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**THE ZAPPAS AFFAIR AND THE GRECO-ROMANIAN
DIPLOMATIC CONFLICT (1892-1896)**

PhD THESIS

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Conceived as an interdisciplinary project, our endeavour aims to merge an episode in the history of diplomacy with one in the history of law, both essential in following the proposed goal. If the reasons of the first are also obvious in what we have just stated above, for the second they become a necessity in order to explain the Zappas “affair” in the context in question. Furthermore, in order to understand the two successions turned into diplomatic correspondence theme between 1892 and 1895-1896, it is also necessary to get familiar with essential elements related to private international law and civil law, which explain the attitudes of Romania and Greece towards the issue in question.

The possibility of a twofold explanation – from history to law and the other way around – is yet another motivation of the interest for the said theme. Another motivation is that the specialized works on the Zappas affair are rather modest, in number, and the approaches have focused on the cultural aspect of the two characters’ accomplishments – we refer here to Evangelis and Constantine Zappas. In the recent literature on this issue, the diplomatic episode generated by the two successions has only been mentioned briefly in articles published in journals and volumes dedicated to international relations. However, the works related to the Zappas affair while it was still an ongoing matter – as they reveal the contemporaries’ opinions on the events that they witnessed – represented an important source.

This way, through this study we propose a different analysis for the diplomatic relations of the newly independent Romanian State, even more complicated as some of the solutions offered were based on basic principles of private international law and civil law, despite the fact that political and legal matters are supposed to be well delimited. Moreover, international law itself was at the

beginnings of modernization in the period in question, thus rather limited when it came to universal answers, satisfying both parties involved.

A detailed approach on the Zappas affair allows not only to discuss the issue diplomatically and legally, but also to identify aspects related to the perception of the public opinion within the two countries. This perception is an essential aspect in the subsequent unfolding of the events. It also allows assessing the development stage of the institutions belonging to the rule of law within the modern national State.

In our analysis propositions, we became more encouraged when we discovered essential documentary sources – mainly unpublished – in Archives of the Romanian Ministry of Foreign Affairs. We refer here to the diplomatic correspondence between the Legation of the Romanian State in Athens and the Romanian Ministry of Foreign Affairs in Bucharest, as well as that between the Greek Legation in Bucharest and the Ministry of Foreign Affairs in Athens. We have also consulted the files of the Zappas affair, in the National Archives of Romania and in the Diplomatic Archives of the Ministry of Foreign Affairs, which allowed us to access the information on which the courts relied to settle the succession. The archive documents were doubled by the periodicals of that time (some of them with political affiliations), in both the capitals of the States involved, and in those of the Great Powers. The latter were especially concerned with highlighting the impact of the events in question on the public opinion in Romania and in Greece, respectively.

Also, the sources for the history of law (conventions, laws, treaties, manuals, etc) – especially regarding the foreigners' status, the citizenship and the succession bestowed by the terms of a will – numerous up to the moment in question, represent necessary materials for a better understanding of the studied issues.

The lack of a rich historiography on the Zappas affair made us use mainly the documentary sources of the time – often contradictory, but which allowed a better contextualization of the Zappas affair. We also justify this choice through the interest presented by the contemporaries' opinion on the events unfolding under their eyes. Moreover, those works were an excellent mirror of the situation of Romanian law at that point. This requires a comparative analysis for both the archive funds and the main systems of private international law intersecting the Romanian jurisprudence at the end of the 19th century. Moreover, by corroborating the diplomatic and the legal sources within the case files we are referring to, we can discuss the way in which the political and the legal activity unfolded in the second half of the 19th century, with reference to the two States in question.

This work aims to elaborate a synthesis of the legal concepts and systems used in the second half of the 19th century. We have studied their evolution, concerning the jurisdiction in both the European States and the Romanian space, in order to understand the context of the Zappas affair. The four-chapter structure allows a multiple-angle approach on the Zappas affair. Before discussing the consequences of the two Zappas successions, it is necessary to find out who these persons were and how they managed to become the centre of attention within the diplomatic circles for almost a year.

It is not very clear how exactly Evangelis Zappas got to Walachia. We know he had been an officer in the Greek army and that he had been part of the Greeks' liberation battle. He may have had connections with the members of the Walachian *Eteria* before he arrived to Walachia. However, this moment, too, is controversial (according to certain authors, Evangelis Zappas would have arrived here in 1828; according to others, in 1831 or 1832). We tried to follow his activity as landholder and great landowner, as much as the documents discovered so far reveal. We had also studied

Evangelis' connections to the political elite, mostly considering that he bought estates from important persons of his time. A controversial and essential aspect for our work is the issue of Evangelis Zappas' naturalization. The core of the matter is that, based on this right, he could or could not purchase estates and lands on the territory of the Principalities. Evangelis' successful activities are revealed in his will, elaborated on 30 November 1860, five years prior to his death. The document presents his cousin, Constantine, as usufructuary, and the Olympic Commission (a legal society of the Hellenic State) as bare owner.

