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This collection contains the papers of the Fellows from the *Pontica Magna* and the *Gerda Henkel* Fellowship Programs. Both are aimed at researchers from Eastern Europe: the first focuses primarily on the Black Sea region, the second on the countries of the former Soviet Union.

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A COMPARATIVE STUDY ON THE DEVELOPMENT OF COMMERCIAL INSTITUTIONS AND PRACTICES IN THE ROMANIAN PRINCIPALITIES / ROMANIA AND BESSARABIA (1812-1918)

Abstract

Starting from historiographical disputes, this study aims at comparing the economic progress of the Romanian Principalities / Romania and Bessarabia, as part of the Russian Empire, based on an analysis of the evolution of commercial institutions. We ascertain that institutional advantages offered to Bessarabia, after its annexation to the Russian Empire in 1812, surpassed those existing in the Romanian Principalities only in the first half of the 19th century. With the Union of the Romanian Principalities and the formation of Modern Romania, and especially after the gaining of independence in 1878, no real institutional advantages in trade favoured Bessarabia, which, in many respects, even remained behind.

Keywords: customs, border quarantines, trade courts, chamber of commerce, bourses, brokers, Commercial Code, trade firms.

Theoretical Background

The main goal of this study is to understand whether the annexation of the territory between Prut and Dniester to the Russian Empire offered its population real economic advantages, in a period of transition from the Medieval to the Modern Era. Of course, there were great differences between Russia and the Romanian Principalities from a political perspective in the long 19th century. The active foreign policy allowed Peter I to declare Russia an empire in 1721, which subsequently affirmed it as a great European power. On the other hand, the Romanian Principalities, being under the suzerainty of the Ottoman Porte, had great limitations

in both its foreign and domestic policy. Moreover, in the second half of the 18th century, the Romanian Principalities became the territory of confrontation between the Russian, Habsburg and Ottoman Empires, as the latter entered a political decline. Thus, not only was the unification of the Romanian territories hindered, but some of them were even lost, such as Bukowina (1775) and Bessarabia (1812).

The Russian Empire was eager to impose its institutional model in both Bessarabia and the Romanian Principalities. The Treaty of Adrianople (1829), which ended the Russian-Ottoman war of 1828-1829, brought about the declaration, at the Russian's insistence, of the freedom of trade on the Danube and the enacting of the *Organic Regulations* in the Romanian Principalities, which clearly showed that, in the long run, its expansionist policy targeted the entire Balkans. Only its defeat in the Crimean War (1853-1856) and, consequently, the loss of southern Bessarabia, allowed the Romanian Principalities to unite (1859) and to take the path towards an institutional model of their own. The final rupture occurred only after the re-annexation of southern Bessarabia to the Russian Empire, in exchange for the recognition of Romania's independence (1878), following their joint anti-Ottoman war of 1877-1878.

We start from the idea that the development of commercial institutions reflects the real economic progress of a country. In fact, institutionalists talk of *institutions* not only as organizations, but also as relations and norms (such as routes and means of transport, commercial policies, customs tariff, etc.).¹ But, as Avner Greif points out, institutions contribute to change only to the extent that they alter the interests and knowledge underpinning the prevailing rules or contracts, as economic institutions are established and changed through political processes.² Thus, the development of commercial institutions also reflects the political progress of a society.

While certain components of an institution, such as formal rules, or organizations, such as bourses or courts, are observable, others, such as norms about honesty in dealing with strangers and beliefs about legal enforcement, are inherently difficult to observe and measure. Unobserved institutional elements can vary systematically across societies and directly influence the effectiveness of an institution.³ In this regard, the evolution of the commercial practices in Bessarabia was not necessarily determined by the Russian trade institutions, but could also result from the interaction with merchants of neighbouring regions with a different institutional evolution, as the province was at the periphery of the Russian Empire and having strong economic ties with Bukowina (under Austrian rule) and the

Romanian Principalities. This, therefore, proves to be a more sophisticated issue that we intend to research on another occasion, limiting this study to institutions as organizations and legal norms.

Sanitary-customs Institutionalization

The Romanian Principalities record no changes with regard to the sanitary-customs institutionalization in the first two decades of the 19th century. The customs continued to be leased to different entrepreneurs and the tariff were maintained at a very low level for both import and export, based on the Ottoman capitulations with the European powers. The lack of quarantines on the borders with the Ottoman and Austrian empires until 1830 made the plague almost endemic.⁴

In Bessarabia, on the other hand, progress was more significant. In 1817 the customs organization at the border of the Prut and the Danube was definitively established, the concessions liquidated and the customs were taken under direct control by the Ministry of Finance, based on the existing principles in Russia: customs offices were established in Noua Suliță, Sculeni and Reni, and customs posts in Lipcani, Leova, Ismail and Akkerman.⁵ At the same time, the Russian government initiated the establishment of quarantine stations on the Prut and Danube borderline, maintaining those on the Dniester. The location of quarantine stations doubled the configuration of customs offices and posts. Depending on the class in which they were included, certain commodities could be transported over the border only through quarantine stations of certain class, those which permitted their sanitary cleaning.⁶

