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„Andrei Şaguna and ‘The Organic Statute’“

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## PREFACE

The topic “Law and Religion” was one of my intellectual preoccupations while I was studying Law at Alexandru Ioan Cuza University of Iași - Romania, and finally led to my diploma thesis entitled “The Law and the Religion”. After that, the decision to join the monastic life and the work in the administrative field of the Romanian Orthodox Church made my attributions bipartite: on the one hand I dealt with religious law (the Romanian laws concerning religions, confessions, and especially the Orthodox Church); on the other hand I dealt with the Orthodox canon law (especially with “The Statute for the Organization and Functioning of the Romanian Orthodox Church” together with the regulations of certain church institutions and ecclesiastical bodies).

Thus I met Andrei Șaguna (1809-1873) the canonist, whose church constitution (“Project of Regulation” approved a bit modified under the name “The Organic Statute”) laid the foundation of the present day Romanian Orthodox Church’s organization.

The determinant role in my decision to accept to work on the topic Andrei Șaguna for my doctoral thesis at the University of Vienna, following the invitation to join a research project on Danubian canonists and politicians, was played by my spiritual father - Hieromonk Visarion Coman († 2002) - and, as far as I am concerned, this thesis is a part of his will.

For the great moral encouragement a special thank deserves His Beatitude Patriarch Daniel, the Patriarch of the Romanian Orthodox Church.

I am very grateful to all my Romanian friends who supported me financially, morally, and scientifically during my study at Vienna. I must especially acknowledge their help.

For the reading of the manuscript and for the helpful scholarly advices I would like to thank to Mr University Professor DDr Ludger Müller, professor of canon law at the Catholic Theological Faculty of the University of Vienna. Dr Klaus Zeller from the Institute for Canon Law of the same faculty deserves my thanks too, especially for his work of correction at the last version of parts of the manuscript.

The work of evaluation of my thesis is worth thanking in advance.

The friendly atmosphere, very favourable to the study and research, was provided with generosity firstly by the Austrian Province of the Congregation of the School Sisters of Notre Dame (Die armen Schulschwester von unserer lieben Frau), later by the Congregation Caritas Socialis; both congregations receive my gratitude.

Last but not least I am very grateful to Romanian teachers, Mrs Roxana Marfievici and Mrs Gabriela Laslău, for their endeavour and help to translate my work into English, and to Fr Nicolas Stebbing CI from Mirfield - UK, who friendly helped me to find an as accurate as possible form of translation.



## 0. INTRODUCTION

### 0.1 Overview of the research on the topic

The studies on the topic Andrei Țaguna - monographs, articles, books - could be basically classified according to the two criteria: the criterion of the theme, and the temporal criterion.

According to the thematic criterion there is - except for the collections of documents, letters, pastorals, etc. kept from Metropolitan Andrei Țaguna and posthumously edited in volumes - on the one hand, a category of works which focuses on the biographical, ecclesiastical, and political aspects of Țaguna's life; on the other hand, there are works which deal with Țaguna's ecclesiastical organization. Somewhat new from the viewpoint of the theme is a quite recent book written by Johann Schneider<sup>1</sup>, who tries to focus on the theological and ecclesiological fundamentals of Andrei Țaguna's works and activity.

According to the second criterion - the temporal one - there are four major periods of time, when Andrei Țaguna was in attention of the scholarly research:

1. The period between his death (1873) and the First World War - respectively the fall of the Austrian Empire and the addition of Transylvania to the Old Romanian Kingdom (1918) - is characterized, almost exclusively, by the effort to underline the biographical and political aspects. This period is basically represented by the important monographs about Andrei Țaguna, written by Nicolae Popea<sup>2</sup> - his secretary and vicar - and by the commemorative collective work<sup>3</sup> edited to celebrate the centenary of the metropolitan's birth. The collection of documents<sup>4</sup> referring to the reestablishment of the

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<sup>1</sup> Johann SCHNEIDER, *Der Hermannstädter Metropolit Andrei von Țaguna. Reform und Erneuerung der orthodoxen Kirche in Siebenbürgen und Ungarn nach 1848*, Köln 2005.

<sup>2</sup> Nicolae POPEA, *Archiepiscopul și Metropolitul Andreiu baron de Țaguna*, Sibiu 1879; IDEM, *Memorialul Archiepiscopului și Metropolitului Andreiu baron de Țaguna sau luptele naționale-politice ale românilor, 1846-1873*, Tomul I, Sibiu 1889.

<sup>3</sup> *Mitropolitul Andreiu baron de Țaguna. Scriere comemorativă la serbarea centenară a nașterii lui*, Sibiu 1909.

<sup>4</sup> Ilarion PUȘCARIU, *Metropolia românilor ortodocși din Ungaria și Transilvania. Studiu istoric despre reînființarea metropoliei, dimpreună cu o colecțiune de acte*, Sibiu 1900.

Metropolitanate of Transylvania, edited by Ilarion Pușcariu, belongs also to this period, and it could be indirectly considered a very important documentation source on Andrei Șaguna. “The Organic Statute” was for the first time in 1914 reprinted and commented<sup>5</sup> by Ioan A. de Preda. Some valuable articles<sup>6</sup> containing inedited documents were published in theological, cultural, or historical magazines, at the beginning of the twentieth century.

2. The period between the two World Wars could be named the epoch of Andrei Șaguna as a canonist; the political unification of Romania after the First World War led to a necessary unification of the canonical legislation and organization of the Romanian Orthodox Church, and determined a big interest and debates on the Transylvanian Church’s organization conceived by Andrei Șaguna. In this respect, the most important works are those written by Gheorghe Ciuhandu<sup>7</sup>, Ioan Mateiu<sup>8</sup>, Valer Moldovan<sup>9</sup>, and Liviu Stan. Canonist Liviu Stan (1910-1973) wrote an important historical-canonistical study on the participation of the lay people in exercising the Church power<sup>10</sup> - the most contested point of Șaguna’s ecclesiastical organization until the Second Vatican Council (1962-1965). Apart of these canonistical works are also worth considering: the editing of Andrei Șaguna’s memories<sup>11</sup> by the consistory of the Archbishopric of Sibiu;

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<sup>5</sup> Ioan A. de PREDA, *Constituția bisericei gr.-or. române din Ungaria și Transilvania sau Statutul organic comentat și cu concluzele și normele referitoare întregit*, Sibiu 1914.

<sup>6</sup> Gheorghe ALEXICI, *Date noi la viața lui Șaguna*, in: *Foaia Diecesană XVIII* (1903), No. 7, 1-3; Eugen TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Șaguna pentru apărarea copiilor săi și a credinței strămoșești*, in: *Transilvania XLII* (1910), No. 4, 184-195; IDEM, *Documente istorice. 2. Acte privitoare la Evreta Șaguna, fratele mitropolitului Andreiu. 3. Acte privitoare la Ecaterina Șaguna, sora mitropolitului Andreiu*, in: *Transilvania XLII* (1910), No. 5, 360-372; IDEM, *Documente istorice. 4. Acte privitoare la reîntoarcerea lui Atanasie Șaguna în sânul bisericii strămoșești*, in: *Transilvania XLII* (1910), No. 6, 455-461.

<sup>7</sup> Gheorghe CIUHANDU, *Reorganizarea Mitropoliei transilvane*, Arad 1920; IDEM, *Câteva observări în chestiunea unificării bisericești în legătură cu Statutul organic ardelean*, in: *BOR XL* (1922), No. 12, 882-897; IDEM, *Reorganizarea centrelor noastre ierarhice și unificarea bisericească*, București 1923.

<sup>8</sup> Ioan MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, București 1922; IDEM, *Cercetări privitoare la Constituția Bisericii Ortodoxe din Ardeal*, Cluj 1922; IDEM, *Mirenii și drepturile lor în Biserică*, Cluj 1938; IDEM, *Șaguna și restaurarea Mitropoliei transilvane*, Sibiu 1943.

<sup>9</sup> Valer MOLDOVAN, *Biserica Ortodoxă Română și problema unificării. Studiu de drept bisericesc*, Cluj 1921; IDEM, *Principiile fundamentale ale organizației bisericești de astăzi*, Cluj 1933.

<sup>10</sup> Liviu STAN, *Mirenii în biserică. Importanța elementului mirean în Biserică și participarea lui la exercitarea puterii bisericești*, Sibiu 1939.

<sup>11</sup> Andrei ȘAGUNA, *Memoriile din anii 1846-1871*, publicate de consistoriul Arhiepiscopiei Ortodoxe Române de Alba-Iulia și Sibiu, la aniversarea a 50-a dela adormirea în Domnul a marelui arhiereu, Sibiu 1923.

a collection of Șaguna's pastoral and circular letters<sup>12</sup> edited by Gheorghe Tulbure; a collection of sermons<sup>13</sup> edited by Florea Mureșanu; many articles, some of them commemorative - dedicated to the half-centenary of Andrei Șaguna's death (1923) -, or on the church organization.

3. The Communist period in Romania (1947-1989) was not a lucky one for the researches on Andrei Șaguna, who was forbidden up to 1960 because of his political vision which was loyal to the monarchy (all his life the metropolitan was loyal to the Habsburg House and to the Austrian Monarchy), and then over-nationalized by the Communist historiography.<sup>14</sup>

Thus, during this period, the most important works on Andrei Șaguna were written by the North American historian Keith Hitchins<sup>15</sup>, who is recognized to be one of the best specialists in the religious and national-political rapports by the Transylvanian Romanians in the eighteenth and nineteenth centuries.<sup>16</sup>

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<sup>12</sup> Gheorghe TULBURE, *Mitropolitul Șaguna. Opera literară. Scrisori pastorale. Cerculări școlare. Diverse*, Sibiu 1938.

<sup>13</sup> Andrei ȘAGUNA, *Predici. Cu un studiu introductiv de preotul Florea Mureșanu*, Cluj 1945.

<sup>14</sup> More about this period see at J. SCHNEIDER, *Der Hermannstädter Metropolit*, 20-23; P. BRUSANOWSKI, *Reforma constituțională*, 11.

<sup>15</sup> Keith HITCHINS, *The Early Career of Andrei Șaguna, 1808-1849*, in: *Revue des Études Roumaines*, IX-X (1961-1962), 47-76; IDEM, *The Rumanians of Transylvania and the Constitutional Experiment in the Habsburg Monarchy, 1860-1865*, in: *Balkan Studies V* (1964), 89-108; IDEM, *Andrei Șaguna and the Restoration of the Rumanian Orthodox Metropolis in Transylvania, 1846-1868*, in: *Balkan Studies VI* (1965), 3-22; IDEM, *Andrei Șaguna și românii din Transilvania în timpul decadelor absolutiste, 1849-1859*, in: *Idem, Studii privind istoria modernă a Transilvaniei*, Cluj-Napoca 1970, 13-58; IDEM, *Andrei Șaguna and Joseph Rajačić: the Rumanian and Serbian Churches in the Decade of Absolutism*, in: *Revue des Études Sud-Est européennes X* (1972), No. 3, 567-579; IDEM, *Orthodoxy and Nationality. Andrei Șaguna and the Rumanians of Transylvania 1846-1873*, Harvard 1977 (= *Ortodoxie și naționalitate. Andrei Șaguna și românii din Transilvania 1846-1873*, București 1995); IDEM, *Andrei Șaguna și revoluția de la 1848*, in: *MA XXIX* (1984), No. 3-4, 196-205; IDEM, *Biserica și națiune în gândirea lui Andrei Șaguna*, in: *Mitropolitul Andrei Șaguna - creator de epocă în istoria Bisericii Ortodoxe din Transilvania*, Sibiu 2008, 73-77.

<sup>16</sup> Keith Hitchins's credibility and value consists, among other things, in his studies on the history of south-east Europe at Harvard, continued at Paris, in his researches at Vienna, Budapest and Sibiu, in the fact that he masters an essential Romanian, Hungarian and Austrian bibliography, and knows rare, valuable archive materials. "Nobody before him was more insistent, as far as the history of Transylvania of the nineteenth century is concerned, to research the fabulous richness of archives and libraries. [...] Helped by the progress of the studies on the [Austrian] Empire and its metamorphosis, issued by Austrian and American researchers, and studying the national historiographies of the successive countries, Keith Hitchins systematically compared the internal facts to the general context." P. TEODOR, *Preface at K. HITCHINS, Ortodoxie și naționalitate*, 9-10.

Cf. Keith HITCHINS, *The Rumanian national movement in Transylvania, 1780-1849*, Harvard 1969; IDEM, *Conștiință națională și acțiune politică la românii din Transilvania (1700-1868)*, Cluj-Napoca 1987; IDEM, *The Idea of Nation among the Romanians of Transylvania, 1700-1849*, in: *Nation and National Ideology. Past, Present and Prospects*, Proceedings of the international Symposium held at the New Europe College of Bucharest, April 6-7, 2001, Bucharest 2002, 78-110.

In this arid period, is not without importance the attentive activity of the theologian Theodor Bodogae, who found in archives, translated and published in theological and historical magazines some pieces of great value of Andrei Şaguna's correspondence, and documents concerning him.<sup>17</sup> It could be also added some commemorative articles published in theological or literary magazines of the time.

Many articles of this period share with the first period mentioned the same feature: Andrei Şaguna is presented as a nationalist politician (even a revolutionary one). The principle of the ecclesiastical constitutionalism - expressed by the lay people participation in the mixed church assemblies organized by Andrei Şaguna - was subjective and ungrounded transferred to politics, which was not Şaguna's intention; the metropolitan was an avowed supporter of non-interference of religion and politics.

4. The post-Communist epoch (from 1990 up to now) is characterized by a slight return to the research on Andrei Şaguna. Several works could be mentioned: the commemorative collective volume<sup>18</sup> edited by the Archbishopric of Cluj, in 2003; the doctoral thesis of the German Protestant theologian Johann Schneider<sup>19</sup> published in 2005; two volumes of Andrei Şaguna's correspondence<sup>20</sup>, the first volume in two parts edited in 2005, respectively 2007, the second one in 2008, all of them at Cluj-Napoca; the most recent commemorative volume<sup>21</sup> edited by the Metropolitanate of Transylvania and the Theological Faculty "Andrei Şaguna" of Sibiu, in 2008.

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<sup>17</sup> Theodor BODOGAE, Dintr-o corespondență timișoreană de acum 100 de ani. 15 scrisori de la Andrei Şaguna către protopopul Meletie Drăghici, in: MB IX (1959), No. 3-4, 27-40; IDEM, Două scrisori ale lui Şaguna către Vuk Karagici, in: MA X (1965), No. 10, 678-682; IDEM, Un capitol din istoria relațiilor culturale sârbo române. Acte inedite din corespondența lui Şaguna, in: MA XV (1970), No. 7-8, 525-556; IDEM, Neue Angaben hinsichtlich der Beziehungen des Metropoliten Andreas Şaguna zu Baron Simeon Sina, in: Revue des Études Sud-Est européennes IX (1971), No. 1, 121-129; IDEM, Documente inedite privitoare la istoria învățămîntului teologic din Transilvania, in: BOR XC (1972), No. 11-12, 1217-1226.

<sup>18</sup> In memoriam: Mitropolitul Andrei Şaguna 1873-2003, Cluj-Napoca 2003.

<sup>19</sup> Johann SCHNEIDER, Der Hermannstädter Metropolit Andrei von Şaguna. Reform und Erneuerung der orthodoxen Kirche in Siebenbürgen und Ungarn nach 1848, Köln 2005.

<sup>20</sup> Andrei ŞAGUNA, Corespondența I/1, ediție, studiu introductiv și note de Nicolae Bocşan, Ioan-Vasile Leb, Gabriel Gârdan, Pavel Vesa, Bogdan Ivanov, Cluj-Napoca 2005; IDEM, Corespondența I/2, ediție, studiu introductiv și note de Nicolae Bocşan, Ioan-Vasile Leb, Gabriel-Viorel Gârdan, Bogdan Ivanov, Vasa Lupulovici, Ioan Herbil, Cluj-Napoca 2007; IDEM, Corespondența II, ediție, studiu introductiv și note de Nicolae Bocşan, Gabriel-Viorel Gârdan, Ioan-Vasile Leb, Beatrice Dobozi, Cluj-Napoca 2008.

<sup>21</sup> Mitropolitul Andrei Şaguna - creator de epocă în istoria Bisericii Ortodoxe din Transilvania, Sibiu 2008.

Although the bibliography about Andrei Şaguna is quite abundant<sup>22</sup>, there is no systematic research on Andrei Şaguna as a canonist and church organizer. The above mentioned work on the constitutional principle within the Church - written by canonist Liviu Stan between the two World Wars - remains fundamental for the understanding of the traditionalist but at the same time visionary<sup>23</sup> character of the canonist and church organizer Andrei Şaguna. But, even if it is very well done, necessary and still actual, this study does not cover the entire dimension of Andrei Şaguna as a canonist.

In addition, the specialized researches from the second half of the twentieth century, made by historian Keith Hitchins, lead to a shift of Andrei Şaguna's image: the canonist was outshined by the church leader (implicitly a political leader, in the Transylvanian context of the nineteenth century), the former being almost unknown to the canonists' research of the last six-seven decades.

Moreover, while the results of Keith Hitchins's researches were internationalized by many English and some German and French articles and books, Andrei Şaguna the canonist remained accessible only to the Romanian language readers, and to a small circle of specialists who could/can still find in few libraries some of Şaguna's canonical works translated in German in the nineteenth century.

Not at least, many valuable bibliographical resources on the metropolitan's personality and on the multi-confessional Transylvanian context remained unknown, or not easy accessible the contemporary researchers, and subsequently less appreciated and under-utilized.

All these reasons together with the fact that at the beginning of 2009 the Romanian Orthodox Church celebrated the bicentenary of Andrei Şaguna's birth determined us to try another approach on the metropolitan's personality. The purpose of this thesis is to rediscover and re-evaluate the first modern Romanian Orthodox canonist and church organizer, the forefather of the Romanian Orthodox Church's constitution.

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<sup>22</sup> Cf. Mircea PĂCURARIU, Mitropolitul Andrei Şaguna în istoriografie, in: Mitropolitul Andrei Şaguna - creator de epocă în istoria Bisericii Ortodoxe din Transilvania, Sibiu 2008, 41-54; Ana GRAMA, Memoria urmaşilor: Secvenţe, in: Transilvania XXXVII/CXIII (2008), No. 9-10, 119-129.

<sup>23</sup> The Roman Catholic Church will revive the active participation of the lay people in the Church life and organization only a century after Andrei Şaguna, by the Second Vatican Council.

## **0.2 The period under research**

The premises of this research go before the epoch of Andrei Şaguna, precisely toward the sixteenth century in Transylvania. The social-political and religious frame where canonist Andrei Şaguna lived and worked dates back to this century and to the later history of Transylvania and Central Europe. One can not fully and objectively evaluate Şaguna's canonistical conception and church organization without pointing up the social-political-religious context.

Even if they were the majority, the Orthodox Romanians of Transylvania had been deprived of corporative rights since 1514, both as nation and as confession. These two inequities were simultaneously legislated. Then, at the end of the seventeenth century and the beginning of the eighteenth century, the religious problem (with social-political implications) grew worse, by political promoting and sustaining of the Union with the Church of Rome in Transylvania. These historical events, which took place hundreds of years before Andrei Şaguna, marked whole his activity in Transylvania, in the second half of the nineteenth century.

The research focuses upon the epoch when Andrei Şaguna lived (1809-1873), especially upon the period when he was the church leader of the Orthodox Romanians of Hungary and Transylvania (1846-1873). Second, it attempts to cover the time after his death, the way Andrei Şaguna the canonist was regarded up to the present, and the perspectives his canonistical thought and works offer for the future.

## **0.3 The sources**

In order to achieve an as detailed and objective research as possible, we studied all the Romanian and foreign accessible works published from the nineteenth century to the present day, directly or indirectly connected with the topic Andrei Şaguna.

The used sources are:

- all canonistical writings of Andrei Şaguna and a big part of his other writings: historical works, correspondence, articles in newspapers - especially in "The Romanian

Telegraph” (“Telegraful Român”) -, sermons, political speeches, pastoral letters and circulars;

- documents from the archives of Sibiu, Vienna, Budapest, Bucharest or Serbia, published either in collections (that edited by Ilarion Pușcariu is the most important) or at random, in theological, literary and historical magazines. Because during the twentieth century there were several specialists who strived to find, translate and publish many documents of great value, we have only tried to utilize all that had already been discovered and edited but remained still quasi-unknown, a couple of them being published in small, specialized, difficult to find magazines. Moreover, the repeated attempts to discover new things in the archives of the Metropolitanate of Sibiu showed that this takes both a long time and specialized scientific means<sup>24</sup>, and that the historians are the most suitable persons to perform such a research;

- Romanian and foreign monographs about Andrei Șaguna;

- Romanian and foreign collections of laws and canons;

- theological magazines published in Bucharest, Czernowitz, Iași, Sibiu, Timișoara, etc. or abroad, and some historical and literary Romanian and foreign publications;

- Romanian and foreign historical, juridical and theological works, compendiums, encyclopaedias and dictionaries;

- e-articles and e-maps, published on Internet, whose web site addresses and access date are added at the final bibliography.

The used bibliography is listed only at the end of the thesis, because we have not thought to be necessary to list it in every chapter.

Because of the dimension of the thesis, in the footnotes we use to mention a shortened but clear version of the titles of the cited books and articles, the entire title being available (translated into English, when necessary) just in the listed bibliography, at the end. In order to do not complicate the finally list of the used bibliography, some of works used occasionally, in connexion with the main subject of the thesis but not essential for it, are mentioned just in the footnotes with the entire name of the author/s, title, year and place of editing.

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<sup>24</sup> In this respect see Ana GRAMA, Fondurile șaguniene - o moștenire inestimabilă în Arhiva Mitropoliei Ardealului, in: Mitropolitul Andrei Șaguna - creator de epocă în istoria Bisericii Ortodoxe din Transilvania, Sibiu 2008, 388-422.

#### **0.4 Content and method**

The thesis is structured in two scientific fields: religious law and Orthodox canon law.

The first chapter is a historical one, aiming to present some dates important to the accurate understanding of the topic in discussion.

The chapters II, III and IV belong to the religious law field, entire Andrei Şaguna's biography being marked by the legal system of the deeply confessionalized Austrian Monarchy. These chapters are organized according to the major periods of the metropolitan's life.

The chapters V, VI and VII belong to the Orthodox canon law field. The chapter V deals with Andrei Şaguna's canonistical works and church constitution, the chapter VI clarifies the canonical principles of Andrei Şaguna's church organization. The specificity, reception and evolution of Şaguna's ecclesiastical organization are the topic of the chapter VII.

