Gheuca’s wife, whose brothers-in-law, Dumitru and Anghelina, pretend to have received two villages from their brother when he had separated for a while from his wife. But they reconciled and they lived together again until his death and her husband signed a testament for her by offering her villages and lands. Consequently, the prince considers that the widow has the right to keep the fortune, because the brothers-in-law’s documents were signed “during their separation, so they are not valid anymore”.<sup>38</sup>

Nevertheless, if we look on Grozava’s case, Constantin Cucoranu’s widow, who complains before the prince that her deceased husband’s relatives want belongings from her, we can notice how random the justice was. She has a document from her husband who gives her the right to own everything “and that his brothers should have nothing”. But the prince decides: she can own “everything they had, supplies and other belongings from the house, clothes and silverware”, but decides to divide in two the lands even if she had bought them altogether with her husband<sup>39</sup>. In conclusion, even if the custom and the written law says that the wife should not be hindered to inherit what the husband disposed, the justice seems to prove subjective and, not in few cases, *unjust*.

The same complexity is pointed out also in those cases in which there is no explicit testament and after the death of the husband, the wife has to combat with all types of behaviors and demands from the part of her husband family. Widowhood was one of the most difficult periods for

women, but it also highlighted in a way their rights. The law considers the woman more vulnerable than the man,<sup>40</sup> and while they live together he manages her belongings. Yet, the woman's name is mentioned in the documents at the same time with her husband's, for having bought, sold, and donated. After the husband's death, the wife had to manage the whole house and take care of the children. Despite all these, she proved to be able (judicially speaking) to accomplish the same tasks as her husband did when he was alive. We can also observe the fact that the difficulties may come not only from the large kinship but from the close circle of relatives.

Alexandra, altogether with her husband Iane, request from her stepmother, Cîstina, Temelie's second wife, her father, some houses from lassy and some vineyards, accusing her stepmother that she has some false documents for that<sup>41</sup>. She believes that the houses and other belongings have been bought with her father's money, so it belongs to her. The prince gives justice to Cîstina, since her documents are legal and wishes that the stepchild "would not do that anymore".<sup>42</sup> The lack of an appropriate behavior towards the stepmother is shown in the next trials, which have lasted eight years. The prince Gheorghe Duca itself, bored, mentions in 1679: "I replied to Iane [Alexandra's husband] that he has anything to do neither with the houses, nor with the vineyards, and that he attacked Cîstina in court for nothing, so I propose him to leave her alone, otherwise I will punish him".<sup>43</sup>

What would be the conclusions at the end of this concised investigation?

First of all we need to point out the mentality changes; if for the 17<sup>th</sup> century the custom law and the prince's justice are above the written law, for the 18<sup>th</sup> century the family is more interiorized, concentrated to the nuclear dimension and the individual's actions have more consistence. The long testaments that we have for the 18<sup>th</sup> century are detailed letters through which the testator offers us a vivid image of himself and his life and, more important than that, offers us *his* way of perception of the world.

The testaments gives us a good pretext for a journey through those times, pointing major events that affected the entire community by describing and relating some personal facts to those generals. We know that, from great boyars to common people, all lived intensely the hard times as the *moscals* (Russian soldiers) invasions, epidemics of plague or periods of famine. Therefore, the moment of writing the last wishes had two moments of reference, one related to the social time-the time of community, the other to the personal time, related to that of his/her

family. The same duality is noticed regarding the introduction. Beginning with the second half of the 17<sup>th</sup> century, then, during the 18<sup>th</sup> century, many categories of the testators used to write, as we exemplified above in our paper, complex motivations with religious or moralizing substrate through which a person wishes to show his/hers affiliation and his/her responsibility inside family's destiny and the care for preserving the collective memory. These kinds of thoughts inserted in the beginnings emphasize the resignation of each testator and their inclination to a serenity acceptance of death and implacable destiny. We have no one single example through which we can notice even the slightest shadow of rage. Every discourse leads us to the same idea of reconciliation.