Starting with 1820, the new liberal customs tariff was introduced in Bessarabia, adopted on 20 November 1819 and based on the same principles as the 1816 customs tariff. But the change in the course of the Russian trade policy led to the adoption in 1822 of a new protectionist customs tariff. Already on 30 October 1823, Alexander I approved the use of the norms and taxes established by the 1822 tariff on imports of goods from abroad into Bessarabia and the cancellation of the customs duty of 3% *ad valorem*, collected until then.⁷

The period after the conclusion of the Adrianople Peace Treaty (1829) brought significant progress in terms of the sanitary-customs institutionalization in both the Romanian Principalities and Bessarabia. As for Bessarabia, the Regulation of 26 September 1830, on the liquidation of

the customs cordon on the Dniester, marked the end of the commercial-customs isolation of the province from the rest of the empire.⁸ The former Bessarabia customs district was divided in two: the Sculeni customs district and the Ismail customs district. The customs in Sculeni, Noua Suliță and Ismail were designated as first class, while the customs posts from Lipcani, Leova, Reni and Akkerman as third class.⁹ Within first class customs, six months were granted for carrying out customs procedures, and only one month within third class ones, during which time the goods could be kept in customs warehouses.¹⁰ At the same time, on 4 January 1833 a new quarantine regulation was published, which resulted in a number of quarantines being established: a central quarantine in Sculeni, a special quarantine in Leova and a quarantine post in Lipcani, all in Sculeni district, and in Ismail district, a central quarantine in Ismail, a special quarantine in Reni and quarantine posts in Akkerman and Bazarciuk. Internal quarantines were kept on the Dniester in Dubăsari, Movilău and Isăcăuți, as well as a quarantine post in Parcani, which were activated when necessary.¹¹ With regard to domestic trade, no specialized control body was provided for the sanitary control of the traded goods. Sanitary monitoring of the sale of perishable products was the responsibility of local police.¹²

For the Romanian Principalities, the *Organic Regulations* provided the establishment in Wallachia of three first-class quarantines (in Calafat, Giurgiu and Brăila), four second-class quarantines (Cerneți, Turnul, Zimnicea and Călărași), and four small offices “for exchanges” (Izvoarele, Bechetul, Oltenița and Piua-Pietrii), while in Moldova were to be established a quarantine on the Țiglina estate, a barrier for exports between Țiglina and Galați, and an import barrier below Galați, at the entrance to the city, for commodities not requiring quarantine. These formed the sanitary cordon on the Danube. Only the first-class quarantine stations allowed the sanitary cleaning of all susceptible goods, being provided with spacious warehouses.¹³

Customs were still leased to private entrepreneurs by auction for 3-5 years, but the concession projects became more elaborate, being discussed and approved by the Public Assembly.¹⁴ The concession of customs revenues and the faulty customs organization encouraged smuggling, due to the impossibility of the concessionaires to ensure an effective control at the border.¹⁵ A first step towards building their own customs system was the establishment in 1836-1837 of the Porto Franco regime in Brăila and

Galați.¹⁶ A second success was recorded in 1852, with the raise of the customs duty from 3 to 5% *ad valorem*, for both imports and exports.¹⁷

On the other hand, the Russian customs tariff applied from 1 January 1851 diminished the customs duties on the main imported goods.¹⁸ The conclusion of the Treaty of Paris of 18 March 1856 brought with it the establishment of a new customs district in Bessarabia – Cubei, as Ismail and the adjacent territories were ceded to Moldova.¹⁹ In 1857 a new Customs Regulation was approved in the Russian Empire, and the customs were divided into three classes, with two categories each. Sculeni, Cubei and Noua Suliță customs were included among the first class customs, category II, which allowed goods to be stored for a maximum of 6 months, compared to 12 months for category I. The other customs in Bessarabia were transferred to third class, category II, namely Cărpineni, Tatarbunar, Lipcani, and the customs post of Akkerman, where clearing procedures could not exceed one month and the goods could not be transported to other customs of the empire.²⁰ In the same year, a new tariff was adopted, which further mitigated the protectionism course taken in 1822.²¹

Only after the Union of the Romanian Principalities in 1859, as a result of a 9 July 1860 law, the customs revenues were taken into administration by the government.²² A general directorate of health services was also organized within the Ministry of Interior. In 1862, a central veterinary service was formed²³ within the general directorate of health, and councils of hygiene and public sanitation were established in each county, but also in eight of the country's main cities, the obligations of which included the monitoring of traded goods.²⁴ The organization of Zemstvas in Bessarabia in 1869 determined a similar development in the sanitary plan, by creating the positions of sanitary doctors, as well as of sanitary offices, sanitary-chemical and bacteriological commissions and laboratories. A Public Sanitation Service was also instituted within Zemstva, to monitor the epidemiological evolution among animals.²⁵

The 1870s brought about a series of transformations of the customs system with the junction of the railways of the Austro-Hungarian and Russian Empires with Romania. In Bessarabia, with the junction of the Odessa-Bender-Chișinău railway with the Cernăuți-Iași railway, through the ukase of 13 (25) June 1873, a first class customs was established in Ungheni.²⁶ It was opened on 1 February 1874.²⁷ The Sculeni customs was, instead, downgraded to second class and at the Prut border a third class customs was also established in Avrămeni, opened on 15 April 1877.²⁸

