

Aleksandar FOTIĆ

(Institut des Études Balkaniques, Académie Serbe des sciences et des arts)

THE OFFICIAL EXPLANATIONS FOR THE CONFISCATION AND SALE OF MONASTERIES (CHURCHES) AND THEIR ESTATES AT THE TIME OF SELIM II

Although it did not last very long, the rule of sultan Selim II (1566-1574) left a deep trace on the history of Christian churches in the Balkans. During those years the central Ottoman authorities decided to confiscate all the church and monastery estates and sell them, giving them the possibility of buying everything back. With this measure, known in contemporary Serbian writings and annals as «the sale of churches and monasteries», the state exerted strong financial pressure on the already quite impoverished church. By pawning the remaining valuables, or with the help of new donors, most of the monasteries somehow managed to buy back the largest part of their estates. It was small and dilapidated monasteries that fared the worst. If the monks didn't manage to collect the necessary funds, the Turks confiscated and sold the monasteries and their estates. The long before abandoned and destroyed monasteries experienced the same fate.

The importance of this measure by the central authorities was noticed quite some time ago and scientists have written about it on several occasions. Perhaps the first piece of information on this issue was provided way back at the end of the past century by a great book-lover and a person who studied Holy Mountain antiquities, monk Sava Hilandarac (Sava of Chilandari). In his extremely interesting book, full of information about the Holy Mountain (Mt. Athos), speaking about the monastery of Docheiariou, he said: «In the year of 1568, Selim confiscated all the monastery estates with the intention of selling them to get money for the state treasury, giving the monasteries priority in buying

them back»¹. At the time he himself could certainly not have known that his concisely formulated sentence was so true that, even today, nothing can be added to it. Much later, in the desire to set the foundations of the studies of the Holy Mountain's status under Turkish rule, medievalists Lemerle and Wittek wrote a valuable article in which, among other things, they devoted considerable attention to the problem of the purchase of Holy Mountain monasteries and their estates². This was the first unavoidable fundamental work that took a serious approach to the resolution of this problem. However, due to the source their work was based on, its results referred only to the monasteries on Mt. Athos. Bearing in mind their special status, at the time when nothing was known about the «sale of monasteries» in other parts of the Empire, any further generalization could have been excessively arbitrary. (On the other hand, apart from the indisputably important results, in certain cases their contemplations were bound by a not very reliable model for the source — a Greek translation of a firman, which they themselves pointed out)³.

Later on, Branislav Djurdjev wrote about the «sale» of the Srem monasteries on the basis of information from cadastral *defters* (surveys) of the Srem sanjak (he also quoted parts from several contemporary Serbian writings and annals referring to the «sale»)⁴. Afterwards, some other authors mentioned this problem as well, but only in passing, as part of other topics⁵.

¹ Monah Sava Hilandarac, *Sveta Gora* (Holy Mountain), Beograd 1898, 324. Unfortunately, this information remained totally unnoticed by later researchers.

² P. Lemerle - P. Wittek, «Recherches sur l'histoire et le statut des monastères Athonites sous la domination turque», *Archives d'Histoire du droit oriental*, III (Wetteren, 1948) 442-472.

³ A certified Turkish copy of this firman will be published along with a fascimile, and analyzed in A. Fotić, «Sveta Gora u doba Selima II» (The Holy Mountain at the Time of Selim II), *Hilandarski zbornik*, 9, in print.

⁴ B. Djurdjev, «Prodaja crkava i manastira' za vreme vlade Selima II» (The Sale of Churches and Monasteries at the Time of Selim II), *Godišnjak Istoriskog društva Bosne i Hercegovine*, IX (Sarajevo, 1957) 241-247; idem, «Još jedan podatak o 'prodaji crkava i manastira' za vreme Selima II» (Yet another piece of information about the 'Sale of Churches and Monasteries' at the Time of Selim II), *GIDBIH*, X (1959) 385. The mentioned defter was published later on: B.W. McGowan, *Sirem Sancağı Mufassal Tahrir Defteri*, Ankara, 1983.

⁵ J.C. Alexander, «The Monasteries of the Meteora during the first two centuries of Ottoman Rule», *Jahrbuch der österreichischen Byzantinistik*, 32/2 (Wien, 1982), 98-99; O. Zirojević, *Posedi fruškogorskih manastira* (The Estates of the Mt. Fruška Gora Monasteries), Novi Sad, 1992 (in every chapter devoted to various monasteries); idem, «Imanje manastira Dečana u svetlu turskih popisa (1485-1582)» (The estates of the Monastery of Dečani in the light of Turkish cadastral registers (1485-1582)), *Zbornik radova s naučnog*

As one can see, the present knowledge about the «sale of monasteries» is mostly based on information from ~~an~~ original Turkish source: the already mentioned *defter* of the Srem sanjak, and on an insufficiently precise Greek translation of the firman of Selim II to the monks on the Holy Mountain. The answers provided by the analysis of these sources are one-sided and limited, primarily by the nature of the documents themselves, so that they don't make it possible to create a comprehensive picture about this measure by the central authorities. Apart from the small number of known sources, it has also been difficult to shed light on this problem because of various dilemmas caused by the incomprehensible contradictions resulting from the coordination of *kanuns* and the sharia on the one hand, and the polysemy of many key terms and their frequent and, according to the sharia, impermissible and also inconsistent use by Ottoman bureaus, on the other.

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The intention of this work is to shed as much light as possible on the problem of the «sale of monasteries» on the basis of new information from so far unused original documents, with certain different interpretations of the already published results, to examine the legal explanation for this measure, to explain the ways in which it was carried out and the problems it caused. The key document is the order to the inventory-taker in the *Alaca Hisar* (Kruševac) sanjak, in fact, the detailed instructions with explanations about what to do when making the inventory of and selling monastery/church estates. Because of its importance it will be presented in its entirety, with a transcription and facsimile⁶.