Passing from sensibilities and social aspects to those juridical, the documents themselves, the paper acts in their fragility, played a very important act into our characters' live. The trial of Rusets with lady Anastasia, prince's mother, was lost not only because she took advantage of the political context but for the Ruset family was not able to use as probation the only thing that would have matter in that circumstances: the testament.

It does not matter whether the claims or the disputations are right or no, but the manner in which they are argued. This argumentation reveals us the secrets from those times; trying to win a trial, the individual of that period, through the arguments he was bringing forward, was offering details regarding how the system of that society was functioning. Secondly, but not less important, the motivations proves to us something as well, the sentimental construct of the man from that time, his priorities within that context. We notice during the analysis we undertook within this text that the emphasis shifts from the land towards family and feeling.

The act of will, it is seen not as a last action or a terminus point but as a passage to another level mainly because of the religiosity of those times. Written with the idea of leaving in the soul but not until ordering all the things here, the testator will have the feeling that he will remain present and, as a consequence of this, he will be able to determine through this (i.e. the testament) a connection between him and the world he leaves. For us, it is an act of memory, a reflection of a particular image, real or not, an image that the testator endeavors to transmit to us. Subjective acts, the testaments can be considered as a common area between private and public, the place where society, morality, feelings, principles are mixed in proportions that would change depending on the socio-political transformations.

## NOTES

- <sup>1</sup> Roger Aubenas, *Le testament en Provence dans l'Ancien droit*, Aix-en-Provence, 1927 ; Marie-Thérèse Lorcin, « *D'abord il dit et ordonna...* » *Testaments et société en Lyonnais et Forez à la fin du Moyen Age*, Lyon, 2007 ; eadem, *Vivre et mourir en Lyonnais*, Lyon, 1981 ; eadem, "Un temps pour tester, un temps pour mourir: du testament oral au testament public dans les campagnes foréziennes de la fin du Moyen Age", in *Revue Historique*, 122e année, tome CCXCIX/3, 1998; Claire Judde de Larivière, "Procédures, enjeux et fonctions du testament à Venise aux confins du Moyen Age et des temps modernes. Le cas du patriciat marchand" in *Moyen Age*, tome CVIII, 2002/3 ; Jaques Chiffolleau, *La comptabilité de l'au-delà. Les hommes, la mort et la religion dans la région d'Avignon à la fin du Moyen Age (1320-1480)*, Editions Albin Michel, 2011 ; Philippe Haudrière, "Testaments angevins au XVIIIe siècle", in *Annales de Bretagne et des Pays de l'Ouest*, 116-2, 2009.
- <sup>2</sup> Violeta Barbu, *De bono coniugali. O istorie a familiei din Țara Românească în secolul al XVII-lea*, București, 2003 (chapter VIII: "Sic moriemur". *Moartea și construcția identității individuale în interiorul grupului familial*); Gheorghe Lazăr, *Mărturie pentru posteritate: testamentul negustorului Ioan Băluță din Craiova*, Brăila, 2010; Idem, "Testamente negustorești din Țara Românească (secolele XVII-XVIII)", in *Revista de istorie socială*, VIII-IX (2003-2004), Iași, 2006, p. 413-435; Idem, „Familie și sentiment în Vechiul Regim românesc. Note pe marginea testamentului lui Radu Goran Olănescu”, in *Studii și Materiale de Istorie Medie*, XXI, 2003; Mariana Lazăr, "Gîndul meu către moștenitorii miei cei aleși. Diata Ilincăi Cantacuzino-Racovița", in Valeriu Sîrbu, Crisitian Luca (coord.), *Miscellanea Historica et Archaeologica in Honorem Professoris Ionel Cîndea*, Brăila, 2009, p. 477-479; Andreea Iancu, "Moștenirea prin testament: între voința individuală și solidaritatea de familie (București, sfîrșit de secol XVIII-început de secol XIX)", in *De la comunitate la societate. Studii de istoria familiei din Țara Românească sub Vechiul Regim*, Institutul Cultural Român, București, 2007, p. 245-294; Maria Magdalena Székely, „Testamentele: o abordare preliminară”, in *Revista de Istorie Socială*, II-III (1997-1998), Iași, 1999; Nicolae Mihai, "Sensibilitatea față de moarte în testamentele din Oltenia premodernă și modernă (1700-1870)", in *Caiete de Antropologie istorică*, III, no. 1-2 (5-6), 2004; Tüdös S. Kinga, "Trăiau după legi și reguli distincte: datinile de moștenire ale secuilor", in *Studii și Materiale de Istorie Medie*, vol. XXVI, 2008, p. 249-270.
- <sup>3</sup> Ștefan Lemny, *Sensibilitate și istorie în secolul al XVIII-lea românesc*, București, 1990.
- <sup>4</sup> Simion Florea Marian, *Înmormîntarea la români*, critical edition by Iordan Datcu, Bucharest, 2008.