The second chapter treats the Zappa case from the perspective of the legal implications, by analyzing the controversial aspects of the matter, invoked by one party or the other. The Greek authorities labelled the succession a divergence between the two Independent States, while the power in Bucharest insisted on the legal aspect of the issue; this is why it is useful to know the jurisprudence practices of that moment.

In the Romanian space, the importance given to citizenship and to the status of foreigners, implicitly, has always been significant, mostly in the context of a long battle for autonomy and then for it being respected. Though, at first, naturalization had a social purpose, then, through the Organic Regulations it was legislatively regulated. Finally, the Civil Law brought a peak development of the issue. A regression in the foreigners' status was represented by the modification of article 7 within the Constitution through the Law of October 1879, and a re-balancing of the situation occurred only in 1923, through another constitutional change. Meanwhile, article 7 and the foreigners' status represented a preferred debate theme for the jurists.

In fact, the issue of granting the Romanian citizenship, and mostly the conditions to get it – in close connection to the battle for autonomy – also represented a measure of counter-balancing the

influence of the consular jurisdiction, present in our country until the independence was obtained. The adaptation of the two codes – civil and criminal – and of the corresponding procedural codes was a significant moment in the calendar of Romanian reforms. It was also a promise to adjust to the legal measures within the other European States, given that the country's autonomy was undermined by the ever more abusive activity of the consuls.

In this sense, we have focused on a synthesis of the main effects of the consular jurisdiction in our country. In the Principalities, the application of the capitulations should have occurred differently, considering that they were States with a Christian population. However, the opinion of the Great Powers was quite different: they considered Moldavia and Walachia as part of the Ottoman Empire. One of their arguments was also the lack of confidence in the local courts, in their capacity to find the optimal solution for the trials involving a foreigner as one of the parties. This was yet another challenge for the Romanian jurisdiction: to prove the adjustment to the European standards of that time.

After particularizing the synthesis within the previous chapter precedent, the third chapter focuses on the solutions provided for the Zappas succession. This way, for the beginning, we have underlined the events occurred in the 1865 opening of the case, in order to emphasize on the starting point of the diplomatic conflict: jurisdiction.

To this end, we have discussed, in distinct subchapters, the status and rights claimed by each party of the lawsuit – the Greek State, on behalf of the Olympic Commission, the relatives of Evangelis Zappas, but also the Romanian State, which claimed the estate in abeyance. We have presented the reasons stated by each party to support its cause, on each segment, as well as the solution of the courts.

For a better-balanced analysis, I have detailed the

arguments of each claimant – where the documents allowed it – in order to have an opinion on the impartiality of the courts' analysis, before emitting the decisions.

The fourth chapter presents the political and diplomatic connotations acquired by the Zappas affair, right after Constantine's death, at the beginning of 1892. The interruption of the relations between Greece and Romania took the Great Powers by surprise, but it did not impress them much, as proven by the fact that they did not get involved in the conflict and that they refused – through statements or plain silence – to arbitrate the litigation between the two States. Both the diplomatic circles and the press became suspicious when Greece chose Russia and Romania chose Italy to “represent the interests of their subjects”. Mostly the Greek, European and Romanian central newspapers dedicated numerous articles to the Zappas affair, especially in the last part of 1892, after the interruption of the diplomatic relations.

One cannot separate the end of the diplomatic conflict and the settlement of the Zappas succession – parallel events, which ended at close moments in time –, though the Zappas affair was only a starting point for the divergences.

The approach on the diplomatic relations between the two modern States, as well as on the legal part of their conflict, aims to be a beginning in the deciphering of a type of pretext used to solve deeper issues. The Zappas affair represents only a better-known episode of the diplomatic rapports compared to others, but this does not mean that other events of the same nature would not deserve an equally thorough analysis.

Benefitting from valuable sources of the time, fortunately completing each other, our work aims to provide an objective answer for the issues raised by the interpretations of the Zappa affair while still ongoing. Of course, its aspects cannot be determined definitively, as there is always the possibility of

discovering new information leading to other connotations. Nonetheless, judging by the nature of the available materials, our work aims to be a fortunate approach on a little studied and debated aspect of the history of diplomacy in the recent historiography.