Also, by the ukase of 3 September 1877, the third class Bolgrad customs, next to the Bender-Galați railway, was upgraded to first class.²⁹

In Romania, the General Law of Customs promulgated on 15 June 1874 concerned similar aspects of the relocation and functioning of customs in the new infrastructure framework.³⁰ On the other hand, the first autonomous import tariff, developed to protect national producers,³¹ was delayed in order to obtain the international recognition of independence. Thus, on 10 (22) June 1875 a Trade Convention was signed with Austria-Hungary,³² on 15 (27) March– with Russia, on 14 (26) November 1877 – with Germany, on 11 (23) March 1878 – with Italy, and on 18 (30) March 1878 – with Switzerland, which set preferential tariffs on the reciprocal import and export of goods.³³ Thus, even after obtaining the full sovereignty of the country in 1878, it could not be fully used in foreign trade policy to protect the internal market. The general tariff of customs duties, fixed by the law of 16 March 1876, was applied from 1 May 1879 to the import of the products of any other countries with which Romania hadn't signed a trade convention with a most favoured nation clause.³⁴

At the same time, the loss of the counties of Cahul, Bolgrad and Ismail, re-annexed to the Russian Empire, and the incorporation of Northern Dobrogea generated the need for new changes in the customs law.³⁵ In Bessarabia, the Russian government also made a series of trade-customs changes in the same context.³⁶ The imperial ukase of 15 November 1878 liquidated the Porto Franco regime that existed in Ismail.³⁷ In the 1880s, the customs system of Bessarabia also underwent a series of institutional optimizations. On 13 April 1882, the customs from Sculeni and Nemțeni were downgraded to crossing points.³⁸ In addition, on 8 February 1883, the number of customs districts in the empire was reduced from 15 to 9, and the province was left with only one of its two customs districts, the one called *Bessarabia*.³⁹

In Romania, in terms of trade and customs policy, the measures were similar. On 17 February 1883, a new law was promulgated repealing the Porto Franco regime in the cities of Brăila, Galați and Constanța,⁴⁰ with Sulina alone maintaining this status received in 1870 as part of the Ottoman Empire and recognized by Romania in 1880.⁴¹ Meanwhile, through the 17 March 1882 amendments to the Customs Law, the number of customs offices was reduced from 56 to 39, a number of 25 branches being instead established.⁴² At the expiration of the customs agreement with Austria-Hungary, in 1886, the customs regime was radically changed, and a protectionist regime on import was introduced. The protectionist

customs tariff of 1886 replaced the single general tax of 7% on the import of industrial products with various taxes of 8-20%.⁴³ As competition on the international market deepened, a new customs tariff was enacted on 28 January 1906, raising the protection to an average of 10-30%. The import of goods from the states with which Romania did not sign trade agreements were subject to a tax 50% over the one set in the tariff, or 30% *ad valorem* for goods exempt from customs duties.⁴⁴

The changes in this regard taking place in Europe determined the Russian Empire to also revise its tariff policy. In 1891, the customs tariff, for many items, increased by two to ten times, compared to that of 1868. Also in 1893, the countries that did not offer preferential conditions for the import and transit of Russian goods were subjected to double customs tariffs.⁴⁵ At the same time, measures were being taken to reduce the expenses of the customs services. On 23 May 1896, the *Bessarabia* customs district was liquidated, being included in the neighbouring districts.⁴⁶ More precisely, the first class customs Noua Suliță and Ungheni, as well as the third class ones Lipcani and Leova, the Fălcium customs post, but also the Nemțeni and Avrămeni crossing points were transferred to the Radziwilow customs district, while the first class customs Ismail and Reni, the customs posts Cahul, Gura Prutului, Chilia, Vîlcov, Akkerman were included in the Southern customs district.⁴⁷

Regarding the sanitary institutionalization in Romania, the Sanitary Law of 1874 was amended in 1881 to include the establishment of five cattle quarantines at the country's borders, two of first class and three of second class. The Sanitary-Veterinary Police Law of 28 May 1882 provided the operation of sanitary services for epizootics at the central level, under the General Directorate of Sanitary Services within the Ministry of Interior, at the level of counties, at borders and in urban communes. A Superior Council for Epizootics was also established to examine the projects relating to the organization of the sanitary-veterinary police.⁴⁸ On 18 June 1893, the institutes of chemistry, subordinated to the Ministry of the Interior, were required to deal with the control of food and drink in commerce.⁴⁹ The sanitary law of 18 December 1910 established that in the ports of Sulina, Constanța, Brăila and Galați a special and permanent medical service was to operate for the sanitary control of ships, passengers and goods, according to the provisions of the international conventions and service regulations.⁵⁰ In the Russian Empire progress in sanitary institutionalization in trade was similar and limited mostly to the legalization of medical and police measures.⁵¹