The text of the firman:

[BBA,D.EVM 26278, p. 114]

An order is to be issued to the Zvornik kadi who is making the inventory in the sanjak of *Alaca Hisar* and to Mehmed, the scribe of the *defter*:

skupa «Dečani i vizantijska umetnost sredinom XIV veka», Beograd: SANU, 1989, 412 (where she correctly interpreted the information about the purchase of the Dečani estates from a much earlier work: I.S. Jastrebov, «Manastir Dečani», *Brasvo*, 12-13 (Beograd, 1908) 178-180); A. Andrejevič, «Pretvaranje crkava u džamije» (The transformation of churches into mosques), *Zbornik Matice srpske za likovne umetnosti*, 12 (Novi Sad, 1976) 115-116; M. Kiel, *Art and Society of Bulgaria in the Turkish Period*, Assen/Maastricht, Van Gorcum, 1985, 157-158; etc.

⁶ A photo-copy of this document was kindly given to me by prof. Dr. Dušanka Bojanić-Lukač. I take this opportunity to warmly thank her.

Due to my coming to the imperial throne, everyone has brought orders and *berats* to the Sublime Porte and renewed them. Certain monks have sent *hüccets* on bequeathals to their churches⁷ to His Excellency, the present mufti. When they requested that the *hüccets* be certified, the mentioned His Excellency, the present mufti, sent to the Imperial *Divan* a transcript of the honorable fetwa: «If *zimmis*⁸ bequeath state fields and meadows which they use to their churches, or for the poor in churches, for monks and for bridges and fountains, this is, in no way, legal. It is totally false. This is to be taken away from them». The second honorable fetwa also contains an order: «If the mentioned *zimmis* bequeath, in the said way, their vineyards, mills, gardens, houses and shops on state land, as well as cattle and their entire property in full legal possession (*mülk*) to the church, this is, by no means, valid. See into this. If kadis issue a *vakifname*,⁹ this is also, in no way, valid. If the donors (*vakıfs*) or their heirs are alive [everything bequeathed remains] in their full legal possession (*mülk*). Having taken them back, they will use them and pay to the state sharia and common taxes. But if the donors and their heirs are not alive everything goes to the *Beyt ül-mal* (fisc). This is to be taken away and sold at [the right] price to those who ask for it. If the mentioned [*zimmis*] did not bequeath the mentioned property in full legal possession (*mülk*) to their churches, but they bequeathed it to the monks, the poor or to bridges and fountains, kadis are to permit their bequeathal, on the basis of correctness. And if this is registered at court, it is valid and in accordance with the sharia. [Such bequests] are not to be taken away from them. They are to use them according to the mentioned conditions and they are all to pay sharia and common taxes without exception». For this reason I have ordered that the land in the vilayet of Rumelia, which is being used as church *vakıfs*, on the basis of the sharia fetwa issued in this regard, be taken away from the monks and given to others along with a deed (*tapu*). If they themselves accept it, let the land be given back to them with the deed (*tapu*) that is given to everyone else and on condition that they pay a tithe and other taxes.

I have ordered: when my honorable order comes into force, take, on the basis of my honorable order, a separate inventory of all the big and small church *vakıfs* in the mentioned sanjak and make a *defter*. When it

⁷ The term *kenisa* was used to denote both a church and a monastery.

⁸ *Zimmi* — protege, the term used for the Christians and Jews for whom the Ottoman state was obliged to provide personal, property and moral protection if they paid *cizye*.

⁹ *Vakifname* — deed of foundation. Here, deed of Christian pious foundation.

is completed, if the priests and monks, as is required by the sharia, accept, at a suitable price, deeds (*tapus*) of the kind issued to everyone else, on condition that they give a tithe in grain and pay other taxes, write down on their charge the *vakıfs* of all the churches and the *vakıfs* without heirs. Take deed taxes from them in favor of the state. Hand them certificates. Let them use, cultivate and work on them. Take a tithe in produced grain and the *salariye* which is taken under the *kanun*, and keep it for the state. And if they don't accept this, give, in the mentioned way, with deeds, the *vakıfs* of their churches to other people who request them. Let them cultivate and work on them. Take a tithe and other taxes for the state. If the donors (*vâkıfs*) or their heirs are alive, [everything bequeathed] remains in their possession (*mülk*). Having taken them back, let them use them, and sharia and common tax are to be taken and kept in the name of the state. Write this down, in the mentioned way, in the vilayet *defter*. If the donors (*vâkıfs*) or their heirs are not alive, and if it is the property in full possession (*mülk*) and cattle, everything [bequeathed] goes to the *Beyt ül-mal* (fisc). On the basis of the sharia fetwa, sell them, at the [right] price, in the name of the state, to those who ask for them and turn it all into cash. If the mentioned property in full legal possession (*mülk*) the mentioned [*zimmis*] did not bequeath to their churches, but they bequeathed it to their monks, the poor or to bridges and fountains, let the kadi permit its bequeathal, on the basis of correctness. And if this is registered at court, it is valid and in accordance with the sharia. [Such bequests] are not to be taken away from them. Let them use them under the mentioned conditions. Take sharia and common taxes, without exception, from everyone and keep them for the state. Write down the new certificates in the *defter*, in the mentioned way. Taking yearly fixed sums (*mukata'as*) from their estates (*çiftlik*s) is to be abolished. Let the mentioned ones cultivate and work on their estates (*çiftlik*s), and let trustees from imperial domains take a tithe in produced grain, the *salariye* which is taken according to the *kanun* and other taxes for the state. Also take back in favour of the state, in the mentioned way, the fixed sums (*maktu's*) they used to give to *timars*. Whatever of the existing income has been written down in the *sipahi's* name is to be given in cash. If there is a surplus, take it for the state. In regard to this issue, do not allow anyone to act contrary to my honorable order and to try to find excuses without any reason. Let this be known. Written on Rebiülahir 22nd 976 [October 14th 1568].

First of all, it is necessary to see in which parts of the Ottoman Empire and in what period was the «sale of monasteries» carried out.

Since this measure was, in fact, in line with the general Ottoman agrarian policy, especially with relations on state land (*arz-i miri*, *arz-i memleket*), which I will try to explain further on, it certainly encompassed the entire European part of the Empire which fell under the category of «state land». The term *vilayet-i Rum-ili*, which is how the region where this measure was implemented was called in the firman, denoted, in a narrow sense, the *beğlerbeğlik* of *Rum-ili*. However, in a broader sense, it was also the synonym for the entire European part of the Ottoman Empire. That it should be observed in the latter sense is also confirmed by information from other sources. As regards the *beğlerbeğlik* of *Rum-ili* itself, sources have confirmed that the «sale» took place in the sanjaks of Thessaloniki, Trikkala, Skoplje, Kustendil (Sofia), Alaca Hisar, Hercegovina and Dukagin. The already well known survey of the sanjak of Srem shows that the measures also included the *eyalet* of Buda. And that the *eyalet* of Temeşvar was not exempt either is attested to by the existing information on the purchase of Holy Mountain estates in the sanjak of Çanad¹⁰. For now, there is no information on whether, and in what proportion, was this measure also implemented in non-European parts of the Empire.