ABBREVIATIONS

AARMSI	= Annals of the Romanian Academy, Memoirs of the Historical Section, Bucharest
ADMAE	= Diplomatic Archives of the Romanian Ministry of Foreign Affairs, Bucharest
AIACN	= Yearbook of the Institute of History and Archaeology, Cluj-Napoca
AIAX	= Yearbook of the "A. D. Xenopol" Institute of History and Archaeology, Iași
AMM	= Acta Moldaviae Meridionalis, Vaslui
ANIC	= National Central Historical Archives, Bucharest
BAR	= Library of the Romanian Academy
BNR	= National Romanian Library, Bucharest
DJANIC Ialomița	= County Direction of the National Central Historical Archives Ialomița
OI	= Opțiuni istoriografice, Iași
RESEE	= Revue des Etudes Sud-Est Européenes, București
RI	= Revista istorică, Bucharest
RJMH	= The Romanian Journal of Modern History, Iași
RRH	= Revue Roumaine d'Histoire, București
SMIMod	= Studii și materiale de istorie modernă, Bucharest

SELECTIVE BIBLIOGRAPHY

SOURCES

Unpublished

- ADMAE, "Historical archive" Fund, vol. 254 (1892); vol. 255 (1892); vol. 256 (1892); vol. 257 (1892); vol. 258 (1892); vol. 259 (1892).
- ADMAE, "Athens" Fund, vol. 12 (1896).
- ADMAE, "Greece" Fund, issue 82 (1875-1944).
- ADMAE, "Central" Fund, issue 65 (Donations and legates) – The succession of Constantine Zappa (1903-1905).
- ANIC, "G. Mexis (1844-1945)" Fund, file 1.
- ANIC, "M.A.D. – succesiuni vacante" Fund, file 317/1891, vol. 1 and 2, file 746 ("Succesiunea defunctei Marchisa de Bedmar").
- ANIC, "Ministerul Culturii și Instrucțiunii Publice" Fund, file 122/1869, file 474/1867.
- DJANIC Ialomița, "Acte de stare civilă" Collection, file 59/1865.
- B.A.R., "Manuscrise" Fund, file A. 2011 ("Arhiva legatelor pentru Academia Română"), file A 458, file A 453.
- B.N.R., "Saint Georges" Fund, Pach. XLIII/1; LIV/8; LXIX/11.
- B.N.R., "Brătianu" Fund, Pach, LVIII/1.

Published

Diplomatic

- *Agenții diplomatice și consulare străini în România și agenții diplomatice și consulare ai României în străinătate*, published by the Ministry of Foreign Affairs, Bucharest, 1892.

- *Concordanța proiectului de Convențiune Consulară între România și Grecia cu convențiunile consulare ale altor state*, published by the Ministry of Foreign Affairs, Bucharest, 1896. *Condica de comerț a Principatelor Unite Române*, published by the Ministry of Foreign Affairs, Bucharest, 1864.
- *Convențiunile României. Comerciale, consulare, de extrădare, protecția proprietății industriale*, published by the Ministry of Foreign Affairs, Bucharest, no year.
- Djuvara, Trandafir G., *Tractate, convențiuni și învoiri internaționale ale României, actualmente în vigoare*, Bucharest, 1888.
- *Documente diplomatice. Afacerea succesiunii Zappa*, published by the Ministry of Foreign Affairs, Bucharest, 1892.
- *Documente diplomatice de Mihail Kogălniceanu*, editors George Macovescu, Dinu C. Giurescu, Constantin I. Turcu, Ed. Politică, Bucharest, 1972.
- *Documente oficiale din corespondența diplomatică de la 2(14) septembrie 1879 până la 17(29) iulie 1880, prezentate Corpurilor Legiuitoare în sesiunea anului 1880-1881*, published by the Ministry of Foreign Affairs, Bucharest, 1880.

Normative

- *Codul Calimach. Ediție critică*, Ed. Academiei R.P.R., Bucharest, 1958.
- *Colecții de legislație românească*, published by the Ministry of Foreign Affairs, vol. IV, Bucharest, 1884.
- Cristescu, Ch., *Codicele civil adnotat cu jurisprudența română, urmat de un tabel indicativ pe articole de hotărârile pronunțate asupra vechilor legiuri Caragea și Calimach și*

asupra Regulamentelor Organice ale Munteniei și Moldovei, part I (art. 1-1168), Bucharest, 1894.