Commercial-Judicial Institutionalization

After annexation, Bessarabia would also make institutional progress concerning its commercial-judicial institutionalization. On 1 April 1819, the first commercial court was opened in Reni, established on the same principles as the Commercial Court in Odessa.⁵² The latter was instituted in early 1808, as the first of its kind in the Russian Empire, the model being later extended to other port cities on the Black Sea and the Sea of Azov.⁵³ The statute of these courts was elaborated based on those existing in the port cities of the northern Mediterranean. Thus, merchants from the city elected three members, and two were appointed by the state. The court judged all cases concerning the trade of the city, regardless of the social status of those involved,⁵⁴ the merchants being hence protected from the judicial system controlled by the nobility. On 2 September 1824, the Russian government decided to move the Court to Ismail, after becoming aware of the location's commercial advantages over other ports of Bessarabia. The jurisdiction of the court was limited only to the disputes of the merchants of Ismail, Reni, Akkerman, and Chilia.⁵⁵ As an experiment, in 1829, the number of merchant members of the Court was increased to four and they were elected for a one year term. The president of the court was still appointed by the state.⁵⁶

On the other hand, the judicial system existing at the beginning of the 19th century in the Romanian Principalities lacked such an institutional practice. The nobility held the monopoly on judicial positions in all courts. For this reason, towards the end of the 18th century, foreign merchants of Christian law had, in Bucharest, a special organization with a court of seven to judge. With the advent of foreign consulates, foreign merchants, but also many natives, turned to their protection in order to secure their businesses.⁵⁷ It was only the *Organic Regulations* that established commercial courts in the Romanian Principalities, according to the model existing in the Russian Empire. In Wallachia, the opening of the Commercial Courts in Bucharest, with five judges, and Craiova, with three, was provided. The president and a judge were appointed by the ruler of the country, and the other three by ballot, by the assembly of the 30 most important merchants, being invested for a period of two years. In Moldova, the *Organic Regulation* provided the opening of a single commercial court in Iași.⁵⁸ On 23 March 1833, a commercial court was established instead in Galați, which began its activity on 1 May 1833.⁵⁹

It was made up of three judges, with the president selected from among the boyars and the other two judges from among the merchants.⁶⁰

On 14 May 1832, the institutional practice of commercial courts was extended from Novorossiia to the rest of the empire, including St. Petersburg.⁶¹ As for the Ismail Commercial Court, its jurisdiction was extended from 16 March 1837 to merchants from the whole of Bessarabia.⁶² The new procedure rules of the Commercial Court of Ismail were approved on 19 March 1841. According to them, the court examined the private disputes related to the province's trade, decided on the resignation of brokers and notaries, confirmed the documents drawn up by the brokers, examined the causes of bankruptcy, notified the creditors on the date of seizure of the real and movable property, examined the creditors' claims, established the possible share to be refunded from their sale, checked the captain's report on the ship itinerary and the logbook, supervised the unloading of goods from failed ships, etc.⁶³

The French Commercial Code introduced in 1840 in Wallachia included similar attributions of the commercial courts.⁶⁴ Still, the authority of commercial courts, but also of civil ones in the Romanian Principalities, was undermined by that of foreign consuls.⁶⁵ With the decline of the Ottoman military force, the Romanian Principalities saw the opening of several European consular offices, but often with diplomatic and political responsibilities.⁶⁶ The abolition of the regime of consular jurisdiction for foreign subjects was one of the political aspirations of the leaders of the union of the principalities.⁶⁷ In Bessarabia, on the other hand, the Russian government allowed only the activity of a few consular agents.⁶⁸

After the restitution of the southern counties of Bessarabia to the Principality of Moldova, according to the Treaty of Paris of 18 (30) March 1856, the Commercial Court of Ismail was temporarily transferred to Chişinău, by order of the Council of Ministers of 25 January 1857, and its name was changed to the Commercial Court of Bessarabia.⁶⁹ On 26 July 1863, at the insistence of the merchants, the activity of the Commercial Court was extended until the application of the new judicial reform, which was to exclude commercial courts from the judiciary system.⁷⁰ But the application of the reform in Bessarabia, through the ukase of 8 April 1869, did not lead to the immediate liquidation of the court, as was also the case as well as in the rest of the empire.⁷¹

Similarly, in the United Romanian Principalities, the law of 4 July 1865 for the organization of the judiciary system liquidated the monopoly of the nobility. Regarding the commercial courts, it stipulated that commercial

cases be judged by county courts. In Bucharest, Craiova, Galați and Ploiești it provided the operation within the county court of a section for trade cases.⁷² Unlike in Bessarabia, the commercial courts were closed without delay. In 1877, the number of commercial cases in civil courts accounted to 4,901, of which 2,843 were registered for the first time and 2,058 having remained since 1876. Of these commercial cases, 6,006 were completed and 1,895 commercial cases awaited for the trial remained for trial the following year.⁷³

The development of the judicial system no longer required a separation of commercial cases from other civil cases, neither in Romania, nor in the Russian Empire. In Chișinău however, it was only from 1 January 1898 that the Commercial Court of Bessarabia was closed, simultaneously with the commercial courts of Kerch and Taganrog, and its activity was subordinated to the district courts established under the law of 12 July 1889.⁷⁴ Instead, such judiciary courts would appear within commercial bourses. Thus, in 1887, an “arbitration commission” was set up under the Odessa Bourse Committee to resolve the misunderstandings and disputes that arose around commercial transactions.⁷⁵ In Romania, the law on bourses of 1904 also established the arbitration chambers within the bourses, to judge the disputes between the members of the bourses or between them and third natural and legal persons. Arbitral jurisdiction became mandatory by this law for bourse operations. An appeal against its decisions could be made only to the Court of Appeal.⁷⁶