The measure started being carried out along with the making of new inventory *defters* at the beginning of Selim's rule. The introduction of information into the new *defters*, especially if the old ones were not used as models, could take as much as two years, depending on the size of the sanjak. One should also bear in mind the fact that the inventory of all the sanjaks did not start at the same time, so that the «sale» of the

¹⁰ For the sanjak of Thessaloniki: Lemerle - Wittek, 442-472; V. Boškov - D. Bojanić, «Sultanske povelje iz manastira Hilandara» (The Sultans' Charters from the Monastery of Chilandari), *Hilandarski zbornik*, 8 (Beograd, 1991) 188-189. For the sanjak of Trikkala: Alexander, 98-99. For Skoplje: the order to *sancak-bey* of Üsküb from 1577 concerning certain abuses during the purchase — BBA, MAD, 7534, s.1649 (I thank D. Bojanić for the information). For sanjak of Hercegovina: F. Bajraktarević, «Turski dokumenti manastira Sv. Trojice kod Plevlja» (Turkish documents of the monastery of the Holy Trinity near Plevlja) *Spomenik*, LXXIX (Beograd: SKA, 1936) 33, 51; Djurdjev, «Još jedan podatak ...», 385. For sanjak of Kustendil: St. P. Džansuzov, «Nekoliko dokumenti dadeni ot turskite Sultani na Rilskia manastir» (Several documents given by Turkish sultans to the Rila monastery), *Sbornik na narodni umotvorenia, nauka i knižnina*, IV (Sofia, 1891) 612-613, however it seems that around 1575 when the purchase had been carried out, the region around to Rila monastery was joined to the sanjak of Sofia. For sanjak of Dukagin: Zirojević, «Imanje manastira Dečana ...», 412. For sanjak of Çanad: Boškov - Bojanić, 191.

monasteries was not carried out everywhere in the same year. As a chronological framework, one can take the period between 1567 and 1571¹¹, however, there are exceptions here too. The monastery of St. Ivan Rilski did not buy its estates back before 1575, at the time when the sanjak of Pasha (Sofia) was being inventoried by the order of sultan Murad III¹². The monks of the monastery of Dečani (Serbia) bought back their estates from the vilayet's scribe only in 1583¹³. Were these exceptions, or was it like this with all the monasteries in these sanjaks (Sofia, Dukagin), were there any other sanjaks in which the purchase was not completed at the time of Selim II, or were at issue certain belated payments (debts) — all these are questions to which there is still no answer.

One can view the «sale of churches and monasteries» as a step in the years-long efforts by Ottoman jurists to standardize, define and coordinate with the sharia one of the key parts of the legal system: land relations. This measure fully fitted into the basic principles of the Ottoman agrarian system, regardless of the way and the proportion in which it could be carried out. It was precisely at the beginning of the rule of Selim II that the great mufti Ebussuud, finally systematized, with the help of *defterdar* Mehmed Çelebi, legal relations on landed property. He divided all the land into three types: *öşri*, *haraci* and *miri* land. One of the places where he explained this division is the *kanun* for Skoplje and Thessaloniki from 1568/9 (976 according to the hegira) which directly preceded the «sale of monasteries»¹⁴. The essence of state land (*arz-i miri*, *arz-i memleket*) as described at the time, lay in the fact that it could, in no way, be turned into full private ownership (*mülk*), and, therefore, it also couldn't be bequeathed (given to a *vakıf*), regardless of whether it was held by Muslims or Christians. There was no right of ownership over it, only the right of usufruct denoted by the term *tasarruf*. One realized this right by obtaining a title deed (*tapuname*). In view

¹¹ *Ibidem*; Djurdjev, «Prodaja crkava ...», 241-247.

¹² Džansuzov, 612-613.

¹³ H. Kaleši - I. Eren, «Četnaest turskih fermama manastira Dečana» (Fourteen Turkish firmans of the Dečani monastery), *Glasnik Muzeja Kosova*, X (Priština, 1965-1970) 316. However, Jastrebov cites the firman from 1581, which points to the conclusion that the purchase was carried out then (Jastrebov, 179-180). This remains an open question because the document is so ruined that most of it cannot be read (Turkish documents of the Dečani monastery, DK-213).

¹⁴ Ö.L. Barkan, *XV ve XVI ncı Asırlarda Osmanlı İmparatorluğunda Ziraî Ekonominin Hukukî ve Malî Esasları, I. Kanunlar*, İstanbul, 1943, 297-299.

of this, *miri* land could be neither bought nor sold; it was only permitted to transfer the right of usufruct onto another person (*intikal*, *tefviz*), and this exclusively with the knowledge of the master of the land (*sahib-i arz*). All these terms were, of course, used before as well. However, since there were no precise and detailed explanations like the mentioned ones, arbitrary and wrong interpretations led to various abuses, the biggest among them being the purchase and sale of state land among *reaya* and its bequeathal. As it says in the *kanun*, even the kadis permitted this and issued *hüccets* and *vakıfnames* although this was contrary to the sharia. For this reason it was strictly ordered that old *defters* not be taken into account and copied¹⁵.

The definition of land relations was examined here in greater detail for the purpose of pointing out that the «sale of monasteries» cannot be observed separately from the measures regulating these relations. This is confirmed by the main reasons given for the «sale of monasteries». They could be divided into two groups.

The first group would include the reasons concerning land relations on state land: the holding of land without a *tapu*, the holding of state land as *vakıf* land, the unlawful sale and giving away of *miri* land as if it were in full possession (*mülk*), and its bequeathal, or the direct bequeathal of state land used by *reaya* to monks or churches. The second group of reasons was the result of the coordination of the encountered situation and laws with the sharia. Property in full personal possession (*mülk*) could be bequeathed, but the bequest was not to be in the name of a certain church or monastery, as was previously tolerated. The precondition was that the *vakıf* be in the names of the monastery monks, that it be intended for supporting servants, the poor, travellers and for the construction of bridges and fountains¹⁶. All the mentioned reasons complemented one another so well that the «sale» managed to include almost every unit of immovable property of monasteries and churches.

