

# The Romanian State and Law in the Medieval Period. Transylvania in the Voivodeship Era

Nicoleta-Elena Hegheș

*Researcher 2<sup>nd</sup> degree at Romanian Academy, "Andrei Rădulescu" Legal Research Institute, Bucharest, Romania, nicoleta.heghes@icj.ro*

*Professor, PhD, "Dimitrie Cantemir" Christian University of Bucharest, Romania, nicoleta.heghes@ucdc.ro*

**ABSTRACT:** Just like the history of any other field of activity, the history of law in general and Romanian law, in particular, has undeniable importance in the study of legal sciences as a whole. In the stated context, the history of Romanian law is a historical, legal but also philological discipline with the aim of reconstructing, in general terms, the theoretical aspect and practical applications of legal institutions throughout history, as they were thought and applied by the ancestors of ours in the historical environment in which they lived. Expression of the feudal arrangement in the geographical space of Transylvania, the right belonging to the voivodship established under conditions similar to those that determined the appearance of the Wallachia and Moldavia, continues to be at the foundation of the political organization of the Romanians in the principality of Transylvania.

**KEYWORDS:** Transylvania, Medieval Era, state, law, organization

## Introduction

In social-historical conditions similar to those that determined the foundation of Wallachia and Moldavia, the third Romanian feudal state, namely the Transylvanian Voivodeship, appeared in the ancestral hearth.

The external factors that allowed the formation of the Romanian Countries were also accompanied by internal factors such as economic development, by moving to an exchange economy, by increasing agricultural production and by developing crafts, expanding relations and the trade road network, numerical growth of the population as well as the emergence and development of urban settlements (Danciu 2019, 56).

Under Hungarian rule until 1541, between 1541-1683 under Ottoman suzerainty, and from 1683 under Austrian and later Austro-Hungarian rule, Transylvania had a special evolution compared to Moldavia and Wallachia.

The individuality of the Transylvanian voivodeship was preserved until the 18th century, when the Ottoman suzerainty was replaced by the Austrian domination. A proof of Transylvania's autonomy was the fact that Hungary and Transylvania were separated by customs borders, the Diet of Transylvania was different from that of Hungary. Some of the voivodes from Transylvania tried to expand their prerogatives and give the voivodeship institution a hereditary character (Danciu 2019, 58). As long as Transylvania was under Hungarian rule, the political leadership belonged to the voivodeship. Its prerogatives were limited by the autonomy of the counties, the Szekler and Saxon seats, the privileges granted to the Catholic Church, as well as the superior powers of the King of Hungary.

In order to understand the formation process of the Transylvanian voivodeship, the following elements must be taken into account: the existence of Romanian pre-state formations, the struggle of the Hungarian feudal lords for the conquest and organization of the conquered territory and the tendency of the voivodeship to be autonomous from the Hungarian royalty (Firoiu 1993, 63).

There were several voivodeships within the Carpathian arc: in the north including the Maramureș area, in the west on the territory of today's Banat and in the Crișurilor area. From the period of the 9th century, the three voivodeships of the initial feudal type are indicated within Transylvania, each having relatively large territories including the local populations, which oppose the invasion of the Hungarians in Transylvania (Negru 2014, 57).

In addition to the vast territories owned by the voivodeships (duchies), there were also border regions organized in a similar way in the form of the well-known “countries”, among which we mention: Șara Făgărașului, Șara Hațegului, Șara Bîrsei, etc. maintaining its autonomy until late in the Middle Ages.

The struggle of the Romanian political formations in Transylvania is crowned with temporary success, all these formations are characterized by the persistence to defend themselves against the Hungarians, the Byzantines or other surrounding peoples in alliance or in collaboration with the last migratory populations: the Pechenegs and the Cumans. After hard battles, using the treachery of some people greedy for power, the leaders of the pre-state formations on the territory of Transylvania were able to be subdued, but not their countries, which for almost a century still maintained their own existence under the dominance of the Pechenegs (Negru 2014, 57).

The penetration of the Hungarians into Transylvania and the beginnings of the Hungarian domination can be talked about starting from the second half of the 11th century. The Hungarians manage to extend their rule over Transylvania, having the collaboration of some local princes and voivodes attracted by promises regarding securing the rule of parts of the village communes. After the takeover of Transylvania by the Hungarian kings, a circumstance that occurred after the second penetration of the Hungarians into Transylvania and the defeat of the local chieftains, a series of political, military and religious measures were taken. The process of organizing this region was long-lasting, Hungarian rule outlining the feudal system, remained in control for several centuries (Negru 2014, 57).

### **Social structure**

*The great nobility.* The process of social stratification, of a feudal type, began in Transylvania even before the arrival of the Hungarians, within the political formations mentioned in the Chronicle of the anonymous notary of King Bela. On the entire territory of Transylvania and even in the Pannonian plain, numerous principalities and voivodeships were established since the 9th century (Pascu 1986, 381). In the 12th and 14th centuries, the Romanian nobles are mentioned alongside the Hungarians, Szeklers and Saxons even by the documents of the Hungarian chancellery. After the mid-14th century, with the subordination of all of Transylvania, the rights of the great Romanian nobility were systematically violated. The vast majority of Romanian feudal lords gradually fell into the ranks of the small nobility or even into the ranks of the dependent peasantry, with the exception of the few Romanian nobles who became Catholic.

*The small nobility* consisted of those dependent on the nemeses and the high clergy, according to the system of feudal vassalage, of persons ennobled by the king for the military services they brought from the Scythian military commanders, as well as of escaped elements of the great nobility (Cernea and Molcut 2004, 107).