- *Lege pentru Organizarea Ministerului Afacerilor Străine*, published with the modifications in the “Official Journal” no. 26 of 1 May 1882.
- *Lege suplimentară relativă la Legațiunile și Consulatele române în străinătate, precum și la administrația centrală a Ministerului Afacerilor Străine*, published in the “Official Journal” no. 71 of 2 July 1885.
- *Legiuirea Caragea*, edition by Andrei Rădulescu, Alexandru Costin, Vasile Grecu, Nicolae Dașcovici, Vintilă Găftoescu, Constantin Tegăneanu, Aurel Sava, Editura Academiei, Bucharest, 1955.
- *Regulamentul Organic al Moldovei*, complete edition by Dumitru Vitcu and Gabriel Bădărău, with the support of Corneliu Istrati, Ed. Junimea, Iași, 2004.

DICTIONARIES

- Bănișor, D., *Dicționar juridic român-francez, francez-român*, Bucharest, 2008.
- Constantinescu, I., Buzan, C., Moisei, D., *Mic dicționar juridic francez-român, român-francez*, Bucharest, 2005.
- *Dicționar de drept internațional public*, ed. Ionel Cloșcă, Bucharest, 1982.
- Rădulețu, Sebastian, Săuleanu, Lucian, *Dicționar de expresii juridice latine*, Bucharest, 1999.
- Savin V., Savin C.-A., *Dicționar francez-român (administrativ, comercial, financiar-bancar, juridic)*, Cluj-Napoca, 2002.

PERIODICALS

- “Analele parlamentare ale României”, tome I, part I, *Obșteasca extraordinară adunare de revizuire a Regulamentului Organic a Țării Românești*, 1831, Bucharest, 1890.
- “Buletinul oficial al Țării Românești”, no. 13 of 18 March 1840.
- “Drapelul”, 1897.
- “L’Indépendance Roumaine”, January-December 1892, January-December 1896.
- “Timpul”, January-December 1892, January-December 1896.
- “Voința Națională”, January-December, 1892, January-December, 1896.
- “Lupta”, October-December 1892.
- “Monitorul. Jurnalul oficial al Principatelor Unite române”, no. 185 of 20 August/1 September 1864.
- “Monitorul. Jurnal oficial al României”, no. 142 of 1/13 July 1866.
- “Monitorul Oficial al României”, March-October 1879.
- “Naționalul”, January-December 1860.
- “Peninsula Balcanică”, 1893.
- “Românul”, November-December 1860; November 1861; April-June 1861; March-April 1863.
- “Trompeta Carpaților”, January, May 1865.
- “Vestitorul Românesc”, year XVII, no. 34 of 13 Aug. 1852.

JURISPRUDENCE

- *Decizia Înaltei Curți de Justiție și Casație, Secțiuni Unite, din 9 Noiembrie 1895, referitoare la procesul dintre Comunitatea Elenă din Ianina și Ministerul Domeniilor din România*, in “Dreptul”, year XXIV, no. 78, 26 November 1895, p. 641-644.

- *Decizia Înaltei Curți de Justiție și Casație, Secțiunea I, referitoare la procesul dintre Sevastia Niculescu și Comunitatea Israelită a Templului Coral din București*, in “Dreptul”, year XXIV, no. 51, 25 Jan 1895, p. 418-420.
- *Decizia Înaltei Curți de Justiție și Casație, Secțiuni Unite, din 4 December 1897, referitoare la procesul dintre Comunitatea Elenă din Galați cu M. Gregoriandi-Bonachi*, in “Dreptul”, year XXVII, no. 2, 4 January 1898, p. 13-16.
- *Hotărârea Tribunalului Ialomița, din 8 June 1892, privind succesiunea averei Zappa*, in “Dreptul”, year XXX, no. 38, 13 May 1901, p. 402-403.
- *Înalta Curte de Casație și Justiție, Concluziile procurorului general G. Filitti în procesul succesiunii lui Evanghelie Zappa*, in “Dreptul”, year XXVII, no. 28, 5 April 1898, p. 241-250.
- *Decizia Curții de Apel Bucharest, Secțiunea I, din 24 Septembrie 1894, privind procesul dintre Statul Elen cu Hristu Zappa și alții*, in “Dreptul”, year XXIII, no. 72, 6 November 1894, p. 579.