Institutionalization of Commercial Legislation

At the beginning of the 19th century, both the Romanian Principalities and the Russian Empire were still deficient in terms of the institutionalization of commercial legislation. It is true that, in 1766, Catherine II formed a commission to codify the Russian legislation, but the goal was not achieved, not even during the reigns of Emperors Paul I and Alexander I.⁷⁷ Some progress was registered in engaging the merchant class in the drafting of trade legislation. Thus, on 27 March 1800, Paul I ordered the establishment of the honorary title of *trade advisers* for merchants. Instead, the holders, at the request of the government, were to participate without remuneration in the improvement of commercial legislation, in the elaboration of regulations on trade and the statutes of trade institutions, conventions and trade treaties.⁷⁸

The institutionalization of commercial legislation gained important improvements only after 1829. Thereby, the Russian emperor approved on 23 October 1829 the creation of a Trade Council in St. Petersburg, which was to notify the authorities of problems hindering the development of domestic and foreign trade, as well as to make proposals and reports on these issues at the request of the Minister of Finance. The council was to have four permanent members from the 1st Guild merchants. Branches of the Trade Council were opened in Moscow, Arkhangelsk, Riga, Taganrog and Odessa. Among their members, 6 were designated from 1st and 2nd guild merchants.⁷⁹ The cities of Bessarabia did not have such an entity, but their role in drafting trade law within the empire was generally very modest.

Still, during the reign of Nicholas I efforts to codify Russian law were completed in 1832, but *The Code of Laws* was recognized as the official source of legal norms only from 1 January 1835.⁸⁰ However, in the commercial field, the *Code* was rather a set of regulations in force, a mechanical combination of laws issued in different periods, containing, to a large extent, police and fiscal regulations. In the next two editions of the *Code of Laws of the Russian Empire* (from 1842 and 1857), the Commercial Code was revised, but its level of codification remained deficient.⁸¹

In the Romanian Principalities, the first “codes” of trade were included in the *Organic Regulations*. For Wallachia, it consisted of 26 articles, covering the following major issues: ensuring freedom of trade, maintaining trade routes, operating grain storage depots in rural areas, food security measures for cities, capitalization of private mines for commercial purposes. In Moldova, the section consisted of 20 articles, addressing in addition the regulation of customs tariffs and the organization of traders.⁸² The provisions of the commercial codes included in the *Organic Regulations* were too general, and the Legislative Assemblies of the principalities took the option of adopting the French commercial code. In Wallachia, it will be implemented from 1 January 1841, being translated after the edition of 1808, with the amendments made until 1838. For some issues, the provisions of the *Organic Regulation* were maintained (relative to the deeds of trade, trade procedure, etc.).⁸³ In Moldova, the initiative did not materialize.⁸⁴

Only after the union of the Romanian Principalities, by the law of 10 December 1864, the French Commercial Code was extended to the whole country.⁸⁵ That same year, the first law on Chambers of Commerce was discussed and was promulgated on 26 October 1864. It was planned

to establish chambers of commerce in the main cities and ports, having as attributions the presentation to the government of opinions and proposals on the changes projected in the commercial legislation, on the establishment of other chambers or economic institutions, on customs tariffs and transport services, etc. Chambers of Commerce were set up in Bucharest, Turnu-Severin, Craiova, Turnu Magurele, Giurgiu, Brăila, Galați, Ismail, Bârlad, Iași, Bacău, Piatra-Neamț, Botoșani, Focșani and Ploiești.⁸⁶

The law of 1864, however, did not provide the Chambers of Commerce with the freedom to carry out their activity and initiative. The interference of the local state administrative authorities – the prefects who chaired the meetings of the Chambers – influenced their decisions and led to the limitation of their activity. However, the Bucharest Chamber of Commerce and Industry intervened in the discussion and drafting of laws and regulations at the request of some ministries or on its own initiative: the draft of the laws for the regulation for bourse brokers, registration of companies, sale of spirits licensing, and others. At the same time, in 1875 it contributed to the preparation of the new customs tariff.⁸⁷

The situation would be remedied by the law of 10 May 1886, which established new rules regarding the organization of the chambers, their attributions, administration and revenues.⁸⁸ The law clearly established the consultative responsibilities of the Chambers in front of the government, regarding the needs of commercial and industrial development.⁸⁹ Thus, the Chambers of Commerce got more involved in the country's economic policy. For example, they actively participated in the elaboration of a new commercial code, initiated in 1884 and approved in 1887. The Italian Commercial Code of 31 October 1882 was taken as a model and therefore, unlike the edition of 1840, the notion of trade facts was put at the forefront. The legislator excluded those provisions that referred to commercial institutions of public utility (fairs, docks, chambers of commerce, issuing banks), which now formed the object of the administrative law, a branch of public law.⁹⁰