The chapter VIII structures the conclusions of the research and outlines some perspectives which the life and works of the Transylvanian metropolitan open both to the present religious law and canon law.

For the first chapters - those on religious law - the descriptive method is preferential. The purpose is to underline those aspects which were not yet explicitly analysed by the researchers: how the life of an Romanian Orthodox family in Transylvania and Hungary of the nineteenth century mirrors the unjust law system of the confessionalized society (new, less known or misinterpreted biographical aspects from the metropolitan's childhood and youth); Andrei Şaguna's approach and his way of action in order to contribute to the change of that unjust law system; in addition to it and based on documents and on Keith Hitchins' researches, the clarification of Andrei Şaguna's political implication, for to undermine the Communist myth about "Andrei Şaguna - the revolutionary nationalist".



For the chapters on canon law the inductive method is preferential. Firstly the sources were studied; then the topics referring to canon law were collected and well structured, even if they were not found always systematically but also “accidentally” approached in some sources. This helped a systematic presentation of the canonist Andrei Şaguna. It becomes clearer the fact that canonist Andrei Şaguna cannot be reduced to some canon law topics (such as the church constitutionalism), but he is a prolific canonist.

We use to contextualize the actions, works and canonistical conception of Andrei Şaguna, in order to bring a more exactly perspective on his personality. His value as a canonist and church organizer becomes more understandable when is analyzed in the context of the Orthodox canon law and Tradition, but also in connexion with the Church frame in Europe of the nineteenth century and with the Western canon law. Sometimes we explain and compare, especially in the footnotes, some canon law topics common to the East and West, but differently understood and interpreted by the Orthodox and Catholic Church.

Some previous opinions and misinterpretations of Andrei Şaguna are openly and directly criticized.

As a permanent work mode it was chosen to quote Andrei Şaguna and to write these quotations in italics, so that they can be easily recognized. There are also abundantly quoted - in Latin, German and English - documents from archives which are quasi-unknown in Romania and abroad, with the purpose to make them popular for more researchers.

As for the question of which form of proper names to use, we have tried to be as clear as possible, using in the most of the cases the original name of the persons, but the form of the name of the cities most likely to be familiar today. This can lead to some inconsistency: so, for example, Czernowitz, Olmütz, Karlowitz or Werschetz (German names of these cities in the Austrian Monarchy, today called Chernivtsi, Olomouc, Sremski Karlovci, Vršac), but Sibiu, Cluj-Napoca, Alba-Iulia (Romanian names of these cities, called in the Austrian Monarchy in German Hermannstadt, Klausenburg, Weißenburg). In spite of this, we hope that it will be clear which is being referred to.

We decided to use in the thesis some words which describe organs of the ecclesiastical organization in their Romanian form, because the English translation for such words either does not exist, or reflects another reality as the Romanian one. Moreover, there are some differences of the meaning of them even within Orthodoxy, every local Orthodox Church having its proper church constitution, its proper organization, sometimes proper ecclesiastical organizational terms, which do not cover one and the same reality everywhere in the Ecumenical Orthodox Church. So, for example, we use “protopope” for what in the West is usually called “the church dean”, “protopopiate” for the Western “deanery” or “deanship”.

## **I. HISTORICAL BACKGROUND**

The very complex political, social and religious context of the nineteenth century in Transylvania, in which Andrei Şaguna performed his activity, required the presentation of some relatively detailed historiographical references that are essential to the understanding of the main theme of this thesis. It was particularly important to outline the formation and evolution of the medieval confessionalized society in Transylvania<sup>1</sup>, considering the fact that Bishop Andrei Şaguna's most important actions were focused on overcoming the political, social and religious barriers imposed by this type of society.

### **I.1 A historical outline of Transylvania until the end of the seventeenth century**

#### I.1.1 From the Dacian State up to the Reform

On the territory of Transylvania<sup>2</sup> - one of the three big Romanian historical provinces - there used to lay in ancient times the centre of the first state on the Romanian territories, the Dacian State. In Orăştie Mountains there is a group of fortresses, the so-

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<sup>1</sup> On this topic see Joachim BÄHLCKE, Arno STROHMEYER (Hrsg.), *Konfessionalisierung in Ostmitteleuropa, Wirkungen des religiösen Wandels im 16. und 17. Jahrhundert in Staat, Gesellschaft und Kultur*, Stuttgart 1999.

<sup>2</sup> In a narrower sense, under this name is understood the territory lying between the Eastern, Southern Carpathians and Apuseni Mountains, namely Ardeal (including the Field of Transylvania). In a broader sense, Transylvania includes apart from the above mentioned territories Banat, Crişana and Maramureş. (See the map in the annex VI herein)

As historical entity named such, Transylvania exists from the Middle Age, from the time of and after its conquest by the Hungarian Kingdom. At the time, the intra-Carpathian voivodate (dukedom) that had emerged around 900-1000 and then was added to Hungary did not include Banat, Crişana and Maramureş.

After 1541, with the Hungarian Kingdom's dissolution and the foundation of the Transylvanian principality, the latter had the double surface of the former voivodate, because it included Banat (from 1552 a part of Banat was occupied by the Ottomans) and the Western Parts (Partium). Since then Transylvania has a broader sense, referring basically to historical provinces named today: classical Transylvania or voivodate of Transylvania (intra-Carpathian zone), Banat, Crişana and Maramureş. In contemporary generally comprehension Transylvania means this latter territory. (See the map in the annex VII herein)

After Hungarian conquest, Transylvania became a multi-ethnic territory and it was named differently by the three main ethnic communities: the Romanians named it Ardeal, the Saxons called it Siebenbürgen (Latin Septemcastra), and the Hungarians Erdély. But the official name that was recognized during Middle Age and the greatest part of the modern age was Transylvania.

Cf. The History of Transylvania, vol. I, 8-10. See the maps in the annexes VI, VII and VIII herein.

called core of the Dacian State: Costești, Blidaru, Piatra Craivii, Fețele Albe, Bănița, Piatra Roșie, among which the most important is Sarmisegetusa Regia, the capital.<sup>3</sup>

During the centuries which followed the Roman conquests, north of the Danube (first - second centuries AD) the Romanian people was shaped, a symbiosis between the native population coming from the great branch of the Thracians and the Roman conquerors.<sup>4</sup>

The sporadic presence of Christianity in Dacia, at least in the second century, is proved by contemporaneous church writers Tertullian and Origenes<sup>5</sup> and by Christian inscriptions discovered on the territory of Transylvania itself<sup>6</sup>. But the first who spread Christianity in the areas were Ufilla (311-383) born of Christian parents from Cappadocia, and the Bishop Nikita of Remesiana (end of the fourth century -

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<sup>3</sup> On the ancient Dacian State, its history and civilization see, e.g., Constantin DAICOVICIU, *La Transylvanie dans l'Antiquité*, Bucarest 1938; IDEM, *Zur Inneren Geschichte Daziens*, in: *Studien zur Geschichte Osteuropas*, Graz u.a. 1966, 9-14; Ioan GLODARIU, *The History and Civilization of the Dacians (4<sup>th</sup> century BC-106 AD)*, in: *The History of Transylvania*, vol. I, 67-136; Aurel RUSTOIU, *Dacia Before the Romans*, in: *History of Romania. Compendium*, 31-58.

<sup>4</sup> On the Roman Province Dacia and the Dacian-Roman continuation on the former Dacian territories (a theory which was elaborated in detail by the representatives of the so-called "School of Transylvania" ("Școala Ardeleană"): Petru Maior, Gheorghe Șincai and Samuil Micu-Klein, in the eighteenth century) see George Ioan BRĂTIANU, *Ein Rätsel und ein Wunder der Geschichte: das rumänische Volk*, München 1968 (=An enigma and a miracle of history - the Romanian people, Bucharest 1996); Constantin DAICOVICIU, *Le problème de la continuité en Dacie*, Bucarest 1940; IDEM, *Die Herkunft des rumänischen Volkes im Lichte der neuesten Forschungen und Ausgrabungen*, München 1967; Constantin DAICOVICIU, Hadrian DAICOVICIU, Ion MICLEA, *Rumänien in Frühzeit und Altertum*, Wien 1970; Lucrețiu MIHĂILESCU-BÎRLIBA, *Individu et société en Dacie romaine. Etude de démographie historique*, Wiesbaden 2004; Coriolan Horațiu OPREANU, *The North-Danube Regions from the Roman Province of Dacia to the Emergence of the Romanian Language (2<sup>nd</sup> - 8<sup>th</sup> Centuries AD)*, in: *History of Romania. Compendium*, 59-132; Vasile PÂRVAN, *Dacia. An outline of the early civilisations of Carpatho-Danubian countries*, Cambridge 1928; Ioan PISO, *Zu den Fasten Dakiens unter Trajan*, in: *Festschrift für Gerhard Dobesch zum 65. Geburtstag*, hrsg. von Herbert Heftner - Kurt Tomaschitz, Wien 2004, 515-519.

The theory of the Dacian-Roman continuation though generally accepted in Romania and elsewhere, is placed under a question mark by some historians, especially Magyar ones. The opponents of this theory state that: "The archeologists have observed that in the Roman cities from Dacia, the life of the Roman kind disappeared at about 275. Most of the rural settlements became empty and after this year no one could identify any graves. [...] The archeological relics do not testify the presence of the neo-Latin population north of the Danube, after the third century AD. After the collapse of the Roman Empire, the Roman influence over the European spiritual and material culture has ceased. The same could be said about the territory of the former Roman Dacia, instead of the development of a civilization of a Roman kind ..." Alain DU NAY, *Români și maghiari în vârtejul istoriei*, Buffalo - Toronto 2001, 2-3.

<sup>5</sup> Cf. M. PĂCURARIU, *Geschichte der Rumänischen Orthodoxen Kirche*, 17-22.

<sup>6</sup> It is about important inscriptions and paleo-Christian objects discovered at Biertan (Sibiu), Porolissum/Moigrad (Sălaj), Potaișa/Turda (Cluj), or in other towns of Transylvania. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 96-99.

beginning of the fifth century). The church organization at the time was not so complex. The church language was Latin.<sup>7</sup>

The Dacian-Romans were Christians in the second part of the first millennium and the church organization was more developed around the Danube and more primitive in the mountain area.<sup>8</sup>

Between the sixth and the tenth centuries the invasions of the migrating Slavic populations took place, but the Romanian people, already formed, resisted as a people of Roman origin surrounded by Slavs.

After the Bulgarians had settled south of the Danube and become Christians, the Slavonic rite was introduced in the Church.<sup>9</sup> By the establishment of the two episcopal sees at Silistra and Vidin, the Romanians who lived north of the Danube were subject to those two episcopal sees out of practical needs (the ordaining of the priests) and starting with the tenth century they took over the Slavonic rite, too, which they did not abandon until the eighteenth century. The church services in Latin ended at about 900.<sup>10</sup>

During the eleventh and twelfth centuries, the Árpád Magyar Kingdom recently founded defeated the resistance of the local princes<sup>11</sup> and Transylvania passed under the Magyar rule. The Magyars, who had received Christianity from the Church of Constantinople, later embraced out of political reasons the Church of Rome. In this

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<sup>7</sup> Cf. Șt. METEȘ, *Istoria*, 22-23.

<sup>8</sup> “[...] towards the end of the first millennium AD Romanian Christianity was a mass phenomenon. The Christianization of the Romanians, which began with their Dacian-Roman ancestors, lasted for several centuries, because it was not imposed by the authorities as in the case of all their direct neighbours; it took place naturally, gradually, from person to person, at the same time in the various layers of the society, initially through the work of missionaries. The retreat of the Roman Empire to the south of the Danube, and then the retreat of the Byzantine Empire in favour of the Slavic states, considerably delayed the organization of the Church on the territory of ancient Dacia and the Lower Danube. Several dioceses were founded, but with great difficulty, in the territories inhabited by Romanians during the first centuries of the second millennium.” *History of Romania. Compendium*, 236.

<sup>9</sup> The Byzantine Liturgy in the Slavonic language was brought to Bulgaria at the end of the ninth century, by the apprentices of the Saints Cyril and Methodius and enjoyed full development in the tenth century, in the cultural centre Preslav. It was introduced in the Romanian Church before the conquest of Transylvania by the Hungarian feudal régime. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 192.

<sup>10</sup> Cf. Șt. METEȘ, *Istoria*, 28.

<sup>11</sup> During the ninth-tenth centuries in Transylvania there used to be several political principalities (“countries”) about which the written documents mention those of Banat lead by Glad, of Crișana lead by Menemorout and of the Plateau of Transylvania lead by Gelou, the Romanian (Blacus). Cf. *The History of Transylvania*, vol. I, 204-209; *History of Romania. Compendium*, 140-142.

way, Transylvania became the most Eastern province of Western civilization and of Catholic spirituality.<sup>12</sup>

As a result of this political change, changes in the structure of the population took place.

The Szeklers<sup>13</sup> settled in the east of Transylvania, then starting with the eleventh century the south of Transylvania was colonized with Germanic populations<sup>14</sup> brought from Rhineland, Luxembourg and Saxony. From the very beginning, these colonists of German origin had lots of privileges offered by the Magyar royalty - their only legal authority. The lands occupied by them were later called "The Transylvanian Saxon Country" ("Sachsenland") or "The Royal Land" ("Fundus Regius"/"Königsboden"). Their religious and political immunities strengthened by the Andream Diploma of 1224, under a supreme political count and a proper church leader, independent of the

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<sup>12</sup> The Magyars, who were of Finno-Ugric origin coming from the East-Asia, settled in 896 in the centre of Europe. The Magyar medieval state was born around the year 1000, in the Pannonic Field, supported by the Roman German Empire and included, little by little (mainly by violence) up to the fourteenth century, huge territories lying between the Middle Danube and the Adriatic Sea and from Forest Carpathians up to Sava river. Different populations were included in this kingdom which had an apostolic mission, such as Slovaks, Ruthenians, Croatians, Serbians, Romanians, Bulgarians, Germans, Szeklers, Petchenegs, Armenians, Dalmatians, Italians. In order to justify the oppression and inclusion of so many peoples "the theory of the Holy Crown", a group of hegemony and religious élite ideology was invented. The Hungarian Kingdom was an advanced pawn of the papacy, a state which under the pretext of the apostolic mission constantly aimed at expanding its border lines up to the Black Sea through the Romanian principalities towards Bulgaria, Serbia and the Russian-Ukrainian world. The success appeared completely consolidated after 1204 when, formally, after the conquest of Constantinople by "the Latins", the Western world had come to rule over the Byzantine world. At that moment, from the papal point of view "the schism" was cut off by force and Europe seemed to be united. Everything was an illusion, because after fifty years (1204-1261), what was later called the Eastern Roman Empire collapsed. Around the thirteenth century, out of the confrontation between the West and the East for the Eastern European space and for the Balkans, a third competitor was successful, namely the Mogul Empire. Cf. I.-A. POP, *Europa Centrală-între hegemonii și rivalități*, 368.

The Magyars became Christians around the year 1000, basically in the Western rite (after a shy Eastern prologue); they oscillated for two centuries between Rome and Byzantium and included in their vast kingdom a numerous Orthodox population. About 600 Orthodox monasteries and hermitages are recorded in Hungary before the Mongolian invasion, as compared to only 200 Catholic ones, and at about 1380 a third of the inhabitants of the kingdom were considered to belong to the Western religious rite, which was reckoned as a great success. The rest were of a great majority Orthodox, plus a small number of Muslims, Mosaics, Bogomils etc. Cf. Șt. METEȘ, *Istoria*, 29-31; *History of Romania. Compendium*, 238-239.

<sup>13</sup> Resulting from a mixture of various ethnic elements like Turkish, Oriental and Hungarian, the Szeklers (Siculi) were already a Hungarian-speaking population when they settled in Transylvania. Cf. *The History of Transylvania*, vol. I, 212-213; *History of Romania. Compendium*, 161 et seq.

<sup>14</sup> See *History of Romania. Compendium*, 162 et seqq.

Catholic bishop of Transylvania.<sup>15</sup>

At the beginning of the thirteenth century, the Teutonic Knights were brought on the south-eastern border of Transylvania, in order to defend the borders but also with an aim to spread the Catholicism in the area.<sup>16</sup> Later, by the middle of the thirteenth century, in 1247, the Knights of St. John of Jerusalem settled in the western area (Drobeta-Turnu-Severin).<sup>17</sup> The efforts to consolidate Catholicism<sup>18</sup> were annulled by the Tartar-Mogul invasion of 1241-1242.<sup>19</sup>

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<sup>15</sup> Cf. I. PUȘCARIU, *Notițe*, 131; *The History of Transylvania*, Vol. I, 213-224, 230-231.

A special peculiarity of the Hungarian Kingdom was the granting of privileges to different ethnic groups like: Szeklers, Cumans, Saxons and Zips. All this is related to the state consolidation activity carried out by the Magyar kings, whose major interest was to have the country inhabited, to explore its economic resources and the military defense. In Transylvania, the Saxons have benefited from the most lasting system of privileges.

A fundamental importance in the creation of the Saxon autonomy was held by Andreanum Diploma of 1224 so called, by the Saxon historiography, "The Golden Charter" ("Goldener Freibrief"). The Diploma contained the colonizing right best elaborated and the biggest ever granted to Western colonists in Central and Eastern Europe.

Along history, the Saxons persistently clung to privileges, which can be proved by the fact that the Hungarian kings and Transylvanian princes consolidated 22 times the Saxon privileges. Because the kings were interested in providing stability to the Saxon community, which paid substantial taxes and played an important part in defending the southern borders of Transylvania, their rights were gradually extended. Thus, in 1486, King Matthias Corvinus (1458-1490) passed a Diploma which strengthened the privileges of the Andreanum for all the Saxons living in the Transylvanian area of the kingdom (*universorum Saxonum nostrorum partium regni nostri Transsilvanorum*) and extended them over the entire kingdom (*Königsboden*). He created the Saxon National University (*Universitas Saxonum, Sächsische Nationsuniversität*), which for some centuries established the framework of the Saxons' life on the privileged territories, joining them in one single legal and administrative unit.

The Saxons and other layers' privileges were jeopardized by Habsburg Emperor Joseph II's reforms, who wished to crush the foundations of the class differences. In 1784 he dissolved the National University and confiscated its fortune for the Fisk. The University and the Saxon privileges were legally re-established only in 1790, when Joseph II withdrew his reforms. The National University and its administrative and legal system were maintained with small interruption (1848-1849, 1849-1860) until 1876. Cf. S. VOGEL, *Autonomia săsească în Transilvania*, 11-12.

See also Franz ZIMMERMANN, Carl WERNER (Hrsg.), *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, 3 Bde., Hermanstadt 1892-1902, reprinted at Hildesheim 2008.

<sup>16</sup> Cf. *The History of Transylvania*, vol. I, 224-225; *History of Romania. Compendium*, 171 et seq.

<sup>17</sup> Cf. *The History of Transylvania*, vol. I, 228.

<sup>18</sup> "The ecclesiastical Orthodox structures of Transylvania were subject to strong pressures from the official Catholic Church. Under these circumstances, the Orthodox diocese of the country ruled by Knez Bălea's sons ended its activity after 1205. Thus, the three Catholic dioceses founded in the 11<sup>th</sup> and the 12<sup>th</sup> century at Cenad, Oradea and Alba Iulia increased their authority and consequently their fortunes." *History of Romania. Compendium*, 204.

<sup>19</sup> The Mogul-Tartar borders urged by the challenge of the Catholic Western world, headed to Europe in 1236, and between 1241-1242 conquered and occupied, among others, Poland, the incipient Romanian States and Hungary. From different reasons - including those related to the response to the invaders given by the Polish, Magyars, Romanians, Germans, Szeklers etc. - "the Mogul order" did not last, but "The Gold Horde" has been a threat for the Eastern Europe over some centuries. The Tartars' invasion and threat discouraged and even stopped for some time the expansion of the Magyar influence south and east of Carpathians, a fact which allowed a faster growth of the Orthodox states in the area. Cf. *The History of Transylvania*, vol. I, 225-227; *History of Romania. Compendium*, 173 et seqq.

During the following century - the fourteenth - the Anjou Dynasty came into power (Charles I of Hungary 1308-1342) and the Tartar danger was removed by the Russians. The monarchy centralized, Louis I (1342-1382) led an offensive policy of expansion and made intense efforts to bring to the Catholic union peoples and populations from Hungary and the neighbouring areas.<sup>20</sup>

Until the Anjou kings came to power, the Romanians of Transylvania enjoyed the same rights as their new masters<sup>21</sup>, but under the rule of these kings their situation deteriorated steadily and many of them became serfs in time. Part of the Romanians from the boundaries of Transylvania, such as Banat, Hațeg, Făgăraș and Maramureș preserved their privileged condition.<sup>22</sup>

At the end of the fourteenth century, Central Europe was under the threat of a new domination, not Christian either, like the Moguls' one which lasted between 1241-1242, but much more dangerous and lasting - the Ottoman one.

The Serbians were defeated at Kossovopolje, in 1389. As a result of the defeat suffered by the anti-Ottoman Crusade at Nicopolis, of the year 1396, a vital interest was shown for the organization of a defensive system by the kingdom and, in 1405, Sigismund of Luxembourg (1387-1437) obliged the cities to build fortresses. It is the time when the fortified churches of Transylvania appeared. Because of the expansion, Sigismund came to entitle himself a king of the Romano-German Empire (1410-1437). In this way,

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<sup>20</sup> In spite of the fact that shortly after the conquest of Constantinople by "Latins", during the fourth Crusade (1204), the Hungarian Catholic archbishop of Kalocsa demanded the pope to place the Orthodox Eparchy in Crișana under his jurisdiction, "there are also other Orthodox Romanian bishoprics and even archbishoprics attested in Transylvania in the 14<sup>th</sup>-16<sup>th</sup> centuries, with a precarious organization, barely managing to survive." History of Romania. Compendium, 238.

King Louis I inaugurated in the year 1366 a tougher religious policy towards the Orthodox Romanians, the Orthodox confession was outlawed and the Romanians excluded from the country's political life. The nobility unanimously demanded that the king "destroy" and "annihilate" the Romanians of Transylvania. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 287; History of Romania. Compendium, 230, 238, 258.

In comparison with such a hostile attitude of the Catholic Magyars towards the Orthodox Romanians in Transylvania, some Orthodox Romanian princes of Moldavia and Wallachia supported the other confessions, too. Thus, Alexandru cel Bun (1400-1432) of Moldavia "supported the foundation of an Armenian metropolitan Church (1401) in Suceava; he also supported the ancient Catholic diocese of Siret (created in 1371), as well as the new Catholic diocese of Baia (1405-1413); he provided shelter and protection to the Hussites arriving in Moldavia, etc. In 1381, another Catholic diocese was created, this time at Argeș, in Wallachia." History of Romania. Compendium, 237.