It is impossible to understand the legal basis for the «sale of churches and monasteries» without returning to the enormous differences and specific characteristics of the previous statuses of monasteries and their

¹⁵ *Ibidem*.

¹⁶ Apart from those set out in the presented firman, cf. the reasons for the «sale» given in Lemerle - Wittek, 455-456 (the original turkish text cf. in Fotić, *op. cit.*); McGowan, for instance 105 (an identical text about the «sale» can be found next to each of the dozens of Srem monasteries); M. Ertuğrul Düzdağ, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, İstanbul, 1983², 103-107 (fetwas no. 453, 455, 469).

estates. Such differences are especially characteristic of the first century of the Ottoman rule in the Balkans and were the result of the policy of gradual adjustment to the new authorities. Apart from this political necessity, differences also occurred because the then state bureaucratic apparatus was undeveloped and the laws unstandardized. Depending on its importance and size, the previous monastery property was acknowledged as such, in the same or smaller proportion. Some were registered as *timars* (for instance St. John Prodromos-Margarit near Serres, Manasija, Ravanica-the sanjak of Smederevo), others as *mülks* (the Meteora) and as *vakıfs*, which was not the case only with mills, gardens and vineyards, but also with entire villages (Margarit). This could, in no way, be possible under Ebussuud's later definition of state land. Land was held mostly on the basis of the sultan's *berats* which were renewed after every change at the throne and on the basis of kadis' *hüccets*. There also existed various differences regarding tax reliefs, and there were even all tax exemptions¹⁷.

Such a diverse situation was, of course, largely in disproportion to the legislative trends. With the strengthening of the Ottoman state in its European part, there ceased to exist the political need for numerous privileges, so they slowly started being abolished. In time, mostly in the first half of the 16th century, the status of masters of the land (*sahib-i arz*) was taken away from churches and monasteries (of course, from the small number of those who had it at all), that is, their *timars*, and in that sense *mülks* and *vakıfs* as well, were abolished. When their status was reduced to that of *reaya*, which means having only the right of usufruct (*tasarruf*) over their land that has another master of the land, the issue of possessing a deed (*tapu*) was raised. And *tapus* were precisely the documents monasteries did not have at the time of the «sale». They mostly had *berats* and *hüccets*. (This refers to most estates, which were acknowledged already at the time of the conquest; they had *tapus* mostly for the estates they got by means of bequeathal or which they bought at a later date, but in the case of most monasteries such estates were of insignificant value). On the other hand, a large majority of the estates were treated as church/monastery *vakıfs*. They were absolutely

¹⁷ H. İnalçık, «Stefan Dušan'dan Osmanlı İmparatorluğuna», in idem, *Fatih Devri Üzerinde Tetkikler ve Vesikalar*, I, Ankara, 1987², 175; B. Djurdjev, «Hrišćani spahije u severnoj Srbiji u XV veku» Christian Sipahis in the XVth Century), *GIDBIH*, IV (1952) 166-168; N. Beldiceanu, «Margarid: un timar monastique», *Revue des Études byzantines*, XXXIII (1975), 227-255; Alexander, 96-97; B. Nedkov, *Osmanoturška diplomatika i paleografija*, II, Sofia, 1972, 14-16; and in many other places.

unacceptable on state land. This wasn't permitted even in the case of estates in full private possession (*mülk*), since they were seen as monastery *vakıfs* bequeathed in a way that is not permitted by the sharia: to monasteries, and not to monks, the poor, travellers, for fountains, bridges and other approved purposes, as was formally requested. Due to different political circumstances, these preconditions resulting from the sharia were simply not paid attention to earlier on, however, at the time of the «sale» they served as a very good excuse.

For the sake of cautiousness, it is necessary to give a few explanations regarding terminology. Previous experience has shown that it is precisely the polysemy of certain terms that is the main obstacle to the correct interpretation of the status of monastery/church property in the Ottoman Empire. Most of the dilemmas have been caused by the term **church/monastery vakıf** (*kenisa vakfı*, *kilisa vakfı*, *manastir vakfı*), because the term *vakıf* was taken here in only one of its meanings, to denote the status of the master of the land (*sahib-i arz*), which is characteristic of the land *vakıfs* of Muslim dignitaries.

The first historian to point to a surprising use of the term *vakıf*, regarding monastery estates, was P. Wittek. In a firman from 1491 that referred to the Holy Mountain monastery of Koutloumousiou, the word *vakıf* was used to denote «propriété», as he translated it with some reservations. Taking the term as such, and not having enough documents fully to clarify it, he thought that the monastery was at the same time the master of the land, which would have been logical had this referred to a Muslim *vakıf*. Wittek found justification for such a situation in the privileged status of Holy Mountain monasteries¹⁸. The large number of documents on churches and monasteries from the time of the Ottoman rule published in recent time, has made possible today a more precise approach to the meaning of the term *kenisa vakfı*.

First of all, the Arabic term *wakf* was used in the Ottoman Empire in its most general sense, to denote every endowment (bequest), most often the one made for religious, God-pleasing purposes, regardless of

¹⁸ This part of the firman goes as follows: «... *bağların ve değirmenlerin ve yerlerin ve tarlaların ... şol nesne ki bunlarıñ kilisalarınıñ vakfidur...*» (Lemerle - Wittek, 423, translation 427-428). These thoughts of Wittek's were commented on, many years later, by E. Zachariadou, when she even increased their dilemma by asking how it is possible, if this is *ownership*, that the next document in the same article, says that the monks only used those same estates (*kadimden bunlarıñ tasarruflarında ola*) (E. Zachariadou, «Ottoman Documents from the Archives of Dionysiou (Mount Athos), 1495-1520», *Südost-Forschungen*, XXX (1971) 22-23).

whether it was a Muslim or a non-Muslim (Christian, Jew) who made it. And according to A. Akgündüz, a Christian *vakıf* was permitted according to the hanefite interpretation of the sharia, which was applied throughout most of the Ottoman Empire. A Christian could bequeath his property to the church/monastery, but he couldn't inscribe it in their name; there existed an important precondition without which a *vakıf* was null and void, and that is that the bequest and the income from it be spent on the poor in general as well as the poor in churches/monasteries, which included both priests and monks. Also, it was possible to bequeath something for common good and other purposes considered to be God-pleasing according to Islam: for fountains, hospitals etc.¹⁹ Akgündüz's theoretic thoughts are fully confirmed by the above document.