The year 1887 was marked by the publication of a new edition of the commercial code in the Russian Empire as well. It had a substantially revised form, primarily by separating commercial judicial proceedings into a separate code, clearly enshrining the idea of the independence of the Russian commercial law. The delay in the development of Russian commercial law was largely caused by the non-recognition of trade customs as a source of law, which played an exclusive role in the

specialization and formation of this branch of law.⁹¹ Meanwhile, on 7 June 1872, the emperor approved the reorganization of the St. Petersburg Council of Commerce and its subsidiaries by their merging with councils for manufactures. No substantial changes in their role in drafting trade legislation occurred, however.⁹² In Romania, a Superior Council of Commerce had been established by the law of 17 February 1907, which, unlike its Russian counterpart, had clearer legislative duties.⁹³

As for the chambers of commerce and industry, they appeared in the Russian Empire very late, in the form of the Russian-English, Russian-Italian (both active in St. Petersburg) and Russian-American (Moscow) chambers. They were to contribute to the development of bilateral trade relations. In addition, a single Russian Chamber of Commerce was created, the status of which was approved at the end of 1910 and aimed only at regulating and facilitating export trade, with no legislative functions.⁹⁴

Institutionalization of Commercial Intermediation

In terms of trade intermediation, Bessarabia also apparently obtained more institutional benefits after 1812. Following the law of 1721, bourses were to be opened in all commercial port-cities of the Russian Empire, but in reality this desideratum remained unaccomplished. It wasn't until 1796 that the second bourse, after that of Sankt Petersburg, was opened in the newly established port city of Odessa.⁹⁵ Nevertheless, brokers were acting in the field of trade in other cities also. The Russian legislation, in fact, included several categories of brokers: *hofmaklers* (chief brokers), public notaries, private brokers, brokers of servants and workers, bourse brokers, merchants' ships brokers, brokers of the State Commercial Bank, Craftsmen Councils' brokers.⁹⁶

Accordingly, already in 1813 a *hofmakler* was appointed in Bessarabia, who institutionally also held the position of provincial notary. In reality, the public brokers were those that exercised the attributions of authenticating the contracts within the city, and the function of notaries was initially provided only for the authentication and rejection of the promissory notes. Public brokers used the title of notary in order to distinguish themselves from private and specialized brokers. In addition to brokering private contracts, *hofmaklers* were also acting as state agents, informing authorities about any trade violations, but also about the evolution of commodity prices.⁹⁷ The notarial attributions were not separated from the

judiciary, in the cities where no notary was designated, their attributions being exercised by magistrates or by other public or police authorities. Outside the empire, brokerage services for merchants were provided by consular officers. According to the regulation of 25 October 1820, their obligations included the protection of the interests of national trade and navigation, the performing of the functions of notary, civil servant and police officer, etc.⁹⁸

With the systematization of notarial legislation in the Russian commercial code of 1832, the number of brokers-notaries increased in Chişinău and gradually notaries appeared in other cities of Bessarabia.⁹⁹ In the Romanian Principalities, the notarial activity was still closely related to the judicial one, lacking an institutional separation on this level. With the establishment of commercial courts, through the *Organic Regulations*, their attributions, in addition to examining commercial disputes, included the authentication of contracts between merchants in the cities where they were, a position that in other parts continued to be performed by county courts.¹⁰⁰

Despite the fact that the 1840 Commercial code of Wallachia also regulated the activity of bourses, none were established. Instead, the provisions referring to the activity of exchange dealers and brokers (of goods, insurance, dragomans and renters of ships, land and water transport),¹⁰¹ represented an impetus to local projects to institutionalize the activity of commercial intermediaries.¹⁰² For Bessarabian entrepreneurs the bourse of Odessa continued to be the only institutional way to trade their products to exporting merchants. But the progress of bourse trading in Odessa, but also in the rest of the Russian Empire, was slow. The importance of this bourse became significant only in the second half of the 1840s, driven by substantial progress in grain exports. Consequently, a bourse committee was opened in 1848, to manage the activity of the bourse more efficiently.¹⁰³

Other substantial progresses occurred only during the Reforms of the 1860s. On 14 April 1866, a new Regulation on notarial activity was adopted in the Russian Empire, as part of the judicial reform. The Russian legislators aimed to create an independent institution, separated from that of intermediaries, with broad powers in the field of protection of entrepreneurial and property rights and interests, but the reform failed to delineate the notarial powers, with which the justices of the peace were also invested. The notarial reform was applied in Bessarabia from 1 December 1869.¹⁰⁴ In Romania, on the other hand, the notarial activity

continued to be exercised by the civil courts. In 1877, the number of notarial operations in the Romanian civil courts amounted to 11,563.¹⁰⁵ The Law on the authentication of documents of 1886 still made no reference to notaries.¹⁰⁶