- <sup>5</sup> Ioanna Andreescu et Mihaela Bacou, *Mourir à l'ombre des Carpathes*, éditions Payot, 2011 (premier edition 1986).
- <sup>6</sup> *Documenta Romaniae Historica*, seria A, Moldova, vol. XXVII, doc. 235, p. 216; next it will be quoted as it follows: *DRH*.
- <sup>7</sup> Ioan Caproșu, Petronel Zahariuc, *Documente privitoare la istoria orașului Iași*, vol. I, 439; next it will be quoted as it follows: *Documente Iași*.
- <sup>8</sup> Drawing a parallel between French and Romanian historiography regarding the discourse about death, the historian Andrei Pippidi remarks in 1994 the same aridity of our sources and the difficulty of analyzing it for medieval and pre-modern period: "Les documents ne sont ni d'accès facile, ni de forte consistance. [...] La grande majorité des actes conservés regarde la fortune accumulée par les monastères ou les boyards. Pour arriver à avoir des testaments pareils à ceux interrogés par Michel Vovelle, il faut attendre le XVIIIe siècle et à cause du petit nombre de ceux qui ont été publiés, il n'est pas (encore) possible de se lancer dans leur étude sérieuse", Andrei Pippidi, "Vision de la mort et de l'au-delà dans les anciennes sources roumaines", in *Revue Roumaine d'histoire*, nos. 1-2, 1994.
- <sup>9</sup> See *Mic dicționar academic*, Bucharest, 2003.
- <sup>10</sup> *Documente Iași*, vol. IV, doc. 81, p. 62; see also Ovid Sachelarie, Nicolae Stoicescu (coord.), *Instituții feudale din Țările Române. Dicționar*, Bucharest, 1988, p. 469, voice: *testament*; *Dicționarul Limbii Române*, tom XI, second part, "T" letter, Bucharest, 1982, p. 2963-2964.
- <sup>11</sup> This usage will continue until the 17<sup>th</sup> century, being also found in documents as „diată” and we emphasize the fact that, through these sorts of deeds, named as such, it is not bequeathed the entire fortune of the deceased person, but it has the purpose to pass certain assets. The *stolnic* Grama, through such a deed, named as such in the text, take care and rewards his servants (called „feciori”) for the „service they have rendered unto me”, with „șiftu, atlaz , șarvana neagră și cai” (*DRH*, A, vol. XXVII, doc. 335, p. 325 - it is worth mentioning the fact that, having a close look at this character, we have not been able to identify among the old documents his last will, but we know he had one son who passed away unmarried, and two daughters. More than that, this practice can be encountered during the first years of the 19<sup>th</sup> century: in 1804, Șerban the Fur Merchant writes and testifies „with this true last will, as you must know” that he bequeathes to the princely church from Bârlad a house lot for the sake of his memory and all his family. He calls his last will a „diată”, but he does not want to appoint a heir or to divide his assets among his descendants, but he only takes care of his soul - the respective last will being just a donation. The closing word strengthens the above-mentioned assertions by confirming the existence of direct heirs which were probably bequeathed his assets within another last will: „and nobody among my sons and my nephews and my grand-nephews should bother the