SPECIAL WORKS

- *Afacerea Zappa. Pledoaria d-lui avocet Constantin I. Stoicescu pentru Epitropia Olympicelor și a Legaturilor înaintea Onor. Curții de Appel din București, Secția a III-a*, Bucharest, 1906.
- *Afacerea Zappa. Rezumat din concluziunile puse de d-nul procuror Ionescu-Dolj în ședința din 2 ianuarie 1903*, in “Curierul Judiciar”, year XII, no. 49, 29 June 1903, p. 409-413.
- Alexander (Alexandre Degré) *Încă o dată art. 7.V din Constituțiune. Străinul nu are dreptul nici la valoarea în bani a nemișcătorului rural din România moștenit de el? Decisiunea Curței de apel din Bucharest sect. I din 20 noiembrie 1895.*

Critică, in "Dreptul", year XXV, no. 63, 10 October 1896, p. 541-546

- Berceanu, Barbu B., *Modificarea din 1879 a art. 7 din Constituție*, n SMIMod, vol. VI, 1979.
- Boerescu, Vasile, *Mémoire sur la juridiction consulaire en Roumaine*, second edition, Bucharest, 1869.
- Dissescu, C.G., *Despre așezăminte (persoane morale, fundațiuni), persoane incerte și capacitatea sau incapacitatea lor de a primi prin acte între vii ori testamente*, in "Dreptul", year XXI, no. 2, 5 January 1892, p. 9-15.
- Korné, Mihai D., *Afacerea Zappa. Extras din concluziunile prezentate Curții de Apel din București*, Bucharest, 1896.
- Martens, M. de, *Mémoire sur le conflit entre la Grèce et la Roumanie concernant l'affaire Zappa*, Athens, 1893.
- Mărieș, Stela, *Abolirea jurisdicției consulare în România – parte integrantă a luptei pentru independența națională*, in RI, tome XXX, no. 1, 1977.
- Missir, Basile M., *Memoriu prezentat Curții de Apel din București, Secțiunea I, în afacerea Zappa*, Bucharest, 1896.
- Păucescu, Grigore G., *Procesul Zappa. Memoriu*, Bucharest, 1894.
- Postolache, Nicolae, *Onoarea lui Evanghelie Zappa. Românism, elenitate, olimpism*, Bucharest, 1996.
- Idem, *Evanghelie Zappa: de la Broșteni la Atena: repere europene*, Ed. Tipp Star, Slobozia, 2004.
- Urșianu Valerian, *Afacerea Zappa din punctul de vedere al dreptului internațional public și privat*, in "Dreptul", year XXIII, no. 13, 13 February 1894, p. 97-99; no. 14, 17 February 1894, p. 105-110; no. 21, 13 March 1894, p. 161-165.

GENERAL WORKS

- Antoine, Charles, *De la succession légitime et testamentaire en droit international privé ou du conflit des lois des différentes nations en matière de succession*, Paris, 1876.
- Banciu, A., *Istoria vieții constituționale în România (1866-1991)*, Bucharest, 1996.
- Bonnacase, Julien, *Science du droit et romantisme: le conflit des conceptions juridiques en France de 1880 à nos jours*, Paris, 1928.
- Clogg, Richard, *Scurtă istorie a Greciei*, Ed. Polirom, Iași, 2006.
- Firoiu, Dumitru, *Istoria statului și a dreptului românesc*, Bucharest, 1976.
- Focșeneanu, Eleonor, *Istoria constituțională a României (1859-1991)*, Bucharest, 1992.
- Hureauux, J. B. A., *Traité du droit de succession*, tome 5, Paris, 1868.
- Iorga, N., *Histoire des états balkaniques jusqu'à 1924*, Paris, 1925.
- *Istoria Parlamentului și a vieții parlamentare din România până la 1918*, ed. Paraschiva Căncea, Mircea Iosa, Apostol Stan, Editura Academiei, Bucharest, 1983.
- *Istoria românilor*, vol. VII, tome I, *Constituirea României moderne (1821-1878)*, volume edited by acad. Dan Berindei, Ed. Enciclopedică, Bucharest, 2003.
- *Istoria românilor*, vol. VII, tome II, *De la Independență la Marea Unire (1878-1918)*, volume ed. by acad. Gh. Platon, Editura Enciclopedică, Bucharest, 2003.
- Jelavich Charles, Jelavich Barbara, *Formarea statelor naționale balcanice, 1804-1920*, Cluj-Napoca, 1999.
- Lauterrant, H., *Private law sources and analogies of international law with special reference to international arbitration*, London, 1927.

- Malița, Mircea, *Diplomația. Școli și instituții*, Bucharest, 1970.
- *Mélanges offerts à M. Nicolas Iorga par ses amis de France et des pays de langue française*, Paris, 1933.
- Svronos, M., *Histoire de la Grèce moderne*, Paris, 1964.
- Weibel, Ernest, *Histoire et géopolitique des Balkans, de 1800 à nos jours*, Paris, 2000.