Instead, the commercial intermediation functions gained progress for the Romanian entrepreneurs abroad. An institutional form of this desideratum was conferred by the Law on the Organization of the Ministry of Foreign Affairs of 15 March 1873, which provided the establishment of consulates “where necessary”. The exact duties of consular officers were to be laid down in a special regulation.¹⁰⁷ But the problem of opening Romanian consulates abroad continued to be an acute one because of the opposition of the Ottoman government.¹⁰⁸ After 1878, Romania proceeded to negotiate consular treaties, by which the signatory parties granted their right to establish consular representations in the cities and ports of the territory of the other party. Such treaties were signed with Switzerland on 2 (24) February 1880, with Italy on 5 (17) August 1880, with Belgium on 31 December 1880 and with the USA on 5 (17) June 1881. The consular regulation of 20 June 1880 provided notarial, judicial and police duties for consular officers, in order to meet the needs of Romanian subjects doing business abroad.¹⁰⁹ The Trade Code of 1887 completed the commercial attributions of the consular representatives abroad, opening the way for the rapid increase of the number of consulates abroad.¹¹⁰

Within the country, the first real steps to institutionalize commercial intermediation were taken by the promulgation on 25 June 1881 of the Law for Bourses. The establishment of the bourses took place based on the following procedure: the submission of a request by the traders of a city to the Chamber of Commerce, justifying the demand for establishing the institution and the means necessary for its functioning. This proposal was to be endorsed by the minister of commerce and later approved by a royal decree. Only Romanian citizens were admitted to the bourse administration bodies and to trade within them. This law also officially established the functions of exchange and commodity intermediaries. It was provided that in each city the number of exchange and commodity brokers was fixed by the chamber of commerce every three years. Where no chamber of commerce was established, the number of brokers was fixed by the communal council.¹¹¹

The amendments to the Law for Bourses of 24 June 1886 revealed the functioning of the bourses only in Bucharest, Galați and Brăila. Elsewhere, the bourse operations were carried out by authorized brokers.¹¹² Actually,

until 1904 the Romanian bourses had a weak activity, being strongly competed, on account of some organizational and legislative deficiencies, by a “black bourse”, developed in parallel.¹¹³ A major problem was considered the non-acceptance of foreigners, who had important capital and enterprises in Romania.¹¹⁴ It was only in 1904 that the new Law for Bourses established the bourse corporation to which all merchants and bankers could belong, regardless of nationality, but the elective and representative rights of foreigners were limited to maximum $\frac{1}{4}$ of this corporation’s composition.¹¹⁵ The situation was similar in the Russian Empire, in which there were only six bourse committees operating by 1880, and a further eight were set up by 1904.¹¹⁶

Institutionalization of Trade Enterprises

In the first decades of the 19th century, the situation regarding the institutionalization of commercial enterprises continued to be precarious in both the Romanian Principalities and Bessarabia. In the Russian Empire, the legal norms for the formation of trading firms were established on 1 January 1807. Russian merchants could set up trading houses by either total or partial association. The merchants who founded trading houses by total association were responsible with all the capital they had and, in addition, could not enter into another association. The partial association presupposed the liability of the merchants only within the limits of the amount of contribution.¹¹⁷ Even though in the great commercial cities of the empire there appeared dozens of trading houses, institutionalized according to legal procedures, in Bessarabia the situation was different. A primary cause was the insufficient spreading of the guild system in the province prior to 1831, as merchants were required to be enrolled in guilds in order to open trading houses or companies.

Trade did not encourage any formalized institutionalization of business in the Romanian Principalities either. Seasonal forms of trade were predominant, with requests for the establishment of fairs indicating that these were the main form of distribution of goods. But in the cities there were certain premises for the permanentisation of trade, and the local authorities encouraged this process.¹¹⁸ However, the business class still lacked a solid organization on modern principles. The *Organic Regulations* had contributed to some extent to increasing the institutionalization of trade enterprises in the Romanian Principalities, in conjunction with

the freedoms and privileges granted to encourage foreign trade, but the formalized institutionalization of business was practiced almost entirely by foreign traders. In Wallachia the situation was a little better from this point of view, after the adoption in 1840 of the French commercial code. According to it, merchants could establish trade partnerships of three kinds: comprehensive, limited and anonymous. The first was based on the association by contract of two or more merchants, each responsible for the contracts and debts of the company, even if they bore the signature of only one of the associates. The contract was to be certified by the court in each county where the firm was to operate. The limited partnership was also constituted by contract, by the association of two or more capitals, being administered by a limited partner, with the associates having no right to get involved in the administration of the partnership. Each of the limited partners was liable only for the amount of capital they contributed to the partnership. In both cases, the partnership was to bear the name of one or all associates. On the other hand, the anonymous company did not impose such an obligation, as it could bear a name chosen by the shareholders. These could be established only with the permission of the Wallachian ruler.¹¹⁹

The reforms of 1860s in the Russian Empire brought about some fiscal changes which encouraged the development of enterprises. The law of 1 January 1863 divided commercial establishments into four categories, from I to IV, and patent fees were set according to the class in which the city was registered. In Bessarabia only the city of Chişinău was included in class II, Akkerman, Bender, Hotin in class III, and the other cities and fairs in Chişinău, Akkerman, Bender, Orhei, Soroca, Hotin and Iaşi counties in class IV. The law also introduced some changes regarding the taxation of private and joint stock companies. However, their connection with the guild system was maintained, because the persons who wanted to establish a formalized commercial firm were still required to obtain 1st or 2nd guild merchant patents, depending on the type of activity.¹²⁰ Still, these changes encouraged the opening in 1869 of the first trading house in Chisinau, named Fitov & Bros.¹²¹