<sup>21</sup> Although conquered by the Magyar feudal state, Transylvania went on being a principality with a relatively large autonomy.

<sup>22</sup> Cf. Șt. METEȘ, *Istoria*, 33.



Transylvania was connected to the German European world and Rome's tendency to exert influence in the area increased.<sup>23</sup>

The Orthodox Romanians were not obliged to pay tithes to the Catholic Church until the fourteenth century, except the serfs who lived on the church properties. Beginning with this century, the church hierarchy claimed quitrents. This abuse was a reason why the peasants rebelled in 1437.<sup>24</sup>

Until the middle of the fourteenth century, all the Orthodox Romanians living north of the Danube including those of Transylvania too looked for their religious needs to the episcopal sees of Silistra and Vidin. Then, after the foundation of the Metropolitanates of Wallachia (1359) and Moldavia (1401), the Orthodox of Transylvania were under their protection, as they were nearer.<sup>25</sup>

During the fifteenth century, the native population of Transylvania was more and more discontented because of its social-political situation and amply protested.<sup>26</sup> But the protests were suppressed and the Diet<sup>27</sup> of 1514 decided to inaugurate a social and

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<sup>23</sup> On December 5, 1428, as a result of the Franciscan monks' insistencies, the king took measures based on religious criteria against the Orthodox inhabitants from such districts as Caransebeș, Mehadia and Hațeg. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 287-288.

<sup>24</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 288; *The History of Transylvania*, vol. I, 230.

<sup>25</sup> Cf. Șt. METEȘ, *Istoria*, 35-38.

“Through the foundation of these metropolitan Churches that were autonomous, and connected to Constantinople, not only was the Romanians affiliation to the Orthodox rite made definitive, but the international legitimacy of the Romanian states was also gained. The Romanians' - a people rooted in the Western Roman tradition and speaking a neo-Latin language - orientation towards Orthodox rite (as well as towards the Old Church Slavonic) was not a ‘historical catastrophe’ as some historians defined it, it was just a natural evolution in a world situated at the point of contact between West and East, at a time when the light of the faith came symbolically from Byzantium and from Rome.” *History of Romania. Compendium*, 236-237.

<sup>26</sup> The most famous protest was the rebellion of Bobâlna of 1437-1438. See *History of Romania. Compendium*, 258-259.

<sup>27</sup> The Diet/Country Assembly/Local Parliament (Landtag) and the National Government (Gubernium) were the most important constitutional institutions in Transylvania. The Diet was an important indicator of Transylvania's autonomy.

The Local Parliament began with irregular meetings of nobles who assembled together to discuss certain common problems and their solution. Such meetings were already taking place in the second half of the thirteenth century (1291). There took place at least elf meetings of the Diet in the fourteenth century, 28 meetings in the fifteenth century and ten in the sixteenth century, until 1540.

During the era of reigning princes (1540-1690), the Local Parliament practised legislation, the prince being the head of the executive.

During the era of the Austrian reign (1688-1868), the Diet only met if summoned by the Sovereign. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 12 et seqq., 370.

political union among the Magyar, Szekler and Saxon nobles, famous in history under the name *Unio Trium Nationum*.<sup>28</sup> The three nations became the political power within the state. The Romanian population was excluded from the political life, the Orthodox confession was considered schismatic and thus forbidden.

Yet, by the good offices of the Patriarchate of Constantinople as well as of the Romanian brothers from Moldavia and Wallachia, the Orthodox of Transylvania survived, having their own bishops beginning with the fourteenth century.<sup>29</sup> Later, episcopal centres were established at Vad, Geoagiul de Sus, Silvaş/Prislop, Alba-Iulia. “Consequently, in spite of the persecutions, the Orthodox Church of Transylvania, Banat and the Western Marches survived and even developed.”<sup>30</sup>

### I.1.2 The Reform and its consequences in Transylvania

On August 29, 1526, the Magyars were defeated by the Ottomans at Mohács. The half eastern part of Hungary was turned into a pashalic, until the end of the seventeenth century. As they took over the Byzantine heritage in the Balkans by occupying Buda,

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<sup>28</sup> The act of the first union was a result of the peasant uprising of 1437 and it was aimed against the peasants. The meanings of the union were an internal social and class one, and an external one, of defense against the Turks. In the union text of 1437, the word “nation” does not appear. The fraternal union (*fraternam unionem*) is made by the Nobles, Siculi/Szeklers and Saxons. The union partners are called parties. We find these three partners entitled “nations” in the Diet text from 1506 of Sighişoara. The decisions are taken by the three nations (*tres nationes*) Nobiles videlicent, Siculi and Saxons. If the Siculi and Saxons wanted from the very beginning an ethnic meaning, the Nobles included in the beginning Romanians and Magyars too. But, in time, this “nation” became ethnic, because there were raised as nobles only Magyars of the Catholic faith. Hence “the leaders, the flower of the Romanian nobility passed to the Latin Law [confession] of the Hungarian state” (Şt. METEŞ, *Istoria*, 44). When the principality was established (1541) the notion of “three races” became final. The three nations are: the Magyar nobility, the Szeklers and the Saxons. They gradually settled the boundaries of their own territories within the country and divided the country in three parts: the Magyar nobility took the Counties, the Szeklers the Szeklers’ Land (*Terra Siculorum*) and the Saxons the Royal Land (*Fundus Regius/Königsboden*). The nobles’ nation was organized in counties and the Szeklers and the Saxons in residences or seats. The counties, residences and cities took part in the Diet by their representatives. Cf. *The History of Transylvania*, vol. I, 257-266; R. KUTSCHERA, *Landtag und Gubernium*, 13-15; *History of Romania. Compendium*, 258-260.

For the political-administrative organization of the three nations of Transylvania until 1869 (1876) see the annex IX herein.

<sup>29</sup> Cf. Şt. METEŞ, *Istoria*, 52-60; *The History of Transylvania*, vol. I, 269; *History of Romania. Compendium*, 238.

<sup>30</sup> *History of Romania. Compendium*, 239.

the sultans assumed the idea of the great Hungary in central Europe under their aegis.<sup>31</sup> Hence Transylvania's political *status quo* changed, becoming in 1541 an autonomous principality under Turkish suzerainty, the political leadership being exercised by the Magyar nobility, the princes. During the era of reigning princes (1540-1690) the Diet (Local Parliament) legislated and the prince was the head of the executive (Local Government).<sup>32</sup>

The three nations (Magyars, Szeklers and Saxons)<sup>33</sup> built new religious foundations out of the Reform, which have inflamed Transylvania for centuries. In 1543, the Diet of Cluj proclaimed the principle of religious liberty in Transylvania.<sup>34</sup> The Orthodox Romanians did not benefit from this law, as they had already been outlawed since 1514. After 1550, the Saxons embraced the Augsburg Lutheran Confession<sup>35</sup> and the Magyars embraced the Calvinism<sup>36</sup>; the Romanians remained for the most part Orthodox.

Out of the common religion of the three nations which had been Catholicism, three branches emerged, gradually recognized by the country Diets. The Diet of Turda recognized the Lutheranism since 1550 as *religio (confessio) recepta*, the Diet of Aiud proclaimed the Calvinism as a state official religion since 1564, and the Diet of Turda of 1568 recognized the Unitarian confession<sup>37</sup> as *religio recepta*.<sup>38</sup>

Thus, four were considered the legal confessions: the Catholic, the Lutheran, the Calvinist and the Unitarian, which will be denominated by the Latin word as *receptae*. The Diet of 1595 calls them like this (*religiones receptae/recepta religiok*). They were the confessions of the three ethnic nations: the Magyars, the Szeklers and the Saxons.

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<sup>31</sup> Cf. I.-A. POP, Europa Centrală - între hegemonii și rivalități, 569.

<sup>32</sup> Cf. R. KUTSCHERA, Landtag und Gubernium, 15.

<sup>33</sup> More on the three nations of Transylvania and their political and administrative organization see at R. KUTSCHERA, Landtag und Gubernium, 20-50. See also the annex IX herein.

<sup>34</sup> Cf. M. PĂCURARIU, Istoria Bisericii Ortodoxe Române, vol. 1, 497.

<sup>35</sup> The greatest propagandist of the Lutheran doctrine among the Saxons in Transylvania was Johannes Honterus (1498-1549) from Braşov, owner of a printing house where Luther's works were published. See Harald ZIMMERMANN, Johannes Honterus. Der siebenbürgische Humanist und Reformator, Bonn 1998.

<sup>36</sup> The centre of spreading of the Calvinist doctrine in Transylvania was Cluj, the most important propagandist being Heltai Gáspár (1510?-1574?) from Sibiu, who became a Magyar preacher at Cluj. See Edith SZEGEDI, Die Reformation in Klausenburg, in: Konfessionsbildung und Konfessionskultur in Siebenbürgen in der Frühen Neuzeit, hrsg. von Volker Leppin – Ulrich A. Wien, Stuttgart 2005, 77-88.

<sup>37</sup> The Unitarianism or Antitrinitarianism was preached among the Magyars of Transylvania by Ferenc Dávid (1510-1579) and Giovanni Georgio Biandrata (1515-1588). Cf. V. LEPPIN, Siebenbürgen, 10.

<sup>38</sup> Cf. M. PĂCURARIU, Istoria Bisericii Ortodoxe Române, vol. 1, 497; V. LEPPIN, Siebenbürgen, 11-12.

The public or political rights in Transylvania were by now conditioned by the confession. The political system was completed, finally structured on three nations and four accredited confessions. The Orthodoxy kept its own condition: a “tolerated” confession.<sup>39</sup>

The three Protestant confessions greatly weakened the Catholicism.<sup>40</sup> The Diet of Sebeş of 1556 decided to dissolve the Catholic Diocese of Alba-Iulia, followed by the secularization of the properties of the Roman Catholic Church together with the dissolution of all the dioceses and Catholic convents of Transylvania.<sup>41</sup> In 1567, the Roman Church disappeared as institution and confession in Transylvania, with some few exceptions. The former Catholic residence in Alba-Iulia became the political centre of Transylvania’s prince.

The Magyars founded a Calvinist hierarchy, and the Romanian Orthodox Church and its bishops were placed under the Calvinist superintendent’s jurisdiction.<sup>42</sup>

Among the Orthodox Romanians, the conquests of the Reform remained unessential, superficial and inconsistent, apart from the introduction of the Romanian language in the liturgical life, instead of the Slavonic one. In spite of the Calvinist reigning princes’ efforts, the Calvinism could not conquer the Romanian people of Transylvania, it could only succeed in detaching a group of the Romanian nobility. The Romanian aristocracy earlier “seduced” by Catholicism - because they could be raised as nobles only as Catholics -, was now taken over by Calvinism<sup>43</sup> - the new confession of the Magyar nobles. This process left the Orthodox Church in Transylvania without any political

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<sup>39</sup> In spite of the bad condition of the Orthodox Romanians, it is very important to underline the fact that: “In Siebenbürgen entstand am frühesten in Europa eine staatsrechtlich verankerte Toleranz mit dem Nebeneinander von vier Konfessionen.” Mihály BUCSAY, *Das Toleranzpatent in der reformierten Kirche Altungarns*, in: Peter F. BARTON ed., *Im Lichte der Toleranz. Aufsätze zur Toleranzgesetzgebung des 18. Jahrhunderts in den Reichen Joseph II., ihren Voraussetzungen und ihren Folgen*, Wien 1981, 59-104 here 64.

<sup>40</sup> “The Catholic Church was powerful in Transylvania not so much because of the number of its followers, but because of the vast domains of the bishoprics and monasteries and because of the important role played in society by the attestation places (*loca credibilia*). This was the case of the ‘chapters’ (in the bishoprics) and the ‘convents’ (in the monasteries), which had the role of present-day notary offices, authenticating documents and transactions, etc.” *History of Romania. Compendium*, 238.

<sup>41</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 498.

<sup>42</sup> The first Calvinist superintendent for the Romanians was appointed in 1566. Cf. Şt. METEŞ, *Istoria*, 74.

<sup>43</sup> A Lutheran propaganda of the Saxons among the Romanians was out of question. Cf. Şt. METEŞ, *Istoria*, 72.

protection: “during the reign of the princes in Transylvania [1540-1690], the Romanian nobility was obliged to embrace the Reform, or otherwise their properties were to be confiscated; in order to avoid this danger and yet keep the old confession, the families of the Romanian nobles made an agreement, so that each family should offer a member to the Calvinist Church, avoiding the confiscation of their properties; this strategy was successful, but in time the Calvinist members got a higher social status - as they were privileged by the régime - while the ignored members of their families became simple peasants ...”<sup>44</sup>

In 1595, the Orthodox who still long had bishops on the Transylvanian territories<sup>45</sup> passed under the canonical authority of the Wallachian Metropolitanate, in order to be secured the existence of the Orthodox confession and of the confessional schools. In 1638, Ilie Iorest the monk came from Wallachia, who under the recommendation of Prince George Rákóczi I (1631-1648) was elected by the priests’ synod<sup>46</sup> as metropolitan of Alba-Iulia. But a synod of 1643 of Alba-Iulia dismissed him, because he opposed the Calvinism. Then followed Metropolitan Simeon Ștefan (1643-1651) “a learned man, well supported by Prince Rákóczi and the Calvinist priests”<sup>47</sup>.

The Transylvanian legal Code *Approbatæ constitutiones regni Transsilvaniae et partium Hungariae eidem annexarum*<sup>48</sup> - which comprised the acts of law voted by the Diet between 1540 and 1653 - approved by the Diet of Alba Iulia on January 23, 1653,

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<sup>44</sup> I. PUȘCARIU, *Notițe*, 34-35.

<sup>45</sup> It is known St. Hierarch Ghelasie of Râmeți from fourteenth century, even a metropolitan at Feleac, by the end of the fifteenth century. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 296-299; *History of Romania. Compendium*, 240.

See also Radu MÂRZA, *Die orthodoxe Kirche der Rumänen aus Siebenbürgen: Konfession und Politik im 16. Jahrhundert*, in: *Konfessionsbildung und Konfessionskultur in Siebenbürgen in der Frühen Neuzeit*, hrsg. von Volker Leppin - Ulrich A. Wien, Stuttgart 2005, 179-190.

<sup>46</sup> The right of the Romanian Orthodox priests of Transylvania to elect their bishops had been established by the law passed by the Diet of Turda on October 21, 1579. Cf. II. PUȘCARIU, *Metropolia*, 12; Șt. METEȘ, *Istoria*, 87. See also I. LUPAȘ, *Istoria bisericească a românilor ardeleni*, 153.

<sup>47</sup> P. GÂRBOVICEANU, *Andreiu Șaguna*, 500.

Prince George Rákóczi I connected Metropolitan Simeon Ștefan’s confirmation, in 1643, to a law containing fifteen articles, among which some were favourable to the Orthodox Romanians, such as: the introduction of the Romanian language in the divine services, the annual obligatory synod, the election of protopopes, the compulsory canonical visits. Cf. II. PUȘCARIU, *Metropolia*, 13.

<sup>48</sup> There is also another later legal Code of Transylvania, approved in 1669: *Compilatae constitutiones regni Transsilvaniae eidem annexarum*, which comprised all acts of law voted by the Transylvanian Diet in 1654-1669. More on this subject at K. ZACH, *Politische Ursachen und Motive der Konfessionalisierung in Siebenbürgen*, 57-65. A German translation from both Codes in: G[eorg] D[aniel] TEUTSCH, *Urkundenbuch der Evangelischen Landeskirche A.B. in Siebenbürgen*, Erster Theil, Hermannstadt 1862, 117 et seqq., 141 et seqq. See also *Constituțiile Aprobate ale Transilvaniei 1653*, edited by Alexandru Herlea, Cluj-Napoca 1997.

entirely excluded the Romanians and their Orthodox confession from any political or public right, affirming once more the system of the three nations (Magyar, Szekler and Saxon) and four legal confessions (Catholic, Lutheran, Calvinist and Unitarian).

Just Metropolitan Sava Branković (1656-1680) “by his high moral and intellectual features was able to obtain several protecting measures for the Romanian clergy, coming from Prince Apaffi [Michael Apaffi I (1661-1690)].”<sup>49</sup>

In the second half of the seventeenth century, the Orthodox Church was already in a serious deadlock. It lacked the financial resources and the political power necessary to fulfill its own mission. Its leaders were subordinated to the Calvinist superintendent while most of the parish priests, having just a rudimentary training, lived in such terrible poverty that their condition was no better than the serfs’ living standard. Both the upper and the lower clergy sharply felt the humiliation of a tolerated schismatic people, whose stay in the country relied on the prince and estates’ willingness.<sup>50</sup>

## **I.2 Transylvania - a province of the Habsburg Empire<sup>51</sup>**

In this chapter a special attention is given to the issue church Union in Transylvania, because, on the one hand its problematic emergence will return in the Neoabsolutist era

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<sup>49</sup> P. GÂRBOVICEANU, Andreiu Şaguna, 501.

<sup>50</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 2.

<sup>51</sup> The Habsburg Empire was called the Austrian Empire starting in 1814 and the Austro-Hungarian Empire after 1867. Austria’s sovereigns - the Habsburgs - Romano-German emperors by tradition and later also kings of Spain, considered themselves heirs of the St. Stephen’s crown, beginning with the sixteenth century, when they occupied the north-western Hungary. The Habsburgs’ claims were turned into practice only after Vienna had been liberated from the Ottomans (in 1683). In a few decades, Vienna came “to free” Hungary, Croatia, Transylvania, Banat, parts of Serbia and ruled temporarily over Oltenia (called Little Wallachia). Toward the end of the eighteenth century, Austria still conquered large areas from Poland (Galicia, Lodomeria, Little Poland) and one more Romanian territory (Bukovina). New provinces lying north of Italy and Bosnia-Herzegovina were to be added. So beginning with 1700 until 1918, the state ruled by the Habsburgs came to contain almost all the people and populations from Central Europe, partially or entirely: Austrians, Czechs, Slovaks, Germans and of German origin (Saxons, Swabs), Magyars, Romanians, Italians, Poles, Ukrainians, Jews, Slovenians, Croatians, Serbians, Bosnians (Muslims), Russians etc. In this empire there was not such a thing as an ethnic majority of the Austrian or German element, but rather a certain majority of the Slavs, yet without immediate practical consequences, as the Slavic world was very heterogeneous. However, some peoples and races - by no means just among the Catholic and the Protestant ones - were privileged as compared to others, namely the territories inhabited by them were formally recognized as kingdoms, their élite was preserved and educated, their languages were accepted as semi-official (for example: the Czechs, the Magyars, the Croatians, the Italians). Cf. I.-A. POP, *Europa Centrală-între hegemonii şi rivalităţi*, 571. See the maps in the annexes X, XI and XII herein.

(1849/1851-1860); on the other hand its consequences influenced a lot the canonistical-organizational struggles of the Metropolitan Andrei Şaguna.

### I.2.1 Centralism and standardization versus historical privileged

Between 1683 and 1713, the Habsburg Empire freed Eastern Hungary and the Banat from the Turks. From 1687/1688 Transylvania became a province of the Habsburg Empire, until 1918. Emperor Leopold I (1657-1705) promulgated on December 4, 1691, the *Diploma Leopoldinum* which constituted the “Constitution” of Transylvania for over a century and a half, until 1848 and a bit modified between 1861 and 1867.<sup>52</sup>

But the military conquest in itself could not provide the subordination of the independent Transylvanian estates, whose majority opposed the imperial authorities, nagging desperately at the self governing rights and the group privileges which dated back to the fifteenth century. The Catholic Austrian rule effaced especially “the competition” of the Calvinist Magyar nobility, who had had the supremacy in the principality for one and a half centuries (1540-1690). So the Austrian policy throughout the eighteenth century was to crush the local peculiarities in the interest of bureaucratic centralization and standardization.

The starting point for a full control over the country was the acknowledgement of the three privileged nations and four accepted confessions: by Article 3 of *Diploma Leopoldinum* the emperor reconfirmed the system of the old laws of Transylvania (*Tripartitum* from 1517, *Approbatæ constitutiones* from 1653 and *Compilatae*

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<sup>52</sup> By the virtue of the Diploma of 1691, Transylvania remained a separate entity from Hungary, with its own political, economic and juridical institutions. The principality was to be ruled by a governor, appointed by the Diet and confirmed by the Court - the governor was leading a council made up of twelve members (das Gubernium). Apart from Gubernium, in 1694 the Aulic Chancellery of Transylvania was set up, having its centre in Vienna, whose aim was to connect the Court and the principality. The financial issues were on the charge of a Treasury and the military ones were taken over by the War Council, whose representative in Transylvania was the commander-in-chief. The Supreme Court authority was the Royal Table and the legal authority was the Diet. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 3-6, 18-19; *History of Romania. Compendium*, 355. See the Latin text and the German translation of the Diploma, in: R. KUTSCHERA, *Landtag und Gubernium*, 327 et seqq.

*constitutiones* from 1669).<sup>53</sup> The most numerous population of the principality, the Orthodox Romanians, was further considered a tolerated nation, deprived of rights.

Emperor Leopold I and his councilors had acknowledged for a long time the importance of the Roman Catholic Church as a unifying factor in their heterogeneous kingdom and they aimed to consolidate Catholicism in Transylvania, in order to be able to control the centrifugal tendencies of the Protestants.<sup>54</sup> So the Catholic Church has been given back its rights, the Cathedral of Alba-Iulia being returned and different religious orders have been encouraged to come and develop on the territory of Transylvania.