When V. Boškov published part of the early documents from the Archives of the monastery of Chilandari, it turned out that the term *vakıf* was used to denote even the endowments and bequests made **before** the establishment of Ottoman rule in the Balkans, at the time of Serbian and Byzantine rulers. This is unequivocally attested to by the request (*arz*) of the kadi of Gümülcine, Fethullah, concerning the dispute between Chilandari and Zograf^h over pasture-grounds in Komitisa. In one place, the kadi quotes a monk as saying: «... this is a *vakıf* of the monastery of Chilandari of despotic origin... To prove this we have *vakıfname*s and witnesses»²⁰. Therefore, he not only used the term *vakıf* to denote the bequest of tsar Dušan, but he even called the donor's charter, the deed of gift to Chilandari, a *vakıfname*.

If, in the same way, we understand the term *vakıf* exclusively as bequeathed property, then it is quite clear how a monastery and its estates could be both a monastery *vakıf* and belong to a *timar*, or even how a monastery *vakıf* could be on a Muslim land *vakıf*²¹.

¹⁹ A. Akgündüz, *İslâm Hukukunda ve Osmanlı Tathikatında Vakıf Müessesesi*, Ankara, 1988, 173-174.

²⁰ *Despot aslından Hilandar manastırına vakıf olub ... bu vechle olduğına vakıfnamemiz ve Jahidlerimiz dahi var* (V. Boškov, «Mara Branković u turskim dokumentima iz Svete Gore» (Mara Branković in Turkish documents from Holy Mountain), *Hilandarski zbornik*, 5 (Beograd, 1983) 207-208, facsimile no. 2). Boškov has shown that «despot» meant tsar Dušan (Ibidem, 194-195, 200).

²¹ For instance, the estates of the monastery of St. Nicholas in the Prilep region are mentioned as *monastery vakıfs*, but all of them comprise the *timar* of a few *sipahis* (*Opširen popisen defter No. 4 (1467-1468 godina)*, edited by M. Sokoloski and Dr. A. Stojanovski, in the series *Turski dokumenti za istorijata na makedonskiot narod* (Turkish documents on the history of the Macedonian people), Skopje, 1971, 107). Also, the

The mentioned examples point to the fact that extreme caution is necessary in dealing with the Turkish documents where the term *vakif* is not clearly defined. Obviously, it should primarily be understood as a bequest, bequeathed property and estates, and only in certain cases should one see in it confirmation of the status of the master of the land, like in the case of Muslim land *vakifs*. In other words, a large majority of the landed property held by monasteries when Turkish rule was established, and which the Turkish authorities acknowledged as such, were *vakifs* only because they were acquired by means of bequeathal.

Since not even the inventory-takers and the kadis who controlled the making of inventories in sanjaks were fully familiar with the explanations for the «sale of monasteries», the central authorities made an effort to give clear instructions along with the orders, as was the case with the order to the inventory-takers of the Alaca Hisar sanjak. The *expositio* of the firman starts by saying that, when it came to the usual renewal of rights and privileges upon the enthronement of a new sultan, the then mufti (Ebussuud) refused to certify the *hüccets* on bequeathals to churches/monasteries. Instead, he sent to the imperial Divan the copies of two of his fetwas on the ways in which church immovable property can be owned. Those two fetwas, cited by the firman, are, in fact, fully in accordance with his other fetwas on that issue²². However, there are certain limitations in some of Ebussuud's fetwas, like for instance, when he says, quite vaguely, that it is not legal to bequeath property to big and rich monk communities²³. This vagueness makes possible a free interpretation of what is meant by «poor» monks.

On the other hand, the fetwas in the presented firman do not contain one very interesting paragraph. Even though it was not permitted to bequeath state land, when the «sale» was completed, the sultan could, according to the needs, allow the monks jointly to use a piece of land with *tapus*, in such a way that when one of them died, the land stayed in the hands of the other monks without *tapu resmis* (deed taxes) being paid. Such a stand is contained in the order and fetwa issued for the

income from the *vakifs* of the monastery of St. George was included in the *timar* of Süleyman, son of Cafer, as a part of his income from the village of Smilevo in the *nahiye* of Melnica (*Opširen popisnen defter za Kustendilskiot sandžak od 1570. godina*, translation, editing and commentary by A. Stojanovski, in the series *Turski dokumenti...*, vol. V, book IV, Skopje, 1985, 135-136).

²² Düzdağ, 103-107 (fetwas no. 452-455, 469-471).

²³ *Ibidem*, fetwas no. 452, 454.

«sale» of the estates of Holy Mountain monasteries²⁴. This privilege practically made it possible for state land to remain, in its entirety and for always (that is, until the sultan changed this), in the hands of the monastery monks. Ebussuud claimed that this was correct and that something like that could not be considered a *vakıf*²⁵. There is no need to mention how contradictory this privilege was, as already Wittek had observed, to the essence of relations on state land and the obligation to convey property by *tapu*²⁶. Thus, it was the great reformer of the law on the ways in which state land could be held who opened the door for this same law to be legally bypassed, if required by political needs.

Since the reasons were explained in the exposition of the firman with the help of fetwas, orders for further procedure were issued. Since the point of departure was that all the land held as monastery/church *vakıfs* should be taken away, inventory-takers in sanjaks were first ordered to make an inventory of all the monastery/church *vakıfs*, both big and small, and to make a separate *defter*. (As far as it is known, no similar *defter* has been found in archives so far; if they have been preserved at all, they could perhaps be the most important sources for studying the state in which churches and monasteries were under Ottoman rule in the 16th century). According to that *defter*, the sale and the conveyance of land by *tapu* was to start afterwards. Monks had priority in buying back their previous estates, but they were obliged to pay the full amount of the *tapu resmi* (deed tax), as much as anyone else would to pay. As regards state land, only the fields and meadows for which the monks had the necessary documents (*tapus*) were not taken away. Improperly bequeathed property in full possession (*mülk*), was also taken away. If the donors (*vâkıfs*) or their heirs were alive, such property would be returned to them. This means that they were free to do with it whatever they wanted, even to bequeath it once again to the same monastery, but in a way permitted by the sharia (on condition that the bequeathal be made to the poor of the monastery and the like). However, if the donors or their heirs were not alive, such property was taken away in favour of the fisc (*Beyt ül-mal*). This means that the monks could buy it back at an

²⁴ Lemerle - Wittek, 456, 458; For Chilandari, cf. regest of the firman in Boškov-Bojanić, 189. This kind of privilege was not characteristic only of Holy Mountain monasteries; it is known that it was also granted to other bigger and more important monasteries (for the Meteora, cf. Alexander, 98; for Margarit and Kosanitzia in the Serres region, cf. Fotić, *op. cit.*)

²⁵ Düzdağ, fetwa no. 453.