*Enslaved peasants* in Transylvania, dependent peasants were called *serfs* or *servants*. Initially dependent peasants could move from one estate to another, subject to certain conditions. They had the obligation to provide the feudal rent in its three forms. In the first centuries of the voivodship, the labor rent was low, the serfs having the obligation to work for mastery only one day a year. Over time, the duties towards the feudal lords became increasingly pressing, so that after 1514 the serfs were obliged to work for the nobles approximately 50 days a year (Cernea and Molcut 2004, 107).

In Transylvania there was also a category of free people, but without land, consisting of *jelers*. Since cities developed early in Transylvania, townspeople constituted a more important social category than in Wallachia and Moldavia (Pascu 1954, 125). The evolution of social organization, the relations between the autochthonous Romanian population and the tops of the dominant nations were closely related to the property structure.

### **The main administrative institutions**

*Counties and districts.* In the 12th century, Transylvania was divided into counties, alongside which old political-administrative organizations continued to live: districts or Romanian seats. The latter exerted a strong influence in the seat organization of the populations colonized on the territory of Transylvania and at the bend of the Carpathian arc, as, in turn, the populations colonized in those territories (Saxons and Szeklers) beneficially influenced the native population of the area (Negru 2014, 62).

*Voivodeship and autonomous principality.* From the 13th century until 1541 in Transylvania there was the institution of the voivodeship and from 1541 until 1691 that of the autonomous Principality. The circumstances of the time forced the people of Transylvania to be able to realize their organizational tendencies in an autonomous principality in the conditions of the struggle for control of the Hungarian kingdom between the Ferdinandist and Zapolist groups. It is the reason why the suzerainty of the Ottoman Gate was accepted by the representatives of Transylvania. Although accepting the Gate's suzerainty, there will be negative consequences in Transylvania (payment of tribute and other obligations, some interference in internal affairs), the Turks had to recognize the Transylvanian Autonomous Principality, more freedoms and an easier regime than other vassal countries (Negru 2014, 62).

### **Transylvania legislation**

Appeared under the conditions of the establishment of the Transylvanian Voivodeship, the legal system belonging to this country evolves under the impulse of internal forces in the direction of ensuring the autonomy of the Voivodeship, as well as under the influence of the interventionist policy promoted by Hungary (Amuza 2001, 140).

### ***Legal sources in Transylvania***

As with other peoples of those times, there were two formal legal sources in Transylvania: first the *custom* and then the *written law*. The latter appeared later, under the influence of the legislation of the authorities trying to dominate Transylvania. It should be mentioned, however, that during the dominance of the migratory peoples, the inhabitants of Transylvania were guided by their own legal norms (Negru 2014, 62).

*Custom.* Since ancient times, there have been legal rules based on customs in the lands of Transylvania. They preserved the previous features both in form and in content.

Also within the framework of unwritten law is the possibility of settlement of various disputes by the parties themselves.

*Written law.* The introduction of written law was not a sudden process on the contrary, it was a slow process evolving over time alongside the law based on the old unwritten customs. In Transylvania, written legislation was more advanced than in the other Romanian territories.

### **The main legal institutions**

*Property.* The forms of ownership are determined by the existence of the communities of that time. The vicinal communities were initially led by a chief chosen by the members of the community, but later the leadership became hereditary. Later, the territorial communes unite with each other, forming unions or confederations of communes composed of representatives of the village communes.

Ownership of real estate within the village community had a double character: individual ownership over cultivated lands and joint ownership over other lands. The transfer methods of property took place through legal acts such as sale, exchange, donation, will, but it was also allowed to acquire property based on material facts such as usucapion, occupation or hunting.

*The family.* It continued to exist under the old formula from the Daco-Roman period. The head of the family being the supreme authority, he had the right to dispose of all the goods and means of the family and to a large extent of his family members (Sâmbrian 1994, 66).

The marriage took place according to the age of the future spouses, the age of the groom, as a rule, was older than the age of the wife.

The kinship could be blood, alliance or spiritual, the latter gaining a significant weight with the spread of Christianity.

*Inheritance.* The norms regarding the inheritance are based on the old customs based on the blood relationship, the relatives closer to the deceased had priority in the inheritance over the distant relatives.

The rules of testamentary inheritance were known and applied, at the beginning the will took only oral form, concluded in the presence of witnesses, and in a later period the written will was gradually applied (Negru 2014, 64).

*The trial procedure.* Gradually, the rules regarding how the trial is conducted have been perfected. The procedure of summoning to court in the feudal law of Transylvania knows two moments (Negru 2014, 64):

a) a first phase consists in the submission of the action by the party to the competent court (*in ius vocatio*) in which the claim against the defendant is formulated, showing the circumstances in which, the facts took place.

b) later, a new phase followed, consisting in notifying the opposing party (the defendant) to appear on the day fixed for the trial at the place set for the trial.

The duration of the trials was established distinctly in the Transylvanian legal system, the laws provided for, in addition to the normal, usual procedure, an accelerated procedure for certain categories of cases whose resolution required speed. Since early feudalism, there has been a procedure specific to the Transylvanian feudal legal system, that of the *ordalia* (*ordalia iudicium Dei*) or the “Judgment of God” better known with regard to the means and punishments applied in various criminal cases of major importance (Negru 2014, 64).

Just like in Wallachia and Moldavia, the customary feudal law in Transylvania did not know the institution of the authority of *res iudicata*, but the party dissatisfied with the pronounced sentence had the right of appeal (*apellatio*) to the higher court. Before this, there was the way to complain against the unjust judge, but measures and punishments were established against the party who without grounds files such complaints (Negru 2014, 64-65).

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