Furthermore, the Court of Vienna thought to gain the believers of other confessions for the Catholic faith, granting advantages to those who converted/reverted. The Orthodox Romanians, who were outside the legal frame of Transylvania, seemed to be the most eligible group for conversion, offering the possibility to increase the Catholic Church.<sup>55</sup>

The regaining of the economical, political and religious benefits lost in favour of the Calvinists in Transylvania could be accomplished only by increasing the number of the Catholics. To turn the Lutherans, the Calvinists and the Unitarians into Catholics again was practically impossible and thus the Jesuit missionaries turned their attention to the Orthodox Romanians who were more numerous than the other three recognized nations put together.<sup>56</sup> It seems that “from the very beginning the Court of Vienna made a plan to gather Romanian elements spread in the Eastern countries and protect them, so that

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<sup>53</sup> “Mit seinen Zusatzbestimmungen stellte es [das Leopoldinische Diplom] zwar die - praktisch fehlende - Parität für die Katholische Kirche her, enttäuschte durch maßvolle Regelungen allerdings die katholische Seite in Siebenbürgen. [...] Mit dem Leopoldinischen Diplom als Verfassungsgrundtext war Siebenbürgen in konfessionspolitischer Hinsicht die absolute Ausnahme im Reich der Habsburger. Einer (verspäteten) Gegenreformation standen dort die sprichwörtlich gebrauchten ‘sieben Sünden’ [drei privilegierte Nationen und vier anerkannte Konfessionen] entgegen, und Maria Theresia nannte deswegen in ihrem ‘Politischen Testament’ von 1750 nur Ungarn als das Land ‘allwo wegen der Religion noch viel Gutes zu bewürken wäre’, bezeichnender Weise aber nicht Siebenbürgen. Dieses entfernte Erbland im Südosten des Reiches galt der Dynastie als Ort diesbezüglicher Hoffnungslosigkeit. Hier seien die ‘renitenten’ Untertanen - oberösterreichische Protestanten - anzusiedeln, weil ihnen nur dort ‘das freie exercitium religionis [...]’ gestattet werden könne.” K. ZACH, Politische Ursachen und Motive der Konfessionalisierung in Siebenbürgen, 64-65.

<sup>54</sup> Cf. K. HITCHINS, Conștiință națională și acțiune politică, 33.

<sup>55</sup> Cf. K. HITCHINS, Conștiință națională și acțiune politică, 32-33; IDEM, The Idea of Nation, 81-82; History of Romania. Compendium, 355 et seq.

<sup>56</sup> Cf. II. PUȘCARIU, Metropolia, 17; M. PĂCURARIU, Istoria Bisericii Ortodoxe Române, vol. 2, 296.



later it could rely on them for accomplishing the social balance.”<sup>57</sup> For this aim it was chosen an “unorthodox” instrument: the political promoted church Union<sup>58</sup>, by which the Court hoped that eventually all the Romanians (more than a half of the population living in the principality) would be brought to the Roman Church. The Viennese Court entrusted the project to Cardinal Leopold Kollonich<sup>59</sup> the primate of Hungary who in 1680 had already scored an important success, expanding the religious union among the Ruthenians of Carpathian Ukraine.

The political decision of the implementation of the church Union among the Orthodox Romanians in order to realize the standardization and centralization of the monarchy had more worldly than spiritual or theological reasons and aspects<sup>60</sup> and consequently, could not be a religious success on the contrary it more disturbed the social and religious life of the principality.

The first from the worldly reasons was that “at the time, the Romanians were not legally part of the country where they lived.”<sup>61</sup> So they could be easily attracted by social-political promised advantages. The Orthodox Romanians were disregarded and according to the law they were considered as *misera plebs contribuens*, lacking any political and religious rights. On the intercession of Metropolitan Varlaam (1687-1690) meant to bring peace and ease to the Orthodox clergy and faithful, the answer was that

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<sup>57</sup> I. SLAVICI, *Dare de samă*, 27.

<sup>58</sup> “Es mußten Mittel und Wege gefunden werden, den Text des Leopoldinischen Diploms zu umgehen, daß der katholischen Religion nur eine mit den drei übrigen rezipierten Religionen gleichrangige Stellung einräumte.” D. PRODAN, *Supplex Libellus Valachorum*, 114.

<sup>59</sup> Leopold Karl Graf von Kollonich/Count Leopold Kollonich (1631-1707), born to a Magyarized Croat Protestant family, had been converted and educated by the Jesuits and became bishop of Nitra (Nyitra), subsequently archbishop and cardinal of Esztergom (1695-1707), being also one of the most influential politicians of the seventeenth century in Vienna. He was the most important figure of counter-reformation and Habsburg absolutism, who also played an important role in devising the plan (1688-1689) according to which the country was restructured after it was freed from the Turks at the beginning of the eighteenth century. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 141 et seqq.

<sup>60</sup> We expressly avoided the presentation of the church Union from a theological point of view, because the most important for the subject of this thesis are the social-political aspects of the church Union in Transylvania. Moreover - as the historical approaches of the last decades show - the pure theological aspects played a too little role in the promotion of the church Union in Transylvania. Cf. K. HITCHINS, *The Idea of Nation*, 80 et seqq.; D. PRODAN, *Supplex Libellus Valachorum*, 114 et seqq. For theological approaches of the church Union in Transylvania see Dumitru DEAC, *Das Auftreten des Mönches Visarion Sarai in Siebenbürgen. Der Einfluss der neuen Ekklesiologie des 18. Jahrhunderts auf ihn (Diplomarbeit)*, Wien 2001, 27-53.

<sup>61</sup> I. SLAVICI, *Dare de samă*, 27. Consequently, the Orthodox Romanians had any economical and political importance for the Monarchy and its centralization policy.

Emperor Leopold swore to maintain intact the principles of the Transylvanian Constitution.<sup>62</sup>

Then “any measure taken for the interest of the Romanians had to create a natural resistance on the part of the Magyars [...]. This is why the Romanians were told not only once from Vienna: ‘Be patient!’”<sup>63</sup> A radical improvement of the social-political statute of the Romanians was likely to bring about the anger of the historical privileged, who had built their edifice over centuries.

There was also a political-strategic reason why the Orthodox Romanians in Transylvania could not enjoy the legal protection of their confession from Vienna: after 1699, when the Peace of Karlowitz<sup>64</sup> was concluded, Vienna was preparing a possible war against Russia, a war which the Court considered inevitable and thought to postpone it for a moment when Russia will be weakened. The Romanians - as they were Orthodox - could easily obey the Russians, so Vienna distrusted them. This especially

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<sup>62</sup> Cf. P. GÂRBOVICEANU, Andreiu Şaguna, 505.

The man living in the country side, the one who worked the land was a serf or a stockman and he had to work for the landowner; the latter was not under any legal obstruction, by any positive norm, he used the serf as long as he wished, sometimes all long the week, on the clod, at work. The serf was bound by his master's will, so the latter could dispose of him according to his own will. This was the same for the Romanian priests, who were not too much different from their parishioners: they paid taxes and bore great burdens. Moreover, the Orthodox priests paid quitrents to the priests of other confessions, while the latter were exempt of any tax, belonging to the privileged class. The few Romanian young people who could afford to attend school were excluded from any official position, being received nowhere, unless they changed their confession or nationality passing to one of the four confession and three nations accredited. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 2, 297; R. KUTSCHERA, *Landtag und Gubernium*, 20-21.

<sup>63</sup> I. SLAVICI, *Dare de samă*, 28.

<sup>64</sup> The peace treaty was signed on January 26, 1699, at Karlowitz (today Sremski Karlovci), north-west of Belgrad. It was concluded between the Ottoman Empire on the one side and Austria, Poland and Venice on the other. The preceding war (1683-1697) had resulted in the Ottoman defeat in 1697, thereby forcing the Ottomans to consent to the treaty. In fact, it was an armistice for 25 years between the Austrian and Ottomans. All Hungary (including Transylvania but not the Banat of Timișoara), Croatia and Slovenia were ceded to Austria by the Ottomans. Podolia and a part of Western Ukraine passed to Poland, and the Peloponnese and most of Dalmatia passed to Venice. Russia, also at war with the Ottomans, captured Azov in 1696 and concluded a separate peace treaty with Turkey in 1700. The Venetian gains were lost again at the Treaty of Passarowitz (1718). The Treaty of Karlowitz, which crowned the successful campaign of Prince Eugene of Savoy, was the beginning of the Ottoman Empire's disintegration. This marked a great political territorial change, by which the conquests of Sultan Soliman II, between 1521 and 1566, in the Central Europe were annulled and the Ottoman Empire was eliminated from this space. Cf. *The New Encyclopædia Britannica*, vol. 2 *Micropædia*, 872.

because: “In the eyes of the common people, Russia represented a spiritual refuge, where the old faith could still be safely practiced.”<sup>65</sup>

In spite of the fact that the Orthodox Serbians recently emigrated in the Habsburg Empire from the territories occupied by the Ottomans<sup>66</sup> benefited - out of political reasons - from a privileged situation<sup>67</sup>, yet “the Viennese Court did not want to allow a strong Orthodox Church to take shape among the compact Serbian and Romanian populations along the southern frontiers of empire.”<sup>68</sup> In fact, as the Romanian and Serbian Orthodox were aligned in the fifteenth century - the century of the heroic anti-Ottoman resistance at the Lower Danube - likewise a new alliance could be made by them with the Orthodox Russians, against the Habsburgs.

Another argument of the Court in favour of the church Union could have been the extremely precarious condition of the Orthodox Church in Transylvania, at about 1700, as Andrei Șaguna himself presented it in a letter addressed to the prince of Wallachia, meant to obtain financial support for his eparchy after the destructions of the revolution of 1848: “[...] anyone who is little familiar with the history of the Orthodox Church of Transylvania and its events of the last 300 years, will have to admit that its martyrdom was genuine and it is about facts and events which had happened and which are not fantasies of the monks. Because from the history of our Church we can understand that the persecutions of the first centuries of Christianity repeated themselves and they were not exerted by pagans, but by those who still call themselves Christians. They began as

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<sup>65</sup> K. HITCHINS, *Conștiință națională și acțiune politică*, 54.

<sup>66</sup> At the end of the seventeenth century, against the background of the fights between the Ottomans and the Austrians, the continuous victories obtained by the latter over the Ottomans made the life of the Christian populations from the Balkans more difficult. Under the circumstances, the Serbian patriarch of Peć (the centre of the Serbian Patriarchate in the Ottoman Empire), Arsenije III Crnojević (1674-1691), together with (about) 36,000 Christian families, the greatest majority being Serbians from Raška, Kosovo, Montenegro, Sandjak, Macedonia, Herzegovina and Bosnia emigrated to the new Austrian territories Vojvodina, Slavonia and eastern Croatia. New waves of emigrants followed in the years to come, yet of less importance. The years 1738-1740 brought a new massive wave of refugees in the Habsburg Empire, this time from northern Serbia, most of whom were colonized in Banat. This massive movement of Serbian population from the south to the north of the Danube led to a change of the political, church, and cultural national Serbian centre, from the historical areas of Raška and Kosovo to the Danubian area, having its centre at Karlowitz and later at Belgrade. Cf. I.F. DOBRESCU, N.L. DOBRESCU, *Românii din Serbia*, 81-82.

<sup>67</sup> The Habsburgs granted the new colonists a series of synthesized rights called “Illyrian Privileges”. They provided a large national Church autonomy. Cf. II. PUȘCARIU, *Metropolia*, 24.

More on the imperial privileges for the Serbian migrants see at Ljiljana PANTOVIČ, *Die Wiener Orthodoxen Serben* (Dissertation), Wien 2004, 19-24.

<sup>68</sup> K. HITCHINS, *Conștiință națională și acțiune politică*, 53.

*the result of the Reform passing through Transylvania. [...] at the time when Transylvania fell under the Austrian Royal House, by the end of the seventeenth century, the metropolitan was not surrounded by bishops, there were no monasteries and many communities did not have their own churches.”*<sup>69</sup> The policy to ignore a Church which was excluded for two centuries from among those legally recognized and was in serious decline was also pragmatic, according to the principle: “it is more profitable to build again than to renovate”. In fact, it seemed easier to suppress a Church (this was intended by the church Union) which represented a potential ally of the enemy on the border of the empire, than to revive it by legal changes and financial support, which would have drawn the jealousy of the accredited confessions and recognized nations.

Skillfully supported by the Jesuit missionaries, Leopold Kollonich decided to concentrate his efforts upon drawing to his side the most influent sections of the Romanian society - the clergy - leaving the conversion of the mass of peasants, “considered so ignorant, as well as too powerfully connected to the ancient religious traditions, to the persuasion of Jesuit sermons or material benefits for a time to come.”<sup>70</sup>

### 1.2.2 The church Union and its socio-political and religious consequences

The first synod which favoured the church Union took place at Alba-Iulia on February, 1697, being summoned by the Orthodox Metropolitan Teofil III (1692-1697)<sup>71</sup>. In the exchange for recognizing the pope as the visible head of the Church, the communion with the unleavened bread, the acceptance of Filioque and admitting the existence of limbo, there were granted: the validity of the old Orthodox canons, on the condition that they did not oppose the Union; equal rights and privileges of the Uniate Church

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<sup>69</sup> Andrei Șaguna's letter to Barbu D. Știrbei, from October 1851, in: Gh. MOISESCU, O scrisoare a lui Andreiu Șaguna către Barbu D. Știrbei, 598.

<sup>70</sup> K. HITCHINS, Conștiință națională și acțiune politică, 33-34.

<sup>71</sup> There is an opinion which states that this synod never existed in fact and Metropolitan Teofil was not involved in church Union. See M. PĂCURARIU, Istoria Bisericii Ortodoxe Române, vol. 2, 297-298.

servants with the Roman Catholic ones; access of the Uniate faithful to Catholic schools and the country offices; an adequate living standard for the Uniate bishop.<sup>72</sup>

Soon, on July 1697, Metropolitan Teofil died “and the people started to show their discontent toward the decisions of the synod, the government and the Court.”<sup>73</sup>

This is why the Court, wishing not to be accused of favouring the Roman Catholic Church, published an imperial Decree on April 14, 1698, which gave the Orthodox Romanians the possibility to accept the union with any of the four accredited confessions of the country thus enjoying the rights granted to the respective confession, or to remain faithful to their own faith.<sup>74</sup> Moreover, the imperial Decree threatened those who would despise and attack the freedom and the religious consciousness of any person, with punishments coming from the civil and religious authorities.<sup>75</sup> “But, the Romanian priests from Hunedoara County who declared that they wished to unite with the Calvinist Church were severely punished!”<sup>76</sup>

In other words, the Court legally proclaimed “the religious freedom” but had already decreed by the Diploma of December 4, 1691, the old system of the four legally accredited confessions, the only “new facility” offered to the tolerated Orthodox being “the liberty to unite”<sup>77</sup> preferably with the Roman Catholic Church.

The Metropolitan Teofil’s successor - Atanasie Anghel - let himself seduced by the Jesuit Paul Ladislau Bárányi, a priest of Alba-Iulia and accepted the union with the Church of Rome, not without protests of the people. As a result of the unionist synods of June 1698 and October 1698, during the synod of September 4-5, 1700, the metropolitan and the protopopes signed “The Union Manifesto”<sup>78</sup>. The purpose of the acceptance of the union with the Church of Rome under the condition of recognizing

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<sup>72</sup> Cf. D. PRODAN, *Supplex Libellus Valachorum*, 117-118.

<sup>73</sup> P. GÂRBOVICEANU, *Andrieu Şaguna*, 677.

<sup>74</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 2, 299; D. PRODAN, *Supplex Libellus Valachorum*, 119.

<sup>75</sup> Cf. P. GÂRBOVICEANU, *Andrieu Şaguna*, 677-678.

<sup>76</sup> *Ibid.*, 678-679.

<sup>77</sup> See “Guvernatorul Schwarzenberg scrie ministrului luând în apărare biserica ortodoxă română din Transilvania” (“Governor Schwarzenberg writes to the minister defending the Romanian Orthodox Church of Transylvania”), No. 54/1856, in: II. PUŞCARIU, *Metropolia*, colecţia de acte, 155-160 here 157.

<sup>78</sup> See “Manifestul de unire” (“The Union Manifesto”), in: M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 2, 300-301.

“the four points by which we were different until now”<sup>79</sup> was that “we would like to live with the privileges with which the faithful and the priests of this Holy Church live and share them as His Highness the Emperor, and our crowned prince make us share.”<sup>80</sup>

As Keith Hitchins concluded “the church Union was not primarily a religious act. The objectives of the Court of Vienna were clearly secular: it was determined to undermine the dominant, independent-minded Protestant estates and thereby hasten the integration of Transylvania, which Habsburg armies had only recently occupied, into the empire as a loyal province. The Roman Catholic hierarchy, for its part, was eager to strengthen Catholicism at the expense of the Protestants and regarded the Union as merely the first step in converting the Romanians to Catholicism.”<sup>81</sup> The attitude of the Orthodox clergy who accepted the church Union was motivated by the hope of material gains rather than by religious convictions: “Those priests who accepted the Union did not have in mind the religious consequences of their own deeds. The Union for this generation was based on calculations, both social and economic, and the doctrines and practices of the Orthodoxy continued to inspire their intellectual and spiritual life.”<sup>82</sup> The Orthodox priests could therefore be freed from their economic burdens and social discriminations, under the condition of a promising agreement, because the four points of the Union - as they have become familiar - did not ask for a meaningful change in the Orthodox religious life: the canon law and the Holy Liturgy remained unchanged; Romanian continued to be the language spoken during the divine services; the priest went on having the right to be married, and the free exercise of other religious practices, which the tradition had rather made more holy than the canons, were not disturbed.<sup>83</sup>

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<sup>79</sup> Ibid., 301.

<sup>80</sup> Ibid., 300. Emperor Leopold I - in the First Leopoldine Diploma of the Union, issued on February 16/28, 1699, and addressed to all the Romanians, Greeks and Ruthenians of Hungary, Croatia, Slavonia and Transylvania - granted the clergy who accepted the terms of the church Union all the rights and privileges of the Roman Catholics. Cf. D. PRODAN, *Supplex Libellus Valachorum*, 121. See the text of the Diploma, in: Nicolao NILLES, *Symbolae ad illustrandam historiam Ecclesiae Orientalis in Terris Coronae S. Stephani*, vol. 1, Innsbruck 1885, 224-227.

<sup>81</sup> K. HITCHINS, *The Idea of Nation*, 82. Cf. D. PRODAN, *Supplex Libellus Valachorum*, 130 et seqq.

<sup>82</sup> K. HITCHINS, *Conștiință națională și acțiune politică*, 35.

<sup>83</sup> Ibid., 34. Cf. also “Guvernatorul Schwarzenberg scrie ministrului luând în apărare biserica ortodoxă română din Transilvania” (“Governor Schwarzenberg writes to the minister defending the Romanian Orthodox Church of Transylvania”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 155-160 here 160.

Thus, the Romanian Orthodox Church of Transylvania was divided and the confessionalism deepened. The Church Union has never been completed as it was wished and hoped. Entire villages of Transylvania, especially those which were neighbouring Orthodox Wallachia have never been rooted in the Union.<sup>84</sup>

In order to remove Metropolitan Atanasie Anghel's personal doubts concerning the rightness of the path chosen, Emperor Leopold I passed a second Decree of the Union, on March 19/30, 1701, known as *The Second Leopoldine Diploma*<sup>85</sup>, which enumerated the advantages which both Romanian clergy and laymen who unite with the Roman Church could hope for. In short, the decree provided to those who were united the same rights as Roman Catholics had, enjoying corresponding social statute. The consequences of this article were really revolutionary because they seemed to offer to the Orthodox serfs a way to get rid of economic and social dependence.<sup>86</sup> But the emperor and his councilors did not interpret the document in this way, because by the *Diploma Leopoldinum* of December 4, 1691, they had already admitted the inviolability of the previous legal system of the privileged confessions and nations. On the other hand, the leaders of the Uniate clergy interpreted the Diploma from March 19/30, 1701, as a document which promised to raise them to the rank of a fourth nation, which laid the basis of a vigorous Greek Catholic political movement<sup>87</sup>.

So mostly owing to the fact that the estates of Transylvania opposed strongly, Vienna proved incapable of accomplishing the promises of equality made to the Uniates: "It is

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<sup>84</sup> "One of the most obvious and far-reaching results of the church Union was the division of the Rumanians into two confessions. For most of the century and a half between the beginnings of the Union and the revolution of 1848 the relations between the Uniates and Orthodox were strained. The causes of antagonism were legion, but at the center of most disputes lay the competition for converts and the claims of the Uniates to supremacy. As late as the eve of the outbreak of revolution in 1848 many Rumanians sadly acknowledged that they formed not a single nation but two." K. HITCHINS, *Orthodoxy and Nationality*, 4.

Even in 1870, a Transylvanian wrote bitterly: "The confessional difference is still one of the greatest obstacles for the advancement of our national-political matters, as well as for the development and progress of the Romanians everywhere and in all directions." N. POPE'A, *Vechi'a Metropolia*, 138.

<sup>85</sup> See the text of the Diploma, in: Nicolao NILLES, *Symbolae ad illustrandam historiam Ecclesiae Orientalis in Terris Coronae S. Stephani*, vol. 1, Innsbruck 1885, 292-301.

<sup>86</sup> At length on this Diploma see D. PRODAN, *Supplex Libellus Valachorum*, 125-126.

<sup>87</sup> The Uniate political movement grew during the time of Bishop Ioan Inocentiu Micu Klein (1692-1768) who, since his appointment as a bishop in 1729, launched himself into an intense campaign of raising his clergy's political and social status. In his position as an estate owner he asked and obtained a seat for himself in the Diet of Transylvania, in 1732, enjoying the right to vote. Cf. I. LUPAȘ, *Istoria bisericească a românilor ardeleni*, 144; D. PRODAN, *Supplex Libellus Valachorum*, 135-227.

true that the clergy enjoyed some material benefits but the Uniate faithful did not have any special rights as compared with the Romanian Orthodox ...<sup>88</sup>

In their turn, the Uniates got organized during the first half of the following century and they wrote a series of petitions and statements that constituted the substance of a coherent national programme, which was going to obtain the most powerful express in the famous *Supplex Libellus Valachorum*<sup>89</sup>, submitted to the Diet of Transylvania in 1791.

Among the consequences of the church Union strictly related to the Church we mention two remarkable ones: the end of the Romanian Orthodox Church's leadership in Transylvania; the foundation of the Romanian Uniate Diocese dependent on the Hungarian Catholic hierarchy. After Atanasie Anghel had been ordained as Uniate bishop in 1701, on March 24, within a ceremony which took place at Vienna and was lead by Leopold Kollonics, the ancient Orthodox Metropolitanate of Transylvania ceased its existence, being replaced by a Uniate Diocese, having its centre at Alba-Iulia, subordinated to the Roman Catholic archbishop of Esztergom.<sup>90</sup> Two other Uniate Dioceses followed, that of Făgăraș - in 1723 and Blaj - in 1737. The Uniate Diocese of Alba-Iulia was raised to a Uniate Metropolitanate in 1853 by the pope himself, with three suffragan dioceses, at Oradea (1777), Gherla (1853), and Lugoj (1853).