- holy church [...]”. Ioan Antonovici, *Documente bîrlădene*, Bârlad, 1911, vol. I, p. 24-25; next it will be quoted as it follows: *Documente Bârlădene*.
- 12 *DRH*, A, vol. I, doc. 46, p. 66.
- 13 *Ibidem*, doc. 209, p. 294.
- 14 *Ibidem*, vol. II, doc. 122, p. 175.
- 15 *Documente privind istoria României*, seria A, Moldova, veac XVI, vol. I, doc. I, p. 1.
- 16 *Ibidem*, doc. 490, p. 546.
- 17 This type of practice is shortly presented by Emanoil Em. Săvoiu, *Contribuțiuni la studiul succesiunii testamentare în vechiul drept românesc*, Craiova, 1942, p. 39-40.
- 18 *Codul Calimach*, critical edition by Andrei Rădulescu, Bucharest, 1958; *Manualul juridic al lui Andronachi Donici*, critical edition by Andrei Rădulescu, Bucharest, 1959; *Pravilniceasca Condică*, critical edition by Andrei Rădulescu, Bucharest, 1957.
- 19 Alex Drace-Francis, *The Making of Modern Romanian Culture. Literacy and the Development of National Identity*, Tauris Academic Studies, London, New York, 2006.
- 20 Louis de Charin, *Les testaments dans la region de Montpellier au Moyen Age*, Les Presses de Savoie, 1961.
- 21 A person who sings in a church chorus.
- 22 Prince Petriceico ruled as it follows: 1672-1674; 1683-1684.
- 23 Arhivele Naționale Istorice Centrale, Achiziții Noi, pachet MMDCCLVI, doc. 15.
- 24 *Documente Iași*, vol. V, doc. 603, p. 376.
- 25 *Ibidem*, vol. IV, doc. 345, p. 248.
- 26 Gh. Ghibănescu, *Surete și izvoade*, vol. XXII, doc. 42, p. 37; next it will be quoted as it follows: *Surete și izvoade*.
- 27 Teodor Balan, *Familia Onciul. Studiu și documente*, Cernăuți, 1927, doc. 48, p. 57.
- 28 N. Iorga, „Cărți și scriitori români din veacurile XVII-XIX. (3.O formulă de testament)”, in *Analele Academiei Române*, Memoriile secțiunii literare, tom XXIX, p. 185; Antim Ivireanul, *Opere*, critical edition by Gabriel Ștrempele, Bucharest, 1997, p. 352; Andreea Iancu, “Se préparer á la mort : le devoir de chaque chrétien. Le testament entre la rémission des péchés et la succession (Bucharest, fin du XVIIIe-début du XIXe siècles)”, in *New Europe College Yearbook 2004-2005*, 2009 (see her annex).
- 29 “[...] nu sunteți nici unul cucon să vă laude oamenii”.
- 30 Gh. Ghibănescu, *Surete și izvoade*, VIII, doc. 7, p. 8-9.
- 31 *Cartea românească de învățătură (1646)*, critical edition by Andrei Rădulescu, Bucharest, 1961, 15 :212, p. 77.

- 32 ANIC (Arhivele Naționale Istorice Centrale), Achiziții Noi, pachet CXLIII, doc. 1448.
- 33 *Documente Iași*, vol. V, doc. 197, p. 111-112.
- 34 *Ibidem*, vol. IV, doc. 214, p. 152.
- 35 *Ibidem*, vol. V, doc. 358, p. 188.
- 36 „[...] nime din frații sau din rudele mele să n-aibă nici o treabă la un cap de ață din munca mea”, *Documente Iași*, vol. II, p. 284-285.
- 37 *Ibidem*, vol. I, p. 470
- 38 *DRH, A*, vol. XXIV, doc. 216, p. 197; vol. XXV, doc. 483, p. 473.
- 39 Teodor Balan, *Familia Onciul*, p. 52-53; *Ispisoace și zapise*, vol. IV/1, p. 40-42.
- 40 When it comes for inheritance and marriage, the woman will rebuke less than the man, since she is more narrow-minded and more vulnerable than the man (*CRÎ*, 41:6, 51: 2) and “if the person who had made a mistake is a child or a woman, it is not considered on purpose” (*ÎL*, 211:6).
- 41 *Documente Iași*, vol. II, p. 310-311.
- 42 *Ibidem*.
- 43 *Ibidem*, p. 450.

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