²⁶ Lemerle - Wittek, 465.

auction just like anyone else, if, of course, they had the necessary funds. The only thing that was not subject to confiscation was property in full possession bequeathed in the permitted way: not to the monastery, but to the monks. Kadis were allowed to register at court such a bequest and to issue a *vakifname*. Of course, the *tapu resmi* had to be paid even for part of such property that was on state land (vineyard, garden), unless this issue was correctly regulated earlier on.

The sums that the monasteries had to collect and pay were very different. The monasteries in the Srem sanjak that paid the highest amount were Krušedol (32,000 *akçes*), Šišatovac and Novo Hopovo (26,000 each), then Petkovića and Kuveždin (12,000 each). Other monasteries on mount Fruška Gora paid much less²⁷. It is known that the monastery of St. Ivan Rilski paid 60,000 *akçes* for its enormous estates²⁸. The monastery of Dečani had to earmark 15,000 *akçes*, which means that it didn't manage to preserve many of its previous estates (it used to be one of the richest Serbian medieval monasteries)²⁹. The purchase price of the estates of Holy Mountain monasteries in the sanjak of Thessaloniki was 14,000 gold pieces and 130,000 *akçes*, which was 970,000 *akçes* for all the monasteries together³⁰. It is not known how much of this sum went on each individual Holy Mountain monastery. (To all intents and purposes, the mentioned amount did not include the prices of those Holy Mountains estates that were outside the Thessaloniki sanjak³¹.) The sums certainly did point to the size of the estate and the powerfulness of the monastery, but they mostly depended on the type of property and the form of ownership. This means that the purchase prices can only be relied on in a relative sense when comparing the richness of monasteries.

It seems that the Srem monasteries were paying certain sums of money as outstanding debts at the time of the next inventory (1578) as well, as Djurdjev and Zirojević point out. Even though she thinks that their payments were made in installments, O. Zirojević rightly retains certain reservations, since documents offer no direct confirmation of such a claim³².

²⁷ Djurdjev, «Prodaja ...», 243-245.

²⁸ Džansuzov, 613.

²⁹ Zirojević, «Imanje manastira Dečana ...» 412.

³⁰ Lemerle - Wittek, 451, 454.

³¹ Such estates also existed in very distant sanjaks, like for instance, Čanad, cf. regist of the firman in Boškov - Bojanić, 191.

³² Djurdjev, «Prodaja ...». 246; Zirojević, «Posedi ...». 59, 76, 81, 86, 90, 105, and especially 110, where she asks whether that was the sale of some new estates.

Problems also used to occur during the purchase, and the biggest ones were made by those who had already cast an eye on the estates. This meant additional expenses for the monasteries for instituting court proceedings. The monks of the monastery of Dečani faced such difficulties. After having already bought back their estates and obtaining the necessary documents for this, a certain tax-farmer (*mültezim*) gave the imperial treasury a larger sum and tried to force the monks to hand the monastery over to him. The monks refused to do so and requested a fetwa from the mufti asking whether the *mültezim* had the right to this. Thanks to a negative answer the monks managed to preserve their estates³³.

Judging by the presented firman, apart from the «sale», another measure was carried out at the same time. All taxes for monastery estates paid in yearly fixed sums (*maktu*³⁴, *kesim*) were abolished, and the obligation of paying a tithe, *salariye* and other taxes in cash was introduced. What's more, this was set as a precondition for the purchase of estates. The firman issued to the Holy Mountain monks also contains this obligation, but only for fields and arable land (*mezras*); lump sums were still paid for meadows, summer and winter pasture grounds and so on. Even in the explanations for the sale, this firman mentioned, as a reason for this, there is the statement that the lands for which a tithe was paid were joined to the ones paid for in lump sums so that obligations were avoided in this way. Also, it is said that such lump sums were smaller than they should have been³⁴. The Srem monasteries gave certain fixed sums instead of a tithe (*bedel-i öşür*), enlarged of course, as was always done when most of the new inventories were taken³⁵. This abolished old privileges and increased the monasteries' payments, at the same time ensuring consistent respect for the provisions regulating how state land was to be used.

Finally, perhaps it would be good to take one more look at the term **church/monastery vakıf** (*kenisa vakfi*). After Ebussuud's unequivocal explanation that something like this is formally unacceptable under the sharia, one would think that the term was no longer in use after the

³³ The translation of the fetwa in Jastrebov, 178. And later on, in 1598, they tried to take land away from this monastery claiming that it was held as *vakıf* land (meaning unlawfully bequeathed state land). However, they did not succeed because the monks showed the *tapus* from the time of the sale of the monastery estates. (Kaleši - Eren, 313, 316).

³⁴ Lemerle - Wittek, 456, 458.

³⁵ McGowan, *Sirem Sancağı* ..., 105, 196, 229, 230, 239, 240, 260, etc.

«sale». Nevertheless, it continued to be used in Ottoman bureaus. Even though it was unacceptable from the legal point of view, it remained in use as a shorter and more operative (but not clearer) term. That means, in the same way so many common terms such as: «monastery arable land», «monastery pasture-ground» etc. were used in documents, even though it was understood that monks only had the right of usufruct³⁶.