The natural consequence of this politically sustained act was an increase of the restrictive measures taken toward the Orthodox, so that they not only were not allowed to spread, but also were forced to join the new confession, the Greek Catholic one. Thus, the Orthodox villages which received priests ordained beyond the boundaries of

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<sup>88</sup> N. POPE`A, *Vechi`a Metropolia*, 128. Cf. I. LUPAȘ, *Istoria bisericească a românilor ardeleni*, 165. Being unable to support the Uniates by the exclusionary system of the legislation in the principality, owing to the known opposition of the three nations, the monarchs from Vienna gave up turning into practice the Leopoldine Diplomas, especially the second one, providing additional help and encouraging them in a way which was not systematic, yet not lacking efficiency. If we were to identify the material foundation of the culture of Transylvania during the age of the Enlightenment we could identify it in this help. Cf. I. CHINDRIȘ, *Un caz iluminist: Petru Maior*, 458.

<sup>89</sup> This memorandum asked the Romanian nation to be recognized as a political nation having the same rights as the other three privileged nations of Transylvania (Magyar, Szekler and Saxon). The reasons were based on the ancient history of the Romanians in Transylvania, their demographical importance in the country and the contribution to the taxes. The emperor sent the document to the Diet of Cluj, where the Hungarian majority rejected the requirements.

See the original Latin text and a German translation of the *Supplex Libellus Valachorum*, in: D. PRODAN, *Supplex Libellus Valachorum*, 463-491.

<sup>90</sup> See M. PĂCURARIU, *100 de ani de la reînființarea Mitropoliei Ardealului*, 814.



Transylvania were punished; additional measures had been taken at the borders meant to deny the access of the Orthodox priests coming from the outside; if a fourth part of any Orthodox community passed to the Uniates, that automatically meant that the church building was given to that confession; the Orthodox priests who just by mistake celebrated for the Greek Catholics religious services were punished, even being removed from the priesthood or sent to prison; the monks who opposed Uniatism were banished from the country and their monasteries were closed or destroyed; an examination of six weeks was introduced for the Romanian Uniates who would have liked to come back to the Orthodox confession.<sup>91</sup>

The most intense and terrible attempt to annul the Orthodox confession in Transylvania took place between 1761 and 1762, during the reign of Maria Theresa (1740-1780)<sup>92</sup> when by the order of General Adolf Nicolaus Buccow the governor of Transylvania (1762-1764), scores of Orthodox monasteries and churches were destroyed by cannons: "It is fully known, there live people who tell us that the army, the emperor's militia attacked not only one, but several Orthodox villages and aimed their cannons at churches and monasteries and they were taken by force; the poor Orthodox Romanian villagers were forced either to pass to the Union, or to abandon their houses and set off wandering in the world, keeping their faith. The examples about such cases referring to the Orthodox churches taken by force are all over: at Săliște, Rășinari, Ocna Sibiului or Olt area etc."<sup>93</sup>

The imposed church Union resulted in people's revolts. Three revolts like these ones, each expressing a strong attachment towards traditional religious forms<sup>94</sup>, took place in the eighteenth century: the religious people's rebellion of 1744, instigated by Visarion the monk<sup>95</sup>, followed by another one of 1759-1761, urged by Sofronie the monk<sup>96</sup>, and

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<sup>91</sup> Cf. P. GÂRBOVICEANU, Andreiu Șaguna, 683; Eudoxiu HURMUZAKI, Documente privitoare la istoria românilor, vol. XV, part 2 (1601-1825), București 1913, 1675 et seqq.; Silviu DRAGOMIR, Istoria dezrobirii religioase a românilor din Ardeal în secolul al XVIII-lea, 2 vols., Sibiu 1920, 1930.

<sup>92</sup> On the Viennese church policy in Transylvania in the first twenty years of Maria Theresa's reign see Mihail Simion SASAUJAN, Die Kirchenpolitik des Wiener Hofes in Siebenbürgen zur Zeit Maria Theresias (Dissertation), Wien 1996.

<sup>93</sup> N. POPEA, Vechi`a Metropolia, 124.

<sup>94</sup> Cf. K. HITCHINS, Conștiință națională și acțiune politică, 30-31.

<sup>95</sup> See Dumitru DEAC, Das Auftreten des Mönches Visarion Sarai in Siebenbürgen. Der Einfluss der neuen Ekklesiologie des 18. Jahrhunderts auf ihn (Diplomarbeit), Wien 2001, 58-71.

<sup>96</sup> See D. PRODAN, Supplex Libellus Valachorum, 205 et seqq.

the rebellion of 1784-1785, lead by Horea<sup>97</sup>. As a result of these events the Union was massively abandoned, this could not be stopped, and “then in 1759, the empress accepted reluctantly the reality, the Viennese Court gave up its most beloved dream of a complete church Union of the Romanians.”<sup>98</sup>

### I.2.3 The Orthodox Church after 1700; Canonical-jurisdictional matters

For almost six decades after the church Union, Vienna, at least officially, considered that the Orthodox Church ceased to exist in Transylvania and therefore did not work out any strategy related to the Romanians, except that of disregard and oppression.<sup>99</sup>

But the church Union, in spite of all the optimistic claims of the Austrian authorities and of some Uniate bishops, was not completed by far. The religious life continued especially in the country as it had been for centuries. From the very beginning there were centres of Orthodox resistance; although there was not such a thing as a formal hierarchy, a network of parishes had been preserved and there was a rudimentary administration all over the principality; priests continued to be ordained mostly in the Orthodox Romanian neighbouring principalities Moldavia and Wallachia.<sup>100</sup>

With the passing of the decades, the Orthodox became more active.<sup>101</sup> They found energetic supporters in the person of the Serbian metropolitans of Karlowitz, eager on

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<sup>97</sup> Ibid., 281 et seqq.

<sup>98</sup> K. HITCHINS, *Conștiință națională și acțiune politică*, 47.

<sup>99</sup> In order to help the Uniate confession to resist the arrows of the Sofronian secessionism, for example, Maria Theresa delivered a Decree of November 23, 1746, by which she opposed the penetration of the religious books from Wallachia and Moldavia to Transylvania. Cf. I. CHINDRIȘ, *Un caz iluminist: Petru Maior*, 458.

<sup>100</sup> Cf. II. PUȘCARIU, *Metropolia*, 19. Governor Karl Schwarzenberg of Transylvania was to talk about these historical realities, in 1856, to Minister Leo Thun of Public Worship: “Als im Jahre 1698 Bischof Tanasie mit 51 Protopopen und 1475 Popen, also fast mit der ganzen Geistlichkeit die Union mit der römisch-katholischen Kirche, d.h. die vier dogmatischen Punkte: 1. Anerkennung des Papstes als sichtbares Oberhaupt der christlichen Kirche. 2. Annahme des Fegefeuers. 3. Kommunion unter einerlei Gestalt. 4. Ausgang des Heiligen Geistes vom Vater und vom Sohne, annahm und beschwor, hielt man die alte griechische Kirche für aufgelöst, ihre wenigen Anhänger wurden Dissidenten genannt und genossen keine Korporationsrechte, doch bald zogen sie aus der Walachei und Moldau frische Kraft und schon im Jahre 1701 war die Macht der Nichtunierten wieder so stark gewachsen, dass Kaiser Leopold für rätlich hielt, die grösste Aufregung im Lande durch einen kaiserlichen Befehl vom 12. Dezember 1701 zu beschwichtigen ...” “Guvernatorul Schwarzenberg scrie ministrului luând în apărare biserica ortodoxă română din Transilvania” (“Governor Schwarzenberg writes to the minister defending the Romanian Orthodox Church of Transylvania”), No. 54/1856, in: II. PUȘCARIU, *Metropolia*, colecția de acte, 155-160 here 158.

<sup>101</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 3.

the one hand to protect Orthodoxy against the Roman Catholic general offensive launched inside the Habsburg Empire and, on the other hand, eager to expand the jurisdiction of their own eparchies over the Romanians of Transylvania.<sup>102</sup> Despite the severe warnings from Vienna addressed to Metropolitan Pavle Nenadović (1749-1768) that he should end all kind of activity in Transylvania, he frequently interceded in favour of the Romanians, from the beginning of the 1750s.<sup>103</sup>

Since Transylvania was incorporated into the Habsburg Empire the ethnic configuration of the Orthodox Church of Transylvania had also suffered quite important changes: the Serbian element consolidated itself, not only from a quantitative point of view<sup>104</sup>, but also from a church administrative point of view. At the beginning of the eighteenth century, the Eparchy of Arad was born<sup>105</sup>, being led only by Serbian bishops until the beginning of the nineteenth century, though the overwhelming majority of the faithful were Romanians. The episcopal sees of Werschetz (the former Eparchy of Caransebeş)<sup>106</sup> and Timișoara, where Romanian bishops had been appointed, were now filled by Serbian bishops, although the great majority of the faithful were Romanians. All those eparchies were suffragan to the Metropolitanate of Karlowitz.<sup>107</sup> The metropolitan of Karlowitz entitled himself “metropolitan of the Serbians and Romanians”.<sup>108</sup> The privileges of the “Illyrian nation”, which the Serbians had obtained after their emigration into the Habsburg Empire, were called forth by the Serbian

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<sup>102</sup> Cf. II. PUȘCARIU, *Metropolia*, 19.

<sup>103</sup> Cf. K. HITCHINS, *Conștiință națională și acțiune politică*, 52-53.

<sup>104</sup> Groups of Serbians who ran away fearing the Turks settled in the areas of Tisza and Mureș rivers among the Romanians by the end of the fourteenth century. The most important Serbian exodus into Transylvanian areas took place in 1690, under the guidance of the patriarch Arsenije III Crnojević who organized the church life of the Serbians settled on the Romanian land too. Cf. A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 39; Th. BREMER, *Ekklesiale Struktur*, 16.

<sup>105</sup> The Romanian Orthodox Eparchy of Arad was founded in 1705, out of the old eparchies of Inău (Ienopole) and Oradea-Mare; Bishop Isaia Diacovici of Ienopole moved its residence at Arad and passed the Romanian Eparchy under the jurisdiction of the Serbian Metropolitanate of Karlowitz. Both former eparchies depended before 1700 on the Romanian Orthodox Metropolitanate of Alba-Iulia. Cf. S. RELI, *Politica religioasă a Habsburgilor*, 29.

<sup>106</sup> About the addition of the Eparchy of Caransebeș to that of Werschetz, in the eighteenth century, see II. PUȘCARIU, *Metropolia*, 33.

<sup>107</sup> The Serbian Metropolitanate of Karlowitz, which exercised its jurisdiction over Slavonia, Croatia, Hungary and Banat, had seven suffragan eparchies, namely Novi Sad (Neoplanta), Pankrat, Karlstadt, Buda, Arad, Werschetz and Timișoara. In 1814 the Bishopric of Dalmatia was added, until 1870, when it was divided in two eparchies (Zara/Zadar and Cattaro/Kotor) and incorporated in 1873 in the newly-created Metropolitanate of Bukovina. Cf. II. PUȘCARIU, *Metropolia*, 24-25.

<sup>108</sup> Cf. M. PĂCURARIU, *100 de ani de la reînființarea Mitropoliei Ardealului*, 815.

bishops of Arad and Banat, in order to defend the eparchial autonomy<sup>109</sup> and so their benefits concerned also the majority of the faithful of these eparchies: the Romanians. In this indirect way, the Romanians at least could survive as Orthodox in these areas. But “unfortunately, these rights were not so useful, as they had to fight the Serbians’ supremacy ...”<sup>110</sup>

In 1759, as a result of the Chancellor Wenzel Anton von Kaunitz’s suggestion, Maria Theresa asked the Uniate bishop to stop persecuting the Orthodox.<sup>111</sup>

The interest of the monarchy, which was in danger when deep social and religious tensions existed, drove Kaunitz to advise the Sovereign to grant liberties to the Orthodox: “In my opinion without importance for the bright ruling dynasty, the number of the Eastern non-Uniate faithful under the rule of Your Highness is about a few million souls; in the future could be drawn many benefits from them, even greater than until now, only if they are to be exempt from civil and church oppression and if they are advised properly, according to the rules of precaution, with which an uneducated and warlike nation must be ruled.”<sup>112</sup>

Thus, beginning with the rule of Maria Theresa, followed by Joseph II (1780-1790) “the fate of the Romanians of Transylvania became more bearable.”<sup>113</sup>

During the reign of Joseph II, mostly owing to the proclaimed religious tolerance<sup>114</sup>, the Orthodox enjoyed a modest renaissance, and of the modest funds granted by the State

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<sup>109</sup> It is about two imperial Diplomas, one of August 20, 1691, the other of March 4, 1695 which regulated the hierarchical organization of the emigrated Serbians. Cf. A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 40; “Memorial, prin care se lămuresce cererea românilor de religiunea răsăritenă în Austria pentru restaurarea metropoliei lor din punct de vedere a ss. canone, - așternut c. r. ministeriu pentru cult și instrucțiune în 1851, de Andreiu Bar. de Șaguna, episcopul bisericii răsăritene în Ardeal” (“Memorandum which clarifies the petition of the Romanians of the Eastern confession from Austria meant to restore their metropolitanate from the point of view of the holy canons, submitted to the Ministry of Public Worship and Instruction in 1851, by Andreiu Baron of Șaguna the bishop of the Eastern Church in Transylvania”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 88-97.

More about the privileges of the Orthodox Serbians see at Ljiljana PANTOVIĆ, *Die Wiener Orthodoxen Serben (Dissertation)*, Wien 2004, 19-24; Th. BREMER, *Ekklesiale Struktur*, 17-18.

<sup>110</sup> I. SLAVICI, *Dare de samă*, 29. Cf. N. IORGA, *Istoria românilor din Ardeal și Ungaria*, vol. II, 126.

<sup>111</sup> Cf. P. GÂRBOVICEANU, *Andreiu Șaguna*, 684; M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 2, 500.

<sup>112</sup> From chancellor Kaunitz’s Report to Maria Theresa, as cited in: P. GÂRBOVICEANU, *Andreiu Șaguna*, 684.

<sup>113</sup> G. JOANDREA, *Andrei, baron de Șaguna*, 5.

<sup>114</sup> At length on this topic see Peter F. BARTON ed., *Im Zeichen der Toleranz. Aufsätze zur Toleranzgesetzgebung des 18. Jahrhunderts in den Reichen Joseph II., ihren Voraussetzungen und ihren Folgen*, Wien 1981; IDEM, *Im Lichte der Toleranz. Aufsätze zur Toleranzgesetzgebung des 18. Jahrhunderts in den Reichen Joseph II., ihren Voraussetzungen und ihren Folgen*, Wien 1981.

Treasury for the Orthodox clergy and for the Orthodox elementary schools. The tolerance Decree of 1781 recognized, for the first time after 1700, the existence of the Orthodox Romanians in Transylvania, beside the Greek Catholics. But the Court's policy remained basically the same as it would continue to be until 1848: a strict control over the Orthodox matters for the state interests.<sup>115</sup>

After 1700, the mass of the Romanians of Transylvania had three distinct spiritual-territorial structures: north of Transylvania to Mureş the Greek Catholics prevailed, penetrating the southern area. The cultural-spiritual centre of this direction was Blaj. The south of the principality, seriously penetrating the northern part was dominated by the Orthodox confession (deprecatingly called "not-Uniate" in the context of the age), having its centre at Sibiu. Beyond the south-western border of Transylvania, in Banat and Arad area of the so called "Hungarian zone", the Orthodox confession also prevailed. After the acceptance of the church Union by the Orthodox Metropolitan Atanasie of Transylvania, the Orthodox Romanians from the south-western zone were immediately absorbed by the Serbian hierarchy in the area, having therefore together with the Serbians their cultural centre in Vienna, later at Buda and their spiritual one at Karlowitz.<sup>116</sup>

Apart from the new confessional split produced by the church Union in Transylvania, canonical difficulties appeared, concerning the church organization: the new confession, the Greek Catholic, had its own church organization superimposed in terms of jurisdiction over a canonical territory already existent, that of the Orthodox Metropolitanate of Alba-Iulia. On the other hand, an inter-orthodox jurisdictional

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<sup>115</sup> The effect of Emperor Joseph II's reforms in Transylvania undermined the very foundation of the authority of the three nations; in his policy Joseph II has been guided by the wish to consolidate the power of the central government and to concentrate it in Vienna. The most important legal measures which concerned the Romanians of Transylvania were: "The Decree of con-civility" of July 4, 1781, which granted equal civil rights to all the inhabitants of "Fundus regius"; the Decree of Tolerance of October 13, 1781, by which the Orthodox Romanians were granted the right to build churches and open schools in the communities where there lived at least 100 families; the Decree of July 3, 1784, which dissolved the ancient administrative organization of the country and placed in each county a prefect appointed by the central government, who was responsible toward it; the preliminary Decree of emancipation of the serfs, of August 16, 1783, followed by a Decree of emancipation of August 22, 1785; the consent given to organize a system of elementary schools for the Uniates in 1781, and for the Orthodox, in 1786. Cf. K. HITCHINS, *Conştiință națională și acțiune politică*, 69-70; IDEM, *Orthodoxy and Nationality*, 6

<sup>116</sup> Cf. I. CHINDRIȘ, *Un caz iluminist*: Petru Maior, 457.

matter came up, which although not intended by the policy of the Court, it was an indirect result of this policy: the Orthodox Metropolitanate of Alba-Iulia being considered “dead”, its canonical territory was gradually “adjudged”, by political support, from the neighbouring Orthodox Metropolitanate of Karlowitz.<sup>117</sup>

So out of the Viennese policy canonical issues were born too. Although according to the initial political calculation the only canonical consequence should have been “the taking over” of the Orthodox canonical territory by the new Uniate Church, by the conversion of all the Orthodox Romanians to Catholicism, something else actually happened. The Orthodoxy continued to survive beside the Greek Catholic confession, without having a normal canonical organization for a long time, beheaded by the Uniate movement.

The Court’s unsuccessful attempt to eradicate the Orthodox Church in Transylvania had as a first effect just the extinction of any Orthodox canonical leadership - not of the Orthodox confession anyway - until the second part of the eighteenth century, over an Orthodox canonical territory which continued to exist in its old form; the territory over which the previous Metropolitanate of Alba-Iulia<sup>118</sup> has had its canonical jurisdiction was not modified by its adding to the Habsburg Empire, the Transylvanian Orthodox Church province preserved its territorial situation within the empire<sup>119</sup> as it has had

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<sup>117</sup> Until the end of the eighteenth century the entire Orthodox Church of Transylvania and that of Bukovina were under the jurisdiction of the Metropolitanate of Karlowitz (called Patriarchate since 1849). See “Decretul împărătesc din 30 Septembrie 1783 Nr. 1701, privitoriu la încorporarea eparchiei ortodoxe române din Transilvania la metropolia sârbescă din Carloviț” (“The imperial Decree from September 30, 1783, No. 1701, concerning the incorporation of the Romanian Orthodox Eparchy of Transylvania in the Serbian Metropolitanate of Karlowitz”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 1; “Resoluțiune împărătescă din 8 Decembrie 1786, prin care eparchiile din Transilvania și Bucovina se pun cu cele disciplinare sub metropolia sârbescă din Carloviț” (“The imperial Resolution from December 8, 1786, by which the Eparchies of Transylvania and Bukovina are under the Serbian Metropolitanate of Karlowitz, together with the disciplinary matters”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 1-2.

<sup>118</sup> The Metropolitanate of Alba-Iulia existed at least since the beginning of the seventeenth century under the reign of Prince George Rákóczi I (1631-1648), and had the canonical jurisdiction over the entire territory of Transylvania, an autonomous principality under Turkish suzerainty, at the time, a province of the Habsburg Empire since the end of the seventeenth century. It comprised the following eparchies: Alba-Iulia, Maramureș, Silvaș and Vad. See A. ȘAGUNA, *Promemorie*, 3.

<sup>119</sup> The situation of Bukovina, another Romanian territory added to the Habsburg Empire in 1774/1775 was different; here happened a physical split of an old geographic and canonical territory, namely of the Metropolitanate of Moldavia, having its centre at Iași, which remained after 1775 without the territory of the suffragan Eparchy of Rădăuți. In fact, Bukovina did not exist as a geographic-political entity but for 143 years only, under the Habsburgs, between 1775 and 1918. This territory constituted the main embryo of Moldavia principality, one of the three Romanian traditional provinces which it belonged. Cf. *History of Romania. Compendium*, 398 et seq., 483 et seq.

before 1700, and the Orthodox confession on this territory survived to the Uniate movement.

Later, because the Orthodoxy did not die in Transylvania, as expected, there was practically an attempt to merge the whole previous distinct Romanian Orthodox canonical territory, submitting it to the Serbian Orthodox jurisdiction of Karlowitz, accomplished by above-mentioned political decisions (the imperial Decree 1701 of September 30, 1783, and the imperial Resolution of December 8, 1786).

The partial return of the Orthodox Church of Transylvania to the canonical status it had before 1700 was a difficult task, and it was only in 1864, by Andrei Șaguna's titanic endeavours and work that the old Orthodox Metropolitanate of Transylvania was restored, but having the jurisdiction over a different (smaller) canonical territory, with its centre at Sibiu, not at Alba-Iulia.

If the Romanian Orthodox from the south-west of Transylvania had been subjected immediately after the church Union to the Serbian "rulers", the canonical situation of those living in the south and north of the province, who between 1701 and 1761 had no church leader, was quite different. As a result of the protest movement like the one led by Sofronie the monk from Cioara, the Court of Vienna appointed in 1761 the Serbian Orthodox Bishop Dionisije Novaković of Buda, as an administrator of the Romanians of Transylvania (who did not already belong to the eparchies of Arad, Timișoara, and Werschetz, we can see), having his residence at Rășinari.<sup>120</sup>

The insistence of the first two eparchial administrators, Dionisije Novaković (from 1761) and Sofronije Kirilović (from 1770), together with the priests and the faithful' requests determined by the long vacancy of the episcopal see and the sharp proselytism of the Uniates<sup>121</sup> lead to the appointment of Archimandrite Gedeon Nikitić as a bishop

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<sup>120</sup> The village of Rășinari, near Sibiu, where Andrei Șaguna chose to sleep his eternal sleep, was episcopal residence between 1761 and 1796. See E. CIORAN, *Mitropolitul Șaguna și comuna Rășinari*, 425 et seqq.

<sup>121</sup> For example, on November 6, 1762, the empress issued a Decree concerning the Orthodox bishop, containing eleven restrictions, all revolving around the one which said not to oppose the church Union. Apart from the eleven restrictions "inherited" from Novaković, Kirilović were added two more: not to communicate with his priests without governmental consent and not to accept in the eparchy priests ordained beyond the borders of Transylvania; on the contrary he should denounce them. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 2, 502, 504.

of Transylvania, on November 6, 1783<sup>122</sup>, having his residence at Sibiu and being subordinated to the metropolitan and the Synod of Karlowitz.