In Romania, an important moment was the application of the French Commercial Code throughout the country as of 1 January 1865. However, there continued to be many limitations. Thus, in 1877 only 14 files for the establishment of commercial firms were submitted to the courts, 13 of which being collective and one anonymous. In addition, 12 files were acts of liquidation of trade firms.¹²² The Romanian lawmakers tried to

encourage the institutionalization by introducing a sliding tax system, similar to that of the Russian Empire. On 23 March 1877, the patent fee was divided into a fixed and a variable part. The fixed tax depended on the cities in which the entrepreneurs conducted their activity and the variable one was 10% for banks, confectioneries, flour mills, 5% for stores, shops and workshops in general and 2% for industrial establishments, such as factories or plants.¹²³ Also on 15 April 1879, the Law on Trademarks was adopted, for the recognition and protection by the state of trademarks, emblems, signs of production and trade. The registration was made at the registry of the court of residence and was valid for 15 years, after which it was to be reconfirmed, the fee being 20 lei.¹²⁴ In the following period, conventions for the protection of trademarks were signed with Belgium (1881), Germany (1882), France (1889), Austria-Hungary (1893), Italy (1903, 1906), and the USA (1906).¹²⁵

But Romanian lawmakers went even further. On 18 March 1884, the Law on the Registration of Firms imposed the obligation to register firms in the special register at the court of the district of residence. A period of six months was granted for all traders to comply with the provisions of the new law.¹²⁶ From a few dozen prior to the law being passed, the number of individual firms registered in Ilfov County increased to 3,000 just one month after it became mandatory.¹²⁷ Subsequently, their number reached 4,000 at the beginning of 1887, and 6,657 by 29 October 1890. By this date there were also 600 registered joint-stock companies.¹²⁸ By the Commercial Code of 10 May 1887, the notion of "cooperative society" was introduced and regulated, representing a society that had registered in its statute the right of associates to increase or decrease the constitutive capital. Thus, numerous mutual aid cooperatives were established for granting preferential loans to members, but also to other traders and industrialists.¹²⁹

As opposed to this progress, by 1905 in Chişinău there were only six registered trading houses, two more operating in Akkerman. In the rest of the cities of Bessarabia there were no trading houses at that time, according to the reports of the city administrations. From the point of view of organization, existing trading houses were full or limited partnerships.¹³⁰ The situation was even more deficient for joint stock companies in the field of trade. The only joint stock company with a (partial) trade profile we found in the period 1863-1912 was "The Bessarabian joint stock company for winemaking and production of cognac of E. Reidel in Chişinău" (the statute approved in 1899).¹³¹ On the other hand, there were many trade

firms and joint stock companies operating in the province, but registered in the rest of the Russian Empire or even abroad. The largest firm for the production and sale of Bessarabian wines of I. and V. Sinadino, the status of which was approved in 1894, was registered in Odessa, where the company had its main warehouse.¹³² The causes of such a deficient condition were multiple. First of all there was no obligation to register a trade enterprise. Secondly – the registration of a trade enterprise, as opposed to a trade place, involved the payment of the guild merchant's license. And thirdly, the trademark law was adopted in the Russian Empire only on 26 February 1896.¹³³

Conclusions

Based on the research of primary and secondary sources, we have come to the conclusion that Bessarabia, after its annexation to the Russian Empire in 1812, had benefited institutionally only in the first half of the 19th century. The modern institutions in the sphere of trade, their model imported from Europe and implemented in the Russian Empire throughout the 18th century, actually found their practical utility only in the 19th century, by virtue of the country's socio-economic backwardness as compared to the West. Imposed from above rather than implemented with regard to the economic processes within the empire, they often did not correlate or meet real needs, undergoing permanent adjustments as a result, especially during the first half of the 19th century.

On the other hand, since the *Organic Regulations*, applied in 1831-1832 by the Russian imperial authorities in Wallachia and Moldavia, largely expressed their visions, the modern Russian institutional economic model had a great impact on that established initially in the Romanian Principalities. As these acts also had political limitations, the Romanian lawmakers struggled to change the Russian economic institutional model, which was largely based on the German one, preferring instead the French, Italian or even Belgian ones. The following political shifts towards independence would determine clearly distinct phases in the process of institutionalization of trade practices in the Romanian Principalities / Romania, especially when compared to the Russian Empire, and to Bessarabia as part of it.

After the Union of 1859, the Romanian Principalities were still behind the Russian Empire with regard to the institutionalization of trade, but not

essentially, especially when compared to Bessarabia. The reasons were multiple. First of all, the territory between Prut and Dniester had already had a different institutional experience, which determined that some institutions were accepted faster than others. Secondly, it was granted a limited institutional autonomy from the rest of the empire until 1828-1831. Afterwards, being at the periphery of the Russian Empire, the province was included institutionally in Novorossiya, with Odessa as its centre. Thirdly, only 10% of the trade revenues were kept in the province, the rest being devoured by the imperial treasury, with no investment budget at all. Thus, already in the 1860s the trade of Bessarabia was surpassed organizationally by the Romanian territories on the other bank of the river Prut. The gaining of independence in 1878 marked Romania's leap forward, and a rapidly increasing institutional gap in the neighbouring territory.

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