The question being asked is what were the consequences of the «sale» of monasteries and churches. There is no doubt that this measure seriously affected the already considerably impoverished Christian church. Of course, small and helpless monasteries with poor fraternities fared the worst. And the largest number of monasteries were precisely of that kind. Many monasteries were largely deserted at the time, so that, along with those previously ruined and abandoned, they were sold to others. The monks who couldn't buy back their monasteries were forced to leave them, as attested to by a contemporary writing, probably by a monk of the Serbian monastery of Mileševa (Hercegovina)³⁷. The ruined monastery of Muntalj in Srem and the land that belonged to it was acquired by *zaim* Bayazit-bey for only 60 *akçes* of deed taxes. The monks of Staro Hopovo could not pay out the entire sum by themselves, so that *yüzbaşı* Dobrosav of Irig helped them. Having collected 1,000 *akçes* together, they bought the monastery so that it remained in the hands of the monks. The situation was different with the monastery of Vrdnik: the monks ran away, so that a certain Pejo of Kupinik appeared as a buyer with 3,000 *akçes*, and since no one offered more, the

³⁶ For instance, the expression *kenisanuñ evkafı* was used in the Chilandari firman from 1575, where, somewhat later, was even quoted the fetwa whose content totally denies the existence of the monastery *vakıfs* (Boškov - Bojanić, 189). It was also used in metropolitan *berats* (1703, 1780): *kenisalarına vakf olan buyut ve dekakin* (I. Kabrda, «Dva berata na sofiiskija i vidinskija mitropolit ot prvata polovina na XVIII v.» (Two berats of the Sofia and Vidin mitropolitans from the first half of the XVIIIth century), *Izvestija na Instituta za Blgarska istorija*, 7 (Sofia, 1957) 384, 397; S. Kemura - V. Čorović, «Prilozi za historiju pravoslavne crkve u Bosni i Hercegovini u XVIII. i XIX. stoljeću» (Contributions to the history of the Orthodox church in Bosnia and Hercegovina in the XVIIIth and XIXth century), *Glasnik Zemaljskog muzeja u Bosni i Hercegovini*, XXIV (Sarajevo, 1912) 418). And there were also such cases of the bequeathal of state land (fields) to monasteries which official documents such as *hüccets* should, by no means, have contained (1637): *keniseye bağdan ve tarladan birer mikdar vakf edüp* (H. Hadžibegić, «Turski dokumenti Grbaljske župe iz XVII stoljeća» (Turkish documents of the župa of Grbalj from the XVIIth century), *Prilozi za orijentalnu filologiju*, I (Sarajevo, 1950), 39). There were many such inconsistencies, sometimes really confusing, in Ottoman bureaus.

³⁷ Djurdjev, «Još jedan podatak ...» 385.

monastery land, fields, vineyards, gardens and meadows were written to his name³⁸. It was much easier for bigger and richer monasteries, as were those on the Holy Mountain, to find new donors. They most often turned for help to old Orthodox patrons, both to the Russian imperial family and other princes, and to the Moldavian and Walachian *voivodas*. It is known that Moldavian *voivoda* Bogdan gave assistance worth 165,000 *akçes* for the purchase of the Holy Mountain monastery of Docheariou³⁹. There were some who even begged for help in western Europe, like the monk of the monastery of Iveron, Danil, with the patriarch's request in his hands⁴⁰. There were also Holy Mountain monasteries that could not take the strong pressure, so they were temporary deserted, like the Russian monastery (St. Panteleimon). Begging for help in his letter to Russian czar Ivan Vasilyevich IV, Holy Mountain head-priest (Protos) Pahomije complained about the monastery not only having been deserted, but also about it having pawned all its valuables and estates as security for the debts⁴¹. Holy Mountain monasteries most often borrowed money from Jews from Thessaloniki and Sidrekapsi, as was the case with the monastery of Koutloumousiou, which paid 224,000 *akçes* worth of debt in fourteen year's time, giving 16,000 *akçes* annually (it is not known whether the debt was fully repaid)⁴².

The attitude of the Ottoman authorities to non-Muslims and their churches and monasteries was primarily based on political needs, and only then on legal principles. After two centuries, the Ottoman Empire strengthened so much in the Balkans that there was no more need for certain privileges to the encountered Christian communities. Thus it was assessed that the «sale» could exert strong financial pressure on the church and its property without any serious consequence. Of course, this was done with very good legal explanations. On the one hand, the «sale» totally fitted into the efforts by the then Ottoman law-makers

³⁸ Djurdjev, «Prodaja ...», 244; Zirojević, «Posedi ...», 65, 83, 105. It is not known when this last monastery revived, and when and in what way did the mentioned Pejo once again convey those estates to the monks, but it was certainly before the new inventory in 1578 (Zirojević, «Posedi ...», 65).

³⁹ Cf. footnote 1.

⁴⁰ A.E. Vacalopoulos, *History of Macedonia 1354-1833*, Θεσσαλονικη, 1973, 176-177.

⁴¹ St. M. Dimitrijević, «Dokumenti hilendarske arhive do XVIII veka» (Documents from the Chilandari archives until the XVIIIth century), *Spomenik*, LV (Beograd: SKA, 1922) 23-24. Along with that draft letter, a list of sacred objects and other movables that Chilandari Monastery was entrusted with keeping, has also been preserved.

⁴² Boškov - Bojanić, 190-191.

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finally to standardize, define and coordinate with the sharia relations on state land, and on the other hand, it was concluded later on that the «necessary» sharia formula for bequeathal had not been respected. In this way it was made possible for this measure to include almost every unit of immovable property of monasteries and churches. This formal explanation, concerning incorrectly bequeathed property in full private possession (*mülk*), suggests that the measure did not only result from the need for regulating relations on state land, but also from the wish to obtain additional financial means. For the church this was, undoubtedly, a great burden. By pawning the remaining valuables, but mostly with the help of new donors, the most important and richest monasteries somehow managed to collect the necessary funds. Small and poor monasteries, and the already abandoned ones fared the worst. Some of them were sold, while others, even if they found ways to buy their property back, struggled for decades to repay their debts.

A.F.