After eighty-three years, the Serbian Bishop Gedeon Nikitić (1783-1788) was the first bishop of the Romanians of Transylvania who had remained without any church leader: “This bishop developed many activities in all fields, especially concerning the illumination of his faithful.”<sup>123</sup> Through him, Emperor Joseph II decided to take some measures related to the education of the Romanian people: setting up new schools; repairing the old schools; encouraging the church communities which wanted to open their own schools; the creation of a post of principal meant to supervise the schools, etc.<sup>124</sup> But the condition of the Orthodox Church of Transylvania was so precarious, that “the episcopal see’s city had not a house for him to live in, therefore he was obliged to live in a Romanian village, Rășinari, near Sibiu, where he was offered a house to live in.”<sup>125</sup>

The next one was the Bishop Gerasim Adamović of Transylvania (1789-1796).<sup>126</sup> It is significant that this bishop of Serbian nationality cooperated with the Greek Catholic Bishop Ioan Bob of Blaj, to support the political rights of Romanian people.<sup>127</sup> Thus, he succeeded in obtaining church rights for the Romanian Orthodox. As a result of his endeavour, in the Diet of Transylvania of 1791<sup>128</sup> was passed a law, the Article of Law No. 60, by which the Orthodox confession was taken away from among the tolerated

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<sup>122</sup> See “Diploma împărătească pentru denumirea lui Gedeon Nichitici de episcop în eparhia ortodoxă română a Ardélului” (“The imperial Diploma which appointed Gedeon Nikitić as a bishop of the Romanian Orthodox Eparchy of Transylvania”), in: Il. PUȘCARIU, *Metropolia, colecția de acte*, 418-419.

<sup>123</sup> N. POPE`A, *Vechi`a Metropolia*, 147.

<sup>124</sup> Cf. P. GÂRBOVICEANU, *Andreiu Șaguna*, 913-914.

<sup>125</sup> *Ibid.*, 913.

<sup>126</sup> See “Diploma împărătească pentru denumirea lui Gerasim Adamovici de episcop în eparhia ortodoxă română a Ardélului” (“The imperial Diploma which appointed Gerasim Adamović as a bishop of the Romanian Orthodox Eparchy of Transylvania”), in: Il. PUȘCARIU, *Metropolia, colecția de acte*, 419-420.

<sup>127</sup> Cf. P. GÂRBOVICEANU, *Andreiu Șaguna*, 914.

<sup>128</sup> Between 1762 and 1790 the Transylvanian Diet was not summoned; between 1790 and 1866 only twelve times. The centuries-old custom that the decisions were made by the three nations (Hungarians, Szeklers, Saxons) was abolished in 1791 and replaced by proportional representations. At length on the Diet of 1790/1791 see R. KUTSCHERA, *Landtag und Gubernium*, 92-110.



ones and granted the right of free practice<sup>129</sup>.

So after the Court's unsuccessful attempt to destroy the Orthodox Church of Transylvania by means of the political promoted Uniate movement, the Diet was finally obliged to recognize the legally free practice of the Orthodox worship.<sup>130</sup> This was the first step toward the acknowledgement of corporative religious rights for the Romanian Orthodox in Transylvania, after almost three hundred years of outlawed existence.

For fourteen years after the Bishop Adamović's death the episcopal see of Sibiu was vacant, and only on August 13/25, 1810, did the government communicate to the consistory that the emperor granted the Romanian people's often expressed desire that the Orthodox episcopal see of Transylvania should be filled by a bishop elected by the clergy, namely by the protopopes of the eparchy and the consistorial vicar.<sup>131</sup>

The first Romanian bishop after 1700, appointed by the Emperor Francis I of Austria<sup>132</sup> among three elected candidates, was Vasile Moga (1811-1845) an unmarried priest from Sassebeș, Andrei Șaguna's predecessor.

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<sup>129</sup> "Den Angehörigen der griechisch-orthodoxen Kirche, die in Siebenbürgen zu den tolerierten Glaubensbekenntnissen zählte, wurde die freie Religionsausübung unter der Leitung eines durch den Monarchen zu ernennenden Bischofs zugestanden; sie erhielten die Versicherung, daß die Mitglieder dieser Kirche keine anderen Abgaben als die der anderen Glaubensangehörigen zu leisten hätten (Art. 60)." R. KUTSCHERA, Landtag und Gubernium, 108.

<sup>130</sup> Although it was a progress, the law turned to be rather a theory and not a real improvement of the statute of the Romanian Orthodox of Transylvania, as Andrei Șaguna will point out in his complaint to the emperor, on December 1, 1855: "[...] nachher gelang es den Glaubensgenossen im 60. Landes-Artikel vom J. 1791 endlich ein Gesetz zu erhalten, worin ihnen die Freiheit der Religionsübung gewährleistet und gesagt wird, dass die Anhänger dieser Religion von dem Bischofe ihres Ritus abhängen und gleich wie die übrigen Landesbewohner behandelt werden sollen. Dies Gesetz nennt unsere Religion die 'Religio orientalis graeci Ritus non unita'. Das war aber auch alles, was die Kirche erreichen konnte. Ja, selbst der Wohlthat dieses Gesetzes, des einzigen aus dem ganzen Codex der siebenbürgischen Legislation, welches für die griechisch-orientalische Religion wenigstens nicht ungünstig lautet, sollte sie nicht mit vollem Genusse sich erfreuen. Ein Beweis dessen ist die Instruction, welche im J. 1810 dem neu gewählten Bischofe Basilius Moga, meinem Vorgänger, vorgeschrieben wurde, wo es schon wieder heisst, dass der griechisch nicht unierte Klerus 'toleratus solum habeatur' ..." "Gravamenul episcopului Șaguna la Împăratul contra ministrului, cerând între alte și reînființarea metropoliei românilor ortodocși" ("Bishop Șaguna's complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians"), in: IL. PUȘCARIU, *Metropolia, colecția de acte*, 122-151 here 125.

<sup>131</sup> Mircea Păcurariu the historian gives the admission date of this desire as May 13/25, 1809. See M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 65.

<sup>132</sup> He is known as Francis II (1792-1806) - the last emperor of the Holy Roman Empire; or as Francis I (1804-1835) - the first emperor of Austria.

On the one hand, the long opposition of the Transylvanian Orthodox towards the Uniate policy of the Court bore fruits, after many sacrifices: first of all, in 1759, Maria Theresa asked the Uniate bishop to cease the persecutions against the Orthodox; then in 1761 the Serbian Orthodox bishop of Buda was appointed as administrator for the Orthodox Romanians of Transylvania; in 1791 the Diet of Transylvania adopted the Article of Law No. 60 which stated that the Orthodox Church was no longer one of the tolerated confessions, but enjoyed the right of free practice; finally, in 1810, the Court recognized the right of the Transylvanian Orthodox to have a Romanian bishop elected by clergy.

But, in 1783, once the Archimandrite Gedeon Nikitić was appointed a bishop, the Romanian Orthodox Church of Transylvania as well as that of Bukovina lost their autonomy, being submitted in terms of dogmatic and spiritual issues to the Metropolitanate of Karlowitz<sup>133</sup>, and on December 8, 1786, they lost any independence, by the subordinating of all administrative issues to the same Metropolitanate<sup>134</sup>. Thus *“the Church hierarchy for the Romanian nation from the Austrian provinces died as a result of political decisions, to the great pain and sorrow of the same Romanian nation; and the Romanian nation was dependent on the other heterogeneous hierarchy, who did not accomplish their responsibilities toward the Romanian hierarchy, but ruled under the shield of the political power and they did not seek to support the Romanian hierarchy according to the ancient canons; so the Romanian hierarchy was prevented by the political authority from exerting its own function and its own life...”*<sup>135</sup>

Keith Hitchins opines that: “Joseph II sealed the new relationship by decrees placing the Rumanian Orthodox under the jurisdiction of Karlowitz in order to discourage

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<sup>133</sup> See “Decretul împăărătesc din 30 Septembrie 1783 Nr. 1701, privitoriu la încorporarea eparchiei ortodoxe române din Transilvania la metropolia sârbescă din Carloviț” (“The imperial Decree from September 30, 1783, No. 1701, concerning the incorporation of the Romanian Orthodox Eparchy of Transylvania in the Serbian Metropolitanate of Karlowitz”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, I.

<sup>134</sup> See “Resoluțiune împăărătescă din 8 Decembre 1786, prin care eparchiile din Transilvania și Bucovina se pun cu cele disciplinare sub metropolia sârbescă din Carloviț” (“The imperial Resolution from December 8, 1786, by which the Eparchies of Transylvania and Bukovina are under the Serbian Metropolitanate of Karlowitz, together with the disciplinary matters”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 1-2.

<sup>135</sup> “Episcopul Șaguna către Hacman, episcopul Bucovinei, din sinodul diecesan ținut în Sibiiu în Oct. 1860” (“Bishop Șaguna to Bishop Hacman of Bukovina, from the diocesan synod held at Sibiu, in October, 1860”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 177-180 here 178.

contacts with the Orthodox Rumanian principalities and to prevent a foreign hierarchy from exercising control over his subjects.”<sup>136</sup>

That way a new problem was born for the Orthodox Romanians of Transylvania - the abuses of the Serbian hierarchy - before the old ones of the year 1700 were solved.

Although the four Serbian bishops (Dionisije Novaković, Sofronije Kirilović, Gedeon Nikitić and Gerasim Adamović), who followed up to 1796, did their best to bring order to the Romanian Orthodox Church of Transylvania, yet suspicion began to appear that they, or their rulers from Karlowitz turned this Church into an “object of leasing”.<sup>137</sup>

#### I.2.4 The ecclesiastical and social-political frame in the first half of the nineteenth century

After the Emperor Joseph II's death until 1848, big changes were made in the Habsburg Monarchy. His successor, Leopold II (1790-1792), restored the Hungarian Constitution and Francis II of the Holy Roman Empire (1792-1806)/Francis I of Austria (1804-1835) was obliged, as a result of the wars against Napoleon, to give up the title of Romano-German emperor and be titled as emperor of Austria. The Habsburgs began to rely more and more on the Hungarians, who were the most powerful among the dissatisfied peoples of the monarchy. The emperor was surrounded more and more by Hungarian ministers and advisers and the Hungarian circles from Cluj and Pest did their best to accomplish the “idea of Magyarization”, merging all the inhabitants of the previous Hungary in one nation with a Hungarian consciousness. Under the circumstances, the propaganda meant to turn the Orthodox Romanians of Transylvania and Hungary to Catholicism - with the aim of their Magyarization this time - started

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<sup>136</sup> K. HITCHINS, *Orthodoxy and Nationality*, 7.

<sup>137</sup> “This suspicion is not without any fundament, because we can see from some of the Serbian candidates' petitions that they demanded the Eparchy of Transylvania as a reward for themselves, in exchange for less pious merits. So it was with one of the Serbian bishops from Banat who claimed to administrate the vacant - between 1796 and 1810 - episcopal see of Transylvania, because during the war against the Turks he had got ill with rheumatism, and later another one claimed the same episcopal see for himself arguing that he had lived for thirteen months at Vienna, spending all his money, making debts, above all this.” I. LUPAȘ, *Mitropolitul Șaguna ca restaurator și legislator al Bisericii Ortodoxe Române*, 9-10.

once again with a force and violence greater than in the eighteenth century, before Joseph II. The Court of Vienna headed by the Chancellor Metternich proposed to accomplish the church Union of the Orthodox, not only of the Romanians<sup>138</sup>, but also of the Slavs within the monarchy. The propaganda for Catholicism went hand in hand with the policy of Magyarization.<sup>139</sup>

An essential fact about the situation of the Orthodox Church of Transylvania at the beginning of the nineteenth century was that its administrative dependence on the Metropolitanate of Karlowitz proved to be salutary for its survival, but later it became a burden, because the Serbian metropolitans, the bishops' synod as a whole were interested in directing the church funds toward the development of their own nation<sup>140</sup>, thus the Romanians' were done an injustice.<sup>141</sup>

The Romanians living on the west part of Transylvania, in Banat and Arad, neighbouring the Serbians felt sharply the Serbian rule. As a result of the victory obtained in 1810 by the appointment of the Romanian Bishop Vasile Moga at Sibiu,

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<sup>138</sup> Between 1825 and 1835, during a long vacancy of the episcopal see, over 10,000 faithful from the Orthodox Eparchy and county of Arad passed to the Uniate Church. Cf. S. RELI, *Politica religioasă a Habsburgilor*, 32.

<sup>139</sup> Cf. S. RELI, *Politica religioasă a Habsburgilor*, 13-14; R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 226-234.

<sup>140</sup> As a matter of fact, the beginning of the nineteenth century was a turning point in history of the Serbians. The birth of the modern Serbian history exactly begins with the First Serbian Uprising (1804-1813) when, after three hundred and fifty years of living under the Ottoman lordship and pressure (from 1459), the Serbians from the area of central Serbia rose in arms against the Turks. This uprising was the most important, biggest and most glorious national revolt in whole Serbian history. The entire Serbian population who lived outside of the Ottoman rule (i.e. in the Habsburg Monarchy) showed high interest about the fate of the insurrection. All Serbians understood the insurrection as initial event in the process of national liberation and unification within a single national state borders. Metropolitan Stevan Stratimirović (1790-1836) was one of those Serbians who was dreaming about national freedom, independence and unification. His most influential political writing upon national emancipation and political consolidation was a Memorandum, written in June 1804. Cf. Vladislav SOTIROVIĆ, *Serbia Rediviva: The 1804 Memorandum of metropolitan Stratimirović on the creation of a Slavonic Serbian Grand Duchy*, in: *Kalbotyra (=Slavistica Vilnensis)*, 50(2)/2001, Vilnius 2001, 27-56.

<sup>141</sup> Although somehow favoured within the Habsburg Monarchy by the "Illyrian Privileges", the Serbians competed with the ever growing benefits which the Hungarians had got (the crowning of the prince as king of Hungary, the introduction of the constitutional life all over Hungary with its own administration and language in schools, counties and the Diet, since 1790), which made them organize in 1747 "the Illyrian deputation" (suspended by 1779), as a church and political fighting body. In this fight, to sustain the schools was a priority, and the great Metropolitan Pavle Nenadović (1749-1768) created a school fund, which came out of the believers' contributions collected in parishes. As the hierarchy and sometimes the priests were Serbian, all the money coming from the Serbian or the Romanian parishioners was used only to support the Serbian schools. The Orthodox Church was for the Serbians of Austria the treasures of the entire patrimony of cultural, material, economical and political life along three hundred and thirty years under the Habsburg rule. Cf. T. BODOGAE, *Activitatea culturală și politică a mitropolitului sîrb Ștefan Stratimirovici*, 383-385.

they started too to ask for bishops of Romanian origin, who could understand their precarious social-political condition and do something concrete for to improve it.<sup>142</sup>

Toward the middle of the nineteenth century, both the Romanian Transylvanian intellectuals and the clergy with their parishioners felt the injustice done to those living in the south-west, and common actions occurred, aimed at taking their Church out from the Serbian jurisdiction and coming back to its previous status: “The Serbian bishops used all the ways in order to block any access of the Romanians to intellectual and moral culture. They acted in such a way that the Romanian schools would decline or simply be dissolved and the few ones that left - supported by the Romanians’ own money - they had Serbian teachers and instead of becoming institutions of culture, they turned into institutions of Slavonization. One of the promoters of such a mocking view was the Metropolitan Stratimirović, a notorious persecutor of the Romanians, who often said that there was nothing worse than the Romanian language.”<sup>143</sup>

The easiest possible answer did not come late: “The Serbian hierarchy objected that, among the Romanian monks there were not learned, capable men, worthy to hold the episcopal office.”<sup>144</sup> In fact, there were not many Romanian monks in Transylvania, because in the years 1761-1762, General Adolf Nicolaus Buccow had burnt lots of the monasteries, and those lying in the south-west of Transylvania were under Serbian administration and property, although they had been built and maintained by the faithful, whose majority was Romanians.<sup>145</sup>

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<sup>142</sup> Cf. I. LUPAȘ, *Istoria bisericească a românilor ardeleni*, 157. See also “Instanța clerului și poporului românesc din diecesa Aradului, dată la împăratul Francisc I. a. 1814, pentru instituirea unui episcop român în eparchia Aradului” (“The Romanian clergy and believers of the Eparchy of Arad’s petition to Emperor Francis I, in 1814, to appoint a Romanian bishop in the Eparchy of Arad”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 3-9; L. GYEMANT, *Lupta pentru instituirea episcopilor români*, 325-334.

<sup>143</sup> “Suplica pentru despărțirea ierarhiei române de cea sârbescă și pentru ținerea unui sinod român general. Viena 12/24 Octobrie 1849” (“The complaint meant to separate the Romanian hierarchy from the Serbian one, and for the summoning of a general Romanian synod. Vienna, October 12/24, 1849”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 25-28 here 26. Cf. II. PUȘCARIU, *Metropolia*, 39.

<sup>144</sup> I. LUPAȘ, *Vieța*, 27; Cf. II. PUȘCARIU, *Metropolia*, 56.

<sup>145</sup> After 1864, the Orthodox Romanians of Banat submitted a memorial to the emperor, in which they requested to be given three monasteries: Hodoș-Bodrog in the Eparchy of Arad, Sfântul Gheorghe in the Eparchy of Timișoara and Mesici in the Eparchy of Werschetz. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 89.

In the year 1812, Emperor Francis I agreed that a pedagogical institute in the Romanian language meant to train the future teachers of the Romanian schools of Arad, Banat and Crișana should open.<sup>146</sup>

It was only in 1829 that Metropolitan Stevan Sratimirović (1790-1836) accepted the appointment in the Synod of Karlowitz of the Romanian Bishop Nestor Ioanovici for the episcopal see of Arad.<sup>147</sup> It was also agreed, by an imperial document, that the episcopal sees of Timișoara and Werschetz should be filled by those who could at least speak the Romanian language.<sup>148</sup>

Vasile Moga's election by the protopopes of the eparchy, at Turda, on September 19, 1810, as the first Romanian Orthodox bishop in Transylvania after 1700, gave great hopes to the clergy and intellectuals, because they looked at this as the beginning of a new, bright era for the Romanians.<sup>149</sup>

Yet, although he was a bishop for a long time (thirty-four years), Vasile Moga could not succeed in doing many things for his eparchy: he bought the houses from Sibiu for the bishop's residence; he created a six months course for the clergy; he also granted some stipends for young people.<sup>150</sup> This anemic activity was due to the fact that the Orthodox "enjoyed" all kinds of restrictions, written or not, concerning their liberty to act, and they were not given the material support that the Uniates became. Moreover, "he was a weak man, lacking will. Besides he did not have the necessary culture to face the circumstances."<sup>151</sup> According to the imperial instruction of December 21, 1810<sup>152</sup>, which accompanied the appointment of the new Orthodox bishop, the latter was limited

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<sup>146</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 78.

<sup>147</sup> Although the emperor had decided in 1815/1816 - as the result of the protests of the Romanians of Transylvania - that the vacant episcopal see be filled by a bishop appointed by the bishops' synod of Karlowitz among the Romanian candidates, this was accepted late and with great difficulty by the Serbian metropolitan. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 79-82; R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 284.

<sup>148</sup> Cf. A. ȘAGUNA, *Promemorie*, 14; M. PĂCURARIU, *100 de ani de la reînființarea Mitropoliei Ardealului*, 816-817.

<sup>149</sup> Cf. L. GYEMANT, *Lupta pentru instituirea episcopilor români*, 330.

<sup>150</sup> Cf. P. GĂRBOVICEANU, *Andrieu Șaguna*, 916.

Mircea Păcurariu the historian shares another opinion, namely that Bishop Vasile Moga did a lot for his eparchy. See M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 67-75.

<sup>151</sup> P. GĂRBOVICEANU, *Andrieu Șaguna*, 919.

<sup>152</sup> See the imperial instruction of December 21, 1810, in: N. POPE'A, *Vechi`a Metropolia*, 149-152.

in his pastoral activity and did not enjoy any authority<sup>153</sup>; he had to keep in mind that his clergy were tolerated only<sup>154</sup>; he did not have any political right and got a symbolic salary paid by the state<sup>155</sup>; he was not allowed to go on canonical visits in the eparchy without the previous consent of the government and only in the presence of two commissaries appointed by the political power<sup>156</sup>. He had to consider himself a bishop only by virtue of the emperor's willingness, and not by any acquired right of the Orthodox Church.<sup>157</sup> These humiliating restrictions would be described by Bishop Andrei Şaguna in his complaint of December 1, 1855, made to the emperor: "*This long instruction, made up of nineteen points and which goes into the minutest details, lowers our Church and makes it a reunion under police guard and its bishop a dependent servant of the secular high officials. If all the other documents were silent about such a sad age for us, if history was silent, this only would suffice to point out the oppression of our Church, of its clergy and faithful.*"<sup>158</sup> During Vasile Moga's episcopate, a great number of the Orthodox passed to the Greek Catholic Church "and some say that the cause of this is the above-mentioned order."<sup>159</sup>

At the beginning of the nineteenth century, the leadership of the Orthodox Church of Transylvania had its roots in the political and social medieval structure of the fifteenth and sixteenth centuries, which excluded totally the Romanians from the Diet and the state superior councils because of their ethnic affiliation and of their faith. In a social

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<sup>153</sup> Ibid., 149-150: "4. As the consistory was obliged to put on paper every month the protocol to the emperor, like the bishop is also obliged to do it [...] and to set his residence where the royal government wished".

<sup>154</sup> Ibid., 149: "7. The bishop is not supposed to forget that four confessions were officially accredited by the public law and that the Uniate clergy and the faithful were incorporated by law into the Catholic confession which benefited from material goods and privileges, while the non-Uniate ones are only tolerated."

<sup>155</sup> Ibid., 150: "10. The bishop is obliged to be content with his salary of 4,000 florins."

<sup>156</sup> Ibid., 150: "10. [...] he will go the canonical visits by the royal government consent and in the presence of two commissaries named by the political power ..."

<sup>157</sup> Ibid., 149: "2. [...] this bishop should know that his duty is just a symbol of the emperor's grace."

<sup>158</sup> "Gravamenul episcopului Şaguna la Împăratul contra ministrului, cerând între alte şi reînfiinţarea metropoliei românilor ortodocşi" ("Bishop Şaguna's complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 122-151 here 126: "Diese umfassende, in neunzehn Punkten bis ins Kleinste gehende, Instruction drückt unsere Kirche zu einem polizeilich überwachten Vereine und den Bischof zu einem abhängigen Diener der weltlichen Behörden herab. Wenn alle andern Dokumente einer für uns traurigen Zeit, wenn selbst die Geschichte schwiege, wäre dies Eine genug, um die gedrückte Lage unserer Kirche, ihrer Geistlichkeit und ihrer Bekenner hinlänglich zu bezeichnen."