[1] Livā-yi Alaca Hışāri tahrīr eyleyen Jzvornik kādīsına ve defter kātib-lerinden Mehmed'e hükm yazıla ki culūs-i hümāyūn'um olmağile herkes hükm ve berātların Dergāh-i mu'allā'ma getirüb [2] tecdīd edüb ba'zı ruhbānlar kenisalarına müte'allik vakf olan hüccetlerin müfti üz-zemān hazretlerine gönderüb imzā ētdürmek [3] istedüklerinde mümā-ileyh müfti üz-zemān hazretleri Dīvān-i hümāyūn'uma şüret-i fetvā-yi şerīf gönderüb zimmīler taşarruf [4] eyledükleri mīrī tarlaları ve çayırları kenisalarına veyāhūd kenisada olan fuqarāya veyāhūd ruhbānlarına [5] ve köprülere veyā çeşmelere vakf eyleyse āslā şahīh olmak yokdur hīyānet-i 'azīmdür ellerinden alınmak lāzımdur ve bir fetvā-yi [6] şerīfinde dāhī t̄ā'ife-i mezbūre vech-i mezkūre üzere mīrī yerlerde olan bağların ve değirmenlerī ve bağçerlerin ve evlerin ve dükkānların [7] ve tavarların ve bi-l-cümle şahīh mülklerin vakf eyleyseler eğer kenisaya vakf eder ise āslā şahīh değıldür bi-l-hāl faşdur [8] kuzāt vakfiyye vērürlerse ol dāhī kaṭ'an şahīh değıldür vākıflar veyāhūd vārişleri hayatda ise mülkleri dūr alurlar [9] taşarruf edüb mīrī cānibine hūkūk-i şer'iyye ve 'örfiyyesin vērürler eğer vākıflar ve vārişleri hayatda değıller ise cümlesi Beyt ül-māl'a [10] 'āiddür alınub behāları ile tālib olanlara bey olunmak vācibdür eğer mezkūrlar emlak-i şahīhe-i mezbūrelerin kenisalarına vakf [11] ētmış olmayub ruhbānlarına ve fuqarālarına yāhūd köprilere ve çeşmelere vakf ēdenler ise kuzāt vakfiyyetlerine şihhat üzerine hükm edüb [12] tescil-i hüccec ēdenlerise şahīhdür şer'idür ellerinden alınmaz şerāit-i mezbūre üzerine taşarruf edüb her birinūn bī-kuşūr hūkūk-i şer'iyyesin [13] ve 'örfiyyesin vērürler dēyü buyurub imdi vilāyet-i Rūm-ili'nde kenisa vakıf ismi ile taşarruf olunan yerler bu bābda vērilen şer'i fetvā [14] mücebince ruhbānlar ellerinden alınub tapu ile āhara vērilib ve il vērduğı tapu ile 'ošūr ve rusūmunı vermek [15] ile gerü kendüler [15] kabul ēderlerse vērilib ve muḳāṭ'alu olan çiftliklerinūn muḳāṭ'aları fesh olunub 'ošūr ve rusūmları alınmasın emr edüb buyurdum ki hükm-i şerīfüm [16] varıldukda zikr olunan sancağda vāki' olan kenisalarınūn cüzvī ve küllī vakıfların emr-i şerīfüm mücebince müstakil yazub defter edüb [17] tamām olduğdan soñra her kenisaya müte'allik olan vakıfları ve vārişleri olmayan vakıfları papaslar ve keşişler muḳtezā-yi şer'iyye [18] 'ošūr terekelerin ve sāir rusūmların vermek şartile il vērduğı ecr-i mişl olan tapuya kabul ēderlerse 'uhdelerine [19] edüb resm-i tapuların mīrī için aldurub ellerine temessük vērdirüb taşarruf ētdürüb zirā'at u hīrāset ētdürüb [20] hāşıl olan terekelerinūn 'ošrın ve kānūn üzere alınacak salariyyelerin aldurub mīrī için zabṭ ēdesiz ve eğer [21] kenisalarına müte'allik olan vakıfların kendüler kabul

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étmezlerse āhar re'āyādan tālib olunlara vech-i meşrūh üzere tapu ile [22] vérdürüb zirā'at u hīrāset édüb 'ošürlerin ve sāir rusūmların mīrī için zabt édesiz vākıflar veyāhūd vārisleri hayatda ise mülkleridür [23] alub taşarruf éderler mīrī cānibinden hūkūḳ-i şer'iyye ve rusūm-i 'orfıyyelerin aldurub zabt étdüresiz ve vech-i meşrūh üzere vilāyet defterine kayd édesiz [24] eğer vākıflar ve vārisleri hayatda degiller ise cümlesi Beyt ül-māl'ı şiddür eğer emlak ve tavarlarıdur şer'ī fetvā muktezāsınca tālib olanlara behālar ile [25] mīrī cānibinden şatub maḳd étdüresiz ve eğer mezkürler emlak-i şahīḳe-i mezkürelerin kenisalarına vaḳf étmiş olmayub ruhbānlarına [26] ve fuḳarālarına veyāhūd köprülere ve çeşmelere vaḳf édenler ise kuḳāt vaḳfiyyetlerine şihḳat üzerine hükm édüb tescil-i hücece édenler ise [27] şahīḳdür şer'īdür cillerinden alınmaz şerāit-i mezbüre üzerine taşarruf étdürüb her birinün bī-kuşūr hūkūḳ-i şer'iyye ve rusūm-i 'orfıyyelerin [28] aldurub mīrī için zabt étdüresiz ve vech-i meşrūh üzere müceddeden yazılı temessük deftere kayd eylesesiz ve maḳtū' [29] olan çiftliklerinün muḳāḳ'aların ref' édüb mezbürларуñ çiftlikleri zirā'at u hīrāset olunub hāşıl olan [30] terekelerinün 'ošrin ve kānūn üzere alınacaḳ salariyyelerin ve sāir rusūmların hāşşa-i hümāyūnumda olanın [31] ümenāya mīrī için zabt étdürüb maḳtū'ların timara vérilenleri dāhī vech-i meşrūh üzere gerü mīrī için [32] zabt étdürüb sipāhiye her ne miḳdār nesne yazılmış ise vākī' olan Maḳşūldan ber vech-i naḳd vérdürüb ziyāde [33] ḳalursa mīrī için zabt étdüresiz bu bābda olan emr-i şer'ifüme muḳālif kimesneye bi-vech iş ve ta'allül [34] étdürmeyesiz şöyle bilesiz dēyü tahriren fī 22 Rebi' ül-āhīr sene 976.

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TURCICA

REVUE D'ÉTUDES TURQUES
peuples, langues, cultures, États

TOME XXVI

1994

ÉDITIONS PEETERS