<sup>159</sup> N. POPE`A, *Vechi`a Metropolia*, 148.

system dominated by the nobility and the upper bourgeoisie and also by the Roman Catholic and the Protestant Churches, there was no room for Orthodox peasants. Starting with the seventeenth century, the social and religious discrimination was combined with national antagonisms, because the Magyar nobles and the Saxons middle class became more and more aware of the danger the Romanian population continually growing represented for their hegemony.<sup>160</sup>

Impoverished by the nobles, persecuted because of their faith, after the fifteenth century the Romanians as a nation had been banished from the social life and thus they did not have the opportunity to create their own territory or institutions, as the “three nations” could create. By the end of the seventeenth century the Orthodox Church was the only institution representing them and their leader, the metropolitan of Alba-Iulia, had therefore become their national leader.

Then, the role of the Church grew in every field of the people’s life during the eighteenth century, and after the church Union, because of the lack of a national personality, both the Viennese Court and Transylvanian government of Cluj considered the Uniate bishops, if not legally but actually as national leaders. After 1760, when Maria Theresa had to recognize the existence of the Orthodox Church beside the Greek Catholic one, the same was done in the case of the Orthodox bishops. Joseph II, by virtue of his programme of centralization, asked the leaders of the two Churches to place the state interests above any other interests and passed many decrees and instructions which established all the aspects of the Church life. Concerning the Orthodox, Joseph II kept his right to appoint the bishops himself.

Emperor Francis I legalized in 1810 the subordination of the Orthodox Church to civil authorities, enforcing on the new bishop the nineteen conditions which limited his freedom to act. Then, during the next three decades, the Orthodox and the Uniate bishops, who generally enjoyed a little better situation, were forced to represent the official Habsburg policy before clergy and their parishioners, being made responsible for their political behaviour.<sup>161</sup>

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<sup>160</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 2.

<sup>161</sup> Cf. K. HITCHINS, *Conștiință națională și acțiune politică*, 118-120.



The influence of the Church in the cultural life, and the political leadership exercised by the bishops began to be seriously disputed between 1830 and 1840 by the intellectuals. The new intellectual élite, coming out of the Greek Catholic Church mainly had a more advanced education, as a result of the benefits obtained out of the church Union, being concerned with religious and cultural matters. They had also been influenced by the new thinking currents, which circulated from the West to the East. The new spirit of the time, which can be best characterized as a lay spirit, was manifested above all by the lay intellectuals' attitude towards the Church and its role in society. The rationalism and the empiricism acquired by the intellectuals from the philosophy of the Enlightenment, both directly and by means of "The School of Transylvania" ("Școala Ardeleană")<sup>162</sup>, undermined the Church authority and lessened even their faith: their writings dealt with the contemporary man and his happiness in this world.<sup>163</sup>

Both among the Greek Catholic and Orthodox intellectuals a general impression prevailed, according to which the Church leaders and implicitly the national policy had become "aristocratic" and subordinated to the will of some persons, the bishops, with results opposing the people's general welfare. They were convinced that the failure of the national cause, of the protests which aimed at obtaining concessions from the emperor or from the Diet of Transylvania<sup>164</sup>, was due to the bishops, who did not solidarize with the people, did not look for or obtain the people's support and therefore they were treated by authorities as sheer private petitioners. Besides, the bishops' close dependence on the civil authorities, as well as the intellectuals' conviction - justified

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<sup>162</sup> The so-called "School of Transylvania" is the ideological and cultural movement having an Enlightenment character to which Romanian Greek Catholic intellectuals belonged at the end of eighteenth century and the beginning of the nineteenth century. It is the Romanians from the Habsburg Empire most important way of fighting for national and cultural emancipation, developed as an extension of the programme conceived by Ioan Inocentiu Micu-Klein and materialized in the document known under the name of "Supplex Libellus Valachorum", from 1791. Keith Hitchins stresses the complex process of the adaptation of the Enlightenment ideas coming from Western and Central Europe that occurred in Transylvania, leading to the formation of the "Transylvanian School". Cf. Ioan CHINDRIȘ, *Cultură și societate în contextul Școlii Ardelene*, Cluj-Napoca 2001; K. HITCHINS, *The Rumanian national movement in Transylvania, 1780-1849*, 112-134; *History of Romania. Compendium*, 453-455.

<sup>163</sup> Cf. K. HITCHINS, *Conștiință națională și acțiune politică*, 123-124.

<sup>164</sup> It is about the spreading of the *Supplex Libellus Valachorum* of 1791-1792, then about the memorials of 1834 and 1842, written and addressed to the Court of Vienna, respectively the Diet of Transylvania by the two bishops, Orthodox and Greek Catholic, which remained unsolved for the Romanians. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 72-75.

after 1700 - that the ecclesiastical interests did not concur with the national ones, made the intellectuals' suspicion toward the Church leadership stronger.<sup>165</sup>

The Romanian press of the time was represented by "The Sunday Newspaper" ("Foaia Duminicii") in Braşov, from which "The Transylvania's Gazette" ("Gazeta Transilvaniei") was born, and "The Newspaper for Mind, Soul and Literature" ("Foaia pentru minte, inimă și literatură") under George Barițiu's editorship, in Braşov, came out too. In 1847 "The Organ of Enlightenment" ("Organul luminării"), lead by Timotei Cipariu in Blaj came out.<sup>166</sup>

During the "Vormärz" (the period between the Congress of Vienna, from 1815, and the revolution of 1848/1849), the Romanians did not have any political organization and did not take part as a nation in the Diet, apart from the Uniate bishop. The society was already divided between a tiny layer of intellectuals who embraced the Enlightenment, who were suspicious toward the Church hierarchy although not outspokenly opposing the Church, and an overwhelming majority of peasants. The traditional Church of Transylvania (the Orthodox one) had recently been redennominated in terms of confession and was poor.

Against this social, political and religious background became the Archimandrite Andrei Şaguna of Kovil Monastery, in 1846, after Bishop Vasile Moga's death, the vicar-administrator of the Orthodox Eparchy of Sibiu.

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<sup>165</sup> Cf. K. HITCHINS, *Conştiință națională și acțiune politică*, 128.

<sup>166</sup> Cf. N. POPEA, *Arhiepiscopul*, Discurs, 8-9.

## II. THE FIRST YEARS OF ANDREI ȘAGUNA'S LIFE AND HIS ACTIVITY AS A VICAR-ADMINISTRATOR OF THE EPARCHY OF SIBIU

### II.1 Family roots

The future Metropolitan Andrei Șaguna, whose baptismal name was Anastasie, was born on December 20, 1808/January 1, 1809<sup>1</sup>, at Miskolcz, in Hungary, as the third and last child of a Macedo-Romanian/Aromanian<sup>2</sup> family: Anastasia and Antonie/Naum Șaguna.

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<sup>1</sup> Because there is not a similar way to date back the documents from Andrei Șaguna's epoch, taking into account that some of them are dated back to the Julian calendar and others to the Gregorian one, others in both, it was chosen, in order to avoid confusions, to keep the written data on the respective documents, adding where necessary, "the Gregorian" date near "the Julian" date and the other way around.

<sup>2</sup> One theory of the historians is that the Macedo-Romanians/Aromanians are, like the Romanians, descendants of the Romanized ethnic unitary body of the Thracians' strong trunk, who lived south of the Danube, surviving the Slavic invasion of the sixth-seventh centuries. Cf. Th. CAPIDAN, *Die Mazedo-Rumänen*, 48; L. STOICA, *Starea culturală a aromânilor*, 189; M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 1, 187.

Another theory of the linguists is that they have a common origin with the Romanians of Roman Dacia. Out of the great expansion of the Romanian spirit from the Danube, which followed the Slavic invasion, some traces were left spreading to all directions in the Balkan Peninsula: east in Rodope and the western side of Thracia; south to Macedonia, but especially Epirus and Thessaly getting to Peloponnesus; west, inside the ancient Serbia, getting beyond the eastern borders of Albania; in the ancient Serbian Kingdom, in Montenegro and along the Adriatic coast up to the northern part of Dalmatia. The rest of the trans-danubian Romanians of the Balkan Peninsula was kept in two populations: some of them who came earlier from the northern territories called Macedo-Romanians/Aromanians; the others, descending some centuries later and settled near the region called Meglen, wherefrom the name Megleno-Romanians comes. The history mentions the Macedo-Romanians from the tenth century; there are no testimonies earlier than the nineteenth century about the Megleno-Romanians. Cf. Th. CAPIDAN, *Români din Peninsula Balcanică*, 91-94; IDEM, *Die Mazedo-Rumänen*, 48-50.

The Macedo-Romanians drew back before the Ottoman invasion in the second half of the second millennium, to south Balkan areas, where they are still living today in important numbers in: Greece, Albania, Macedonia-Skopje and less in Bulgaria. They have not lived exclusively in Macedonia proper, but among all the people of the Balkan Peninsula, among Greeks, Turks, Bulgarians, Albanians, and "their main occupation has always been the trading." Gh. TULBURE, *Activitatea literară*, 2.

More about Aromanians see at Wolfdieter BIHL, *Notizen zu den ethnischen und religiösen Splitter-, Rest- und Sondergruppen in den Habsburgischen Ländern*, in: *Die Habsburger-Monarchie 1848-1918*, Bd. III/2, 949-974; Th[eodor] CAPIDAN, *Die Mazedo-Rumänen*, Bukarest 1941; Wolfgang DAHMEN, *Die Aromunen heute - eine Volksgruppe in der Identitätskrise?*, in: *Südosteuropa Mitteilungen* 45 (2005) Heft 2, 66-77; Thede KAHL, *Ethnizität und räumliche Verteilung der Aromunen in Südosteuropa*, Münster 1999; Max Demeter PEYFUSS, *Die Aromunische Frage. Ihre Entwicklung von den Ursprüngen bis zum Frieden von Bukarest (1913) und die Haltung Österreich-Ungarns*, Köln 1974; Nicolas TRIFON, *Les Aroumains, un peuple qui s'en va*, La Bussière 2005.

See also the map in the annex XIII herein.

In the first half of the eighteenth century, the Macedo-Romanians of the Şaguna family were well settled merchants, whose main site was Moscopole, a thriving economical and cultural centre<sup>3</sup> south of the present day Albania. Like many of their Macedo-Romanian countrymen they were go-betweens, being specialized in the prosperous goods transport<sup>4</sup> between Venice and different ports along the East Mediterranean coast.<sup>5</sup>

During the second part of the eighteenth century, the trade on land south of the Balkan, and simultaneously the role of the trading centre of the Moscopole locality were seriously undermined by the Turkish and Albanian invasions and devastations<sup>6</sup> and the Macedo-Romanian merchants moved their business either into Macedonia proper, into Poland, or into the safe and ordered Austrian and Magyar towns, where relatives and business partners had already settled.<sup>7</sup> “Thus in the town of Miskolcz (north of Hungary, Borsod County) by 1606 settled some Macedo-Romanian families, who prospered in time and by 1728 there already lived three hundred Romanian merchants and their families.”<sup>8</sup>

The members of the Şaguna family<sup>9</sup> followed this emigration line and eventually settled at Miskolcz where they started a profitable trade with regional wines. They had a place of rank among the prosperous families of the Macedo-Romanian community. At the turn of the eighteenth century, two brothers, Antonie/Naum and Avreta Şaguna, inherited the family business from their father. “By his father, Şaguna had only one uncle, Avreta Şaguna, who lived in Poland and was a partner in his father’s business.

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<sup>3</sup> Moscopole - the former metropolis of the Macedo-Romanians - was the most important urban settlement of the Balkan Vlachs with an acknowledged social and hand-made goods. It is in the middle of a field (present day Albania) which lies from Gramos massif to the north-west up to 10 km distance from the southern side of the Lake Ohrid. Cf. L. STOICA, *Starea culturală a aromânilor*, 192-193.

See also Max Demeter PEYFUSS, *Die Druckerei von Moschopolis, 1731-1769. Buchdruck und Heiligenverehrung im Erzbistum Achrida*, Wien u.a. 21996.

<sup>4</sup> The Vlachs from Moscopole area had important privileges; they were self-governing within the Ottoman Empire. Cf. L. STOICA, *Starea culturală a aromânilor*, 193.

<sup>5</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 8.

<sup>6</sup> The attacks of the armed Albanian and Turkish armed bands destroyed Moscopole, forever, as a result of the orders of Ali Pasha, in 1788. Cf. L. STOICA, *Starea culturală a aromânilor*, 193.

<sup>7</sup> Cf. Gh. TULBURE, *Activitatea literară*, 3.

<sup>8</sup> I. LUPAŞ, *Anastasia Şaguna*, 7.

<sup>9</sup> Andrei Şaguna’s family had its origins in Pindus area, the village Grabova, near Moscopole, which had the same fate like the metropolis. Cf. L. STOICA, *Starea culturală a aromânilor*, 193; S. DIAMANDI, *Figuri reprezentative - Mitropolitul Andrei Şaguna*, 208.

By his mother, he was a close relative of Mutovsky, Muciu, Economu, Grabovsky families from Pest and Miskolcz.”<sup>10</sup> These Macedo-Romanian families were among those who settled in the towns of Hungary up to Galitia, where they received Polish like names: Grabova-Grabovsky, Mutu-Mutovsky; others settled in Hungary and got Hungarian or Serbian like names: Baraty, Simony, Eötvös, Rajcovics, Popovics; others got Greek like names: Angelaki, Trandafiri etc.; but most of the Macedo-Romanians kept their original names: Muciu, Economu, Sina, Şaguna.<sup>11</sup>

Antonie/Naum Şaguna married a second time on May 1, 1802<sup>12</sup>, to Anastasia Muciu/Mutsu, the daughter of a well off Macedo-Romanian merchant of Miskolcz, Mihail Muciu/Mutsu, who increased his income by marriage with a substantial dowry as the bride’s father wrote in a petition to the emperor. He had already had a child, Gheorghe Şaguna, from his previous marriage to Ecaterina Magiaro of Perlepe, who had died as a young woman.<sup>13</sup>

Since the last decade of the eighteenth century, the Macedo-Romanians of the Habsburg Monarchy manifested their growing national consciousness making special efforts to establish their identity in the churches and schools they attended with the Greeks.<sup>14</sup> Their horizon and the maturity of their re-born national consciousness are obvious in the Macedo-Romanian writers’ historical and philological works of the age.<sup>15</sup>

Deeply religious and attached to Orthodoxy, the Macedo-Romanian merchants, wherever they came, “first of all set up a church community, building everywhere beautiful and well furnished churches.”<sup>16</sup> The Orthodox of Miskolcz “built in twenty

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<sup>10</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 19-20.

<sup>11</sup> Cf. I. PUŞCARIU, *Notițe*, 150.

<sup>12</sup> Cf. I. LUPAŞ, *Vieața*, 14.

<sup>13</sup> Cf. I. LUPAŞ, *Anastasia Şaguna*, 11.

<sup>14</sup> Until the Decree of Tolerance of 1781, passed by Joseph II, the Macedo-Romanians of Buda and Pest, who like the Romanians were under the Serbian hierarchy, had common churches with the Serbians. As a consequence of the actions taken up in 1788, they obtained on November 24, 1789, the imperial consent to raise a special church for all “the non-Uniate Greeks of Pest”. The church has not been completed yet, when the Greeks and the Macedo-Romanians had begun to fight on the language used during the divine services and on the priests’ nationality. See the chapter “Biserica greco-valahă din Pesta” (“The Greek-Vlachian church of Pest”), in: I. PUŞCARIU, *Notițe*, 150-162.

<sup>15</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 11-13.

<sup>16</sup> Gh. TULBURE, *Activitatea literară*, 4.

years one of the most beautiful Romanian Orthodox churches in Hungary.”<sup>17</sup> In this church completed in 1806, was to be baptized Anastasie, the future great Metropolitan Andrei Şaguna of Transylvania, on December 28, 1808/January 9, 1809.<sup>18</sup>

Andrei Şaguna’s first biographer Nicolae Popea tells us that the metropolitan had also had another brother, named Avreta and two sisters, Maria and Ecaterina, who died young, while his brother died as a merchant in Pest.<sup>19</sup> But, according to some documents from archives later discovered: “From the letter written by the archbishop of Agria [Eger], we can read that Andrei (Anastasie)’s father, Antonie Şaguna, had three sons [children], two boys and a girl: Francisc/Avreta, Anastasie (Andrei) and Ecaterina. They were all raised up to eighteen in the Roman Catholic faith.”<sup>20</sup>

Shortly after the birth of Anastasie - the third and last child of Antonie/Naum Şaguna’s family - the father had come to a serious financial and family deadlock because of his disorderly life: he came to spend Anastasia’s dowry, even the gifts she had received as a bride, and the objects her father gave them from time to time; he began to behave harshly and angrily with his wife, so she had to move and shelter together with her children in her parents’ house.<sup>21</sup>

This financial breakdown made the former prosperous merchant to give up the Orthodox confession and take up the Roman Catholicism, on March, 1814.<sup>22</sup> The father might have thought of the future situation for his children and by taking this decision, he had in mind to offer them the chance to attend the schools of the time, which he could not afford to pay. At the beginning of the nineteenth century, to be Orthodox and

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<sup>17</sup> I. LUPAŞ, Anastasia Şaguna, 9.

<sup>18</sup> See a copy of the register with baptized people in Miskolcz at I. LUPAŞ, Anastasia Şaguna, 12.

<sup>19</sup> Cf. N. POPEA, Archiepiscopul și Metropolitul, 19.

<sup>20</sup> Gh. ALEXICI, Date noi la viața lui Şaguna, 1.

<sup>21</sup> Mihail Muciu/Mutsu’s petition lodged to the emperor, dated Vienna, February 27, 1815, in: E. TODORAN, Documente istorice. Acte privitoare la lupta Anastasiei Şaguna, 185-186 here 185: “[...] Antonius Sagona desponsando postquam ex eadem duos filios et filiam suscepisset, ac per disordinatam vitae rationem, non modo notabile patrimonium proprium abligurivisset, sed et res parafarnales, aliaque vitae adiumenta, per me filiae data simpliciter et de plano absorpsisset, non destitit, inter horrendas Execrationes filiam meam tam saeviter ac duriter tractare ut eadem se ad Lares meos una cum tenellis prolibus conferre debuit.”

<sup>22</sup> The conversions out of very strict religious reasons were very rare exception within the Austrian Monarchy; when they occurred, the reasons of social and political climbing were the real ones. Cf. J. SCHNEIDER, Der Hermannstädter Metropolit, 39.

poor in the Austrian Empire, practically meant to have all opportunities of social and political climbing blocked. In addition to this, a law passed during the reign of Joseph II stipulated that: “the converted Catholic men’s children, born before their conversion, should be raised in the Catholic confession, until they came of age.”<sup>23</sup> By giving up the Orthodox confession, the Roman Catholic Church took under its care the children of the male converted and paid all the necessary expenses for their education.

Thus, Antonie/Naum Şaguna went to the Catholic Bishop Stefan Fischer of Eger, and gave him his first two children, Francisc/Evreta and Ecaterina, who were of school age, in order to be educated on the bishop’s expense; the little Anastasie was to have the same destiny in due time.<sup>24</sup>

## II.2 From Miskolcz to Pest

In the following, in spite of the fact that this research has not a historical or strictly biographical character, we shall give a relative large space to some episodes from Andrei Şaguna’s childhood and youth, first of all because the legal aspects are not to be neglected at all. Basically, these events were inserted on the skeleton of a confessional/religious law with a clear discriminating character. The relationship of a “fruitful friendship” between the politic power and the dominant religion/confession is pre-eminent. And not in the least, one of the arguments for a quite exhaustive approach was that in many monographs or in the commemorative articles these episodes of the metropolitan’s life are eluded or falsely presented, while the original documents which present them objectively were published in an uncirculated magazine. A conclusive example of false and contradicting presentation of Andrei Şaguna’s biography was offered by the famous historian Nicolae Iorga (1871-1940), who firstly wrote: “The

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<sup>23</sup> II. PUŞCARIU, *Documente pentru limbă și istorie*, vol. II, 292-293.

<sup>24</sup> Archbishop Fischer’s letter No. 1573/1814 to the country Palatine, dated Eger (Agria), October 7, 1814, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 184: “Antonius Sagona, Gr.[aeci] n.[on] u.[niti] Ritus Incola Oppidi Miskolcz, susceptis ex uxore, aeque gr.[aeco] n.[on] u.[nito] ritui addicta, tribus prolibus, Francisco nunc 10 annorum, Catharina 7, et Anastasius 5 annorum, ab eadem uxore, se una cum tribus memoratis prolibus ad Patrem suum, et respective Avum prolium maternum Miskolcziensem recipiente, ante biennium derelictus, mense Martio a.c. 1814/ti ad fidem Catholicam conversus, mox post conversionem suam Agriam comparuit, filiumque natu maximum Franciscum causa educationis a me recipi petierat.”

family was poor and needing support from the ecclesiastical authority, and the closest one, in Miskolcz, not being an Orthodox one, the children converted to Catholicism. The mother did not agree with this change and she was successful in her insistence<sup>25</sup>; but later he contradicted himself: “his mother, a widow, turned him for a moment into a Catholic, out of interest.”<sup>26</sup> Moreover, such or other confusions are still circulated.<sup>27</sup>

### II.2.1 Anastasia Șaguna’s court trials for the right to educate her children (1815-1816)

It seems that the father had taken this step without the mother’s awareness because when she found out the news, Anastasia Șaguna disagreed at the decision, refusing to entrust the children, who lived with Mihail Muciu/Mutsu, her father.

Going over the fact that a legal provision had been broken when the mother tried to take away her children from having a Catholic education, Bishop Fischer must have felt deeply hurt in his own dignity, by a woman, just a woman. Therefore he addressed to the country Palatine, by a letter dated October 7, 1814, asking to order the Borsod County that the two elder children should be taken by force from their grandfather and entrusted for education to the bishop himself, while Anastasie, the youngest who was only five, was to be entrusted to the Catholic archdeacon from Miskolcz, at the school age.<sup>28</sup> The civil authorities answered this petition, passing a stipulation in this respect.<sup>29</sup>

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<sup>25</sup> N. IORGA, *Istoria românilor din Ardeal și Ungaria*, vol. II, 130.

<sup>26</sup> N. IORGA, *Istoria Bisericii românești și a vieții religioase a românilor*, vol. II, 273.

<sup>27</sup> “Im Zuge seiner Studien der Philosophie und Rechtswissenschaften in Pest schloss er sich der Römisch-Katholischen Kirche an, kehrte aber 1828 zur Orthodoxie zurück.” K. SCHWARZ, *Heilendes Erinnern*, 132-133.

<sup>28</sup> Archbishop Fischer’s letter No. 1573/1814 to the country Palatine, dated Eger (Agria), October 7, 1814, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Șaguna, 184*: “de natu minimo autem Anastasio disponat, ut hic quoque, ubi per aetatem recipiendae educationis et institutionis Catholicae capax fuerit, eidem vice archidiacono Miskolcziensi resignetur, acque sumptibus meis Agriae educandus.”

<sup>29</sup> Document No. 1814 f. 28/27238 emitted on October 18, 1814 from Borsod County, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Șaguna, 184-185*: “Archieppus Agriensis factam isthuc Remonstracione Antonii Sagona Miskoltzensis, e Graeco non unito Ritu ad Catholicam Fidem conversi, Filium Franciscum 10 Annorum, per ipsum Patrem oblatum, et Filiam Catharinam 7 Annorum nunc statim; Filium vero Athanasium 5 Annorum, dum per Aetatem obtinendae Religionariae Institutionis capax redditus fuerit, a Matre, et Avo Materno, memorato Graeco non unito Ritui addicto, quorum posterior antelatas Proles ob Egestatem Parentum intertenet, uterque vero Catholicae earundem Educationi reluctatur, avelli, et fine recipiendae Catholicae Institutionis Vice Archidiacono Miskoltziensi resignari, petiit per hunc Agriam promovendas, secutius ad id requisitos sua ex parte offerendo.”



Anastasia refused to carry out this disposition. Her father Mihail Muciu/Mutsu drew a petition to the emperor, at the end of February 1815, in which he explained his daughter and grandchildren's situation, requesting that the children be entrusted to him to be raised and educated until they come of age, obliging himself to respect the option of the religious change, if this was their decision.<sup>30</sup>

The answer was issued by the Imperial Chancellery on March 3, 1815, and was a negative one, namely the children should be entrusted to be raised and educated by the Catholic bishop.<sup>31</sup>

But the decision could not be turned into practice, because of the mother's refusal<sup>32</sup>, who in March 1815, taking her children along with her, hid in Pest<sup>33</sup> in her uncle's house; he was Atanasie Grabovsky "a well off man, a distinguished merchant with great connections."<sup>34</sup>

Because the things got complicated, the Country Council disposed to the Town Council of Pest, on January 30, 1816, to start what we call today an expertise, searching for the real facts of this case.<sup>35</sup> The senator Ioannes Boráros and the Catholic priest Michael Pfingstel were assigned to solve the case, and they submitted to the judge a report on this case.<sup>36</sup>

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<sup>30</sup> Mihail Muciu/Mutsu's complaint lodged to the emperor, dated Vienna, February 27, 1815, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna, 185-186 here 186*: "[...] oro et obtestor Mattem Vram Ssmam, dignetur apud Cottum Borsodiensem clementissime disponere: ut cum praefatae Proles, debita eaeque paternae subsint Provisioni, usque superationem Discretionis annorum, sub cura et provisione mea relinquuntur, cum ad casum superationis praeinsinuatorum annorum difficultaturus non sim, ut eae fidem Catholicam, si videlicet iisdem tunc ita libitum fuerit, sequi possint."

<sup>31</sup> See document No. 2788/1815, dated Vienna, March 3, 1815, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna, 186*.

<sup>32</sup> Cf. Archbishop Fischer's letter No. 532/1815 to the country Palatine, dated Buda, March 10, 1815, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna, 187-188 here 187*: "[...] quod eadem proles praevie jam per Matrem, et avum Maternum occultatae, et prout tardius innotuit, Pestinum ad Mercatorem eidem ritui Graeco non unito addictum Grabovszky asportatae fuerint."

<sup>33</sup> At Pest as well as at Vienna, many well off merchants of Macedo-Romanian origin, generically called "Greeks" enjoyed a great influence. In Pest, there lived the largest Macedo-Romanian community from Hungary. Cf. L. STOICA, *Starea culturală a aromânilor*, 194.

<sup>34</sup> I.LUPAŞ, *Vieaţa*, 16.

<sup>35</sup> See document No. 2738 dated January 30, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna, 189*.

<sup>36</sup> See senator Boráros and priest Pfingstel's report, dated Pest, April 17, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna, 190-191*.

The data of this report were a basis of the answer given to the country Palatine, on June 24, 1816, out of which it emerges that Anastasia Şaguna was in Pest with her children for over five months, that they were twice at Miskolcz and once at Vienna<sup>37</sup>, also that the children attended the Greek school and the Greek-Vlachian church<sup>38</sup>, thus they were raised in the Orthodox confession in which they were born and of which their father has separated himself for two years, becoming a Catholic.<sup>39</sup>

During this investigation, Anastasia Şaguna had submitted a memorandum on her behalf to the Town Council of Pest, in which she described the situation sincerely, she did not hide that she wanted to raise her children in the Orthodox confession and she decided to go to the emperor with her children, and ask the mercy of the prince, a thing that the harsh law did not allow. “As a mother, who will find the only comfort in a private dialogue with His Majesty, I should be allowed to find a shelter to the highest leader of this country. My declaration pardons me, after this last attempt I will submit without delay to the orders given with regard to my children.”<sup>40</sup>

The mother traveled to Vienna, in June 1816, with an aim to be received in audience by the emperor, but her attempt and hope were turned down.<sup>41</sup>

To the address sent to the emperor by the Country Council, on July 23, 1816, by which it was said that the mother’s family that was to raise the children in the Catholic

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<sup>37</sup> Andrei Şaguna was a relative of the famous family Sina, bankers from Vienna. Cf. T. BODOGAE, *Neue Angaben hinsichtlich der Beziehungen des Metropolitens Andreas Şaguna zu Baron Simeon Sina*, 123.

<sup>38</sup> In 1788, the Macedo-Romanians and the Greeks of Pest built a church, in which the Holy Liturgy initial was held in Greek. The demand made by the Macedo-Romanians to have the divine services in Romanian lead to an open conflict in this community. Tell and length about this litigation from “the Greek-Vlachian church of Pest” in: I. PUŞCARIU, *Notiţe*, 150-162.

<sup>39</sup> Report of the Town Council of Pest addressed to the country Palatine, No. 3561, dated Pest, June 24, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 191: “[...] nominatos pueros quinque mensibus effective Pesthini esse, binis autem vicibus Miskolczini, et semel Viennae abfuisse, eosque pueros Scholas Graecas frequentantes, Devotioni in Ecclesia Graeco Valachica celebrari solitae interesse, ac denique in Religione Graeci N.U. Ritus, in qua nati sunt, educari, siquidem Pater harum prolium, nonnisi ante biennium sacra RCatholica amplexus esset.”

<sup>40</sup> Memorandum addressed by Anastasia Şaguna to the judge of Pest, dated Pest, March, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 189-190 here 190: “[...] ut quod rigor Legis vetat, Clementia Principis concederet [...] mihi gratiam hanc collatum iri, cum amor maternus et veritas cuique subditorum, cum primis matri, quae in personali cum Sua Matte Ssima colloquio unicum et ultimum invenit refugium, ad summum Hungariae Principem confugere licitum esse debere, ac una declaratio: me superato hocce citra petiti annutum, a Principe elargiendum, periculo, editis ratione earundem prolium ordinibus incunctater, ad praecavendam quamvis ulteriorem subsumptionem plene satisfacturam me merito excuset.”

<sup>41</sup> Cf. I. LUPAŞ, *Anastasia Şaguna*, 22.

confession was not adequate<sup>42</sup>, the Imperial Chancellery answered on August 30, 1816, according to the wish of the Hungarian authorities: the children should be entrusted to be educated by the archbishop of Eger.<sup>43</sup>

In the meantime, the father Antonie/Naum Şaguna “joined the army, abandoning his wife and children, without showing any interest in their fate.”<sup>44</sup>

As a result of the endless failures in the eyes of the Hungarian and Austrian authorities, Anastasia Şaguna tried to find a saving solution: on September 13, 1816, she presented a last memorandum to the country Palatine, in which she declared that she accepted the children’s Catholic education, on the condition that she should not be separated from them.<sup>45</sup> At the same time, her close relatives George and Naum Muciu/Mutsu gave a declaration, by which they promised not to try anymore to stop the education of the children in the Roman Catholic confession, and that they would support her financially and help her to raise the children by herself, only they wished that the children remained at Pest, at least for some time.<sup>46</sup>

The decision taken by the Country Council, on September 17, 1816, although it forbade the children to stay in Pest, sending them to Miskolcz, under the priest and the Catholic archbishop’s care, granted the mother the right to stay with them and take care of them.<sup>47</sup>

As the war that had lasted for two years came to an end, so did the battle of a mother against the ecclesiastical, political, administrative and juridical authorities of the time, for her right to raise and educate the children according to her religious convictions,

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<sup>42</sup> See the letter to the emperor written by the Country Council, No. 21707, dated July 23, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 192.

<sup>43</sup> See the answer of the Imperial Chancellery, No. 10425, dated Vienna, August 30, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 194.

<sup>44</sup> I. LUPAŞ, *Anastasia Şaguna*, 22. Mircea Păcurariu the historian provides the father’s death date in the year 1822. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 93.

<sup>45</sup> See Anastasia Şaguna’s memorandum to the country Palatine, dated Pest, September 13, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 193-194.

<sup>46</sup> See the declaration dated Pest, September 14, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 192-193.

<sup>47</sup> See the decisions No. 27097 and 27644, dated September 17, 1816, in: E. TODORAN, *Documente istorice. Acte privitoare la lupta Anastasiei Şaguna*, 194.

that were not respected and discriminately settled by the confessionalized state, within which some people could not enjoy many religious rights.

### II.2.2 The childhood at Miskolcz; Francisc and Ecaterina Şaguna's reversion to Orthodoxy

Back at Miskolcz, Anastasia Şaguna followed the Country Council decision: the first two children Francisc/Evreta and Ecaterina were registered and attended Catholic school, and Anastasie, because of his age, attended the elementary classes at the Greek-Vlachian School of Miskolcz until the secondary school age.<sup>48</sup>

As it comes out from Anastasie Şaguna's statement of renunciation the Roman Catholic confession, he attended the first part of the gymnasium at Miskolcz too, at the Royal Catholic Gymnasium.<sup>49</sup>

Other details from the time of his childhood have not been kept. The children got a Roman Catholic education in the school, but at the same time their mother insisted so firmly on the Orthodox education, that when came of age each child passed a statement of renunciation the Catholic confession and came back to the Orthodox one.

If the conversion from Orthodoxy to Roman Catholicism was unconditional, but just a written formality and sometimes not on your own name (as in our case!), the reversion was very complicated and this is why the candidates had to assume the risk of being refused, as a result of the checks they were subject to, some of them being very long. The laws of the time asked that the one who wanted to pass from the Catholic confession to another one had to learn for six weeks the basics of faith from a Catholic priest, and then to go through an examination, to prove that he knows everything, but although he knows them, he does not wish to follow them.<sup>50</sup> So the laws stipulated: "1. Nobody is allowed to pass from the Catholic Church except that one who follows a six

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<sup>48</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 9; I. LUPAŞ, *Istoria bisericească a românilor ardeleni*, 173.

<sup>49</sup> Gh. ALEXICI, *Date noi la viața lui Şaguna*, 3: "[...] quod Scholas publicas in Regiis Gimnasiis Miskolczyensi ac Pesthiensi cum profectu Eminentiae frequentando..."

<sup>50</sup> Cf. I. LUPAŞ, *Anastasia Şaguna*, 27.

weeks educational course and can prove it with a valid proof. 2. It is forbidden the non-Catholic priests to accept among their faithful anyone who has not gone through the legal steps, and even less to give the Holy Communion to someone of Catholic confession.”<sup>51</sup>

The first who made the petition to give up the Catholic confession was the eldest, Francisc/Evreta Şaguna, about whom the board assigned to examine the real motifs of the request reported that “he wishes to keep his mother’s religion he was born in and raised until fourteen, because he prefers it.”<sup>52</sup> In his petition to the Palatine, from January 12, 1822, Francisc said: “I hope that in the future I will be spared any violation of my religious convictions.”<sup>53</sup> Along the years, until the revolution of 1848, he will help financially his younger brother, the Bishop Andrei. He had become a rich merchant and in May 1848 he signed as a deputy of Pest.<sup>54</sup>

Later, on November 15, 1823, Ecaterina Şaguna drew a petition to the Catholic priest from Miskolcz, by which she asked to give up Catholicism.<sup>55</sup> After long delays<sup>56</sup> and a last attempt made by the Vicar Josephus Novaky of Eger to prevent a favourable solution<sup>57</sup>, on October 4, 1825, the decision was issued: “Sua Majestas Ssma Catharinae Sagona Miskolczensi liberum G. n. u. r. exercitium benigne-gratiose concedere dignata est.”<sup>58</sup>

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<sup>51</sup> II. PUŞCARIU, *Documente pentru limbă şi istorie*, vol. II, 292-293: “Punctele explicaţiunii Decretului de toleranţă din 22 Maiu 1782 emanate din ţinerea comisiunilor din 14 Iuliu 1782 la patentatele Nr. 352 a Protocolelor insertelor în tenorea comisiunei Nr. 530 se publică de nou” (“The points of the explanation of the Decree of tolerance of May 22, 1782, issued by the meeting of the committees of July 14, 1782, at patent No. 352 of the Protocols are published again”)

<sup>52</sup> Report to the judge of Buda dated December 21, 1821, in: E. TODORAN, *Documente istorice*. 2. *Acte privitoare la Evreta Şaguna*, 361: “[...] verum cum in Religione Matris suae, cui propter obtenta ab eadem Beneficia apprime addictus, et obstrictus est, Graeci Ritus n. unitorum scilicet usque annum circiter 14. educatus fuerit, hanc G. n. u. Ritus Religionem sibi praeplacere ...”

<sup>53</sup> See Evreta/Francisc Şaguna’s petition meant to give up the Catholic confession, dated Buda, January 12, 1822, in: E. TODORAN, *Documente istorice*. 2. *Acte privitoare la Evreta Şaguna*, 363.

<sup>54</sup> Cf. Anticritic’a, 22.

<sup>55</sup> See Ecaterina Şaguna’s petition meant to give up the Catholic confession, dated Miskolcz, November 15, 1823, in: E. TODORAN, *Documente istorice*. 3. *Acte privitoare la Ecaterina Şaguna*, 364.

<sup>56</sup> The energetic mother interceded steadily this time too. See Anastasia Şaguna’s complaint to the country Palatine, dated Buda, March 7, 1825, in: E. TODORAN, *Documente istorice*. 3. *Acte privitoare la Ecaterina Şaguna*, 368-369.

<sup>57</sup> See letter No. 1029 of the Vicar Josephus Novaky of Eger to the country Palatine, dated Eger, June 29, 1825, in: E. TODORAN, *Documente istorice*. 3. *Acte privitoare la Ecaterina Şaguna*, 370.

<sup>58</sup> Decision No. 25436 dated October 4, 1825, in: E. TODORAN, *Documente istorice*. 3. *Acte privitoare la Ecaterina Şaguna*, 372.

In 1823, when Anastasie was fourteen years old, he left the small town Miskolcz for ever, and moved to Pest, where his mother's uncle Atanasie Grabovsky lived, whose house "was the meeting place of greatest Romanian scholars who at the time were living in Budapest."<sup>59</sup>

### II.2.3 Gymnasium and academic studies at Pest; Andrei Șaguna's reversion to Orthodoxy

At Pest, Anastasie Șaguna studied at the Catholic Gymnasium of the Piarist monks, which he graduated successfully. Here is his graduation certificate issued at the end of the gymnasium:

"Testimonium Scholasticum. Nomen et cognomen, Aetas, Religio: Sagona Anastasius Annorum 18 Rom. Cath.; Gens seu Natio, Locus natalis et comitatus: Hungarus Miskoltz comitatus Borsodiens. Pater vel tutor, aut Curator, ejusque Conditio et Habitatio: M. Anastasia Civis habitat ibidem. Annus et Schola, quam frequentavit: Anno 1826 2-am Humanitatis Classem frequentavit diligenter. Classis: In doctrina Religionis: Eminens. In Divinis frequentandis fuit solens. In Literis et Scientiis: E numero 103 condiscipulorum inter 32 Eminentes Decimus septimus; In Studio Linguae Hungaricae: Eminens 17-us. In Moribus: Clasis primae. Datum: Pestini apud Sch. P. Anno 1826. Mensis Decemb. 26-a. Glycerius Aigll m.p., e Sch. Piis Director Gymnasii. Constantinus Eschner m. p. e S. P. 2-ac Humanitatis Professor et Exhortator Gymnasii L.S."<sup>60</sup>

In spite of the fact that the certificate presented him with Hungarian nationality and Roman Catholic religion, the future metropolitan remained faithful to his maternal education. "Anastasia Șaguna's concern for religious education was shared by most Macedo-Rumanians, in whose minds Orthodoxy and nationality were inextricably linked. The church was not only the center of their social and cultural life, but as they

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<sup>59</sup> Gh. TULBURE, *Activitatea literară*, 9.

<sup>60</sup> E. TODORAN, *Documente istorice*. 4. *Acte privitoare la reîntoarcerea lui Atanasie Șaguna*, 455. See also Gh. ALEXICI, *Date noi la viața lui Șaguna*, 2-3.

were subject to the pressures of assimilation by their more numerous neighbours of other faiths and nationalities, it was also a shield behind which they could preserve their ancient traditions and language. They were convinced that the abandonment of Orthodoxy was merely the first step in the process of denationalization.”<sup>61</sup>

The attachment for Orthodoxy, for the Romanian language and family traditions, were maternal values Andrei Şaguna was faithful to, all through his life. This attitude was proved by his actions: “*Finally, I swear to support the aim of our Society if it is in my power, because here I will be lucky to listen to the sweet sounds of my maternal language, which the foreigners did not pay attention to and thus the sweeter they are to my heart.*”<sup>62</sup>

After gymnasium, Anastasie studied for three years Philosophy and Law at the Royal University of Pest; his serious studies were to be later felt, either in his writings and political speeches, or in different documents, especially the official ones.<sup>63</sup>

Like his elder brothers, immediately after his coming of age, on December 29, 1826/January 10, 1827, Anastasie Şaguna initiated the procedure of renunciation the Roman Catholic confession and coming back to Orthodoxy:

*“Declaratio: Infrascriptus iuxta Litterasa Constantio Vulco Ecclesiae Graeci R. N. U. Orientalis Miskolziensis Parocho extradatas 20-a Decembris Anno 1808. baptizatus, jam nunc completorum 18 aetatis annorum principiis Religionis Romano-Catholicae, vel eo e respectu, quod Scholas publicas in Regiis Gimnasiis Miskolziensi ac Pesthiensi cum profectu Eminentiae*

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<sup>61</sup> K. HITCHINS, Orthodoxy and Nationality, 10.

<sup>62</sup> Bishop Andrei Şaguna’s speech at the first meeting of “The Transylvanian Society for the Romanian Literature and the Culture of the Romanian People” (shortly named ASTRA), from March 9/21, 1861, in: Actele privitoare la urdirea si infiintarea Asociatiunei Transilvane pentru literatur’a romana, si cultur’a poporului romanu, 48.

Because at ASTRA the Romanian language was exclusively used, this declaration of the Bishop Andrei is a precious proof of the fact that Romanian was his first language, although his family origins are Macedo-Romanian. The speculations that Andrei Şaguna would have learnt Romanian later on, because his mother-tongue was not Romanian, are unjustified, as it is known that he was an upright personality who would have never denied anything which belonged to him, neither did he assume things which did not belong to him.

<sup>63</sup> Cf. I. LUPAŞ, Anastasia Şaguna, 32.

At length on the political, social, church and cultural climate of the society of Pest during the studies of Anastasie Şaguna see J. SCHNEIDER, Der Hermannstädter Metropolit, 53-59; 67-71.

*frequentando, et Studio Doctrinae Religionis solertem operam impenderim, imbutus, me juxta intimam meam convictionem, citra Consanguineorum pervasionem, coactionem, aut influxum Sacra Greco-Orientalis Ecclesiae sequi velle, hisce declaro; eatenusque mihi benignum indultum impertiri oro, paratus, eandem Declarationem, et Ore, ubi illud necesse videretur, confirmare, ut firmissimi mei propositi clarum praebeatur testimonium, et cum in Scholis publicis Religionis. R. Catholicae Doctrinam solenter exceperim, calculumque Eminentiae emeruerim, praescriptam secus 6 Hebdomadatum institutionem superfluum esse censendo, una me ab hac dispendari, protegi supplico. Pesthini 29-a Decembris 1826. Anastasius Şaguna, Philosophiae in R. Universitate I-um in Annum Auditor.”<sup>64</sup>*

As a result of this petition, he had “to pass through two difficult exams related to his religious faith”<sup>65</sup>. First, he was heard by a commission set up by the Pest county administration, which accepted his declaration, but did not admit the dispensation petition.<sup>66</sup> This is why he had to attend for six weeks Catholic religious courses and then to go for the legal exams before the professor of religion, Augustin Popol from the University of Pest.<sup>67</sup> The professor’s final report states that from November 5 to December 27, 1827, he explained to young Şaguna the entire doctrine of religion; that the latter was attentive and modest, but when the time expired he declared that he

<sup>64</sup> Gh. ALEXICI, *Date noi la viaţa lui Şaguna*, 3.

<sup>65</sup> A. HAMSEA, *Din viaţa pastorală a mitropolitului Şaguna*, 457.

<sup>66</sup> See the documents: “11148 Ex Consilio dto 1 Maji 1827”; “8630 Datum Viennae die 13 Iulii anno 1827”; “20447 E. Cons. ddo 8 Aug. 1827”, in: E. TODORAN, *Documente istorice. 4. Acte privitoare la reînţoarcerea lui Atanasie Şaguna*, 458-459.

<sup>67</sup> E. TODORAN, *Documente istorice. 4. Acte privitoare la reînţoarcerea lui Atanasie Şaguna*, 459: “Inclite Magistratus Academie! In obsequium Benigno Gratosi Intimati Budae ddo 8-ae Augusti 1827 sub Nr. 20447 editi, quo tenore editae altmae resolutionis Regiae Anastasio Şaguna in R. Scient. Univ. Pesth. pro tunc I-um in annum Philosophiae Auditori, Facultatem Ritum Graec. non unitorum sequendi humillime petenti, sex septimanarum Institutio in R. Scient. Univ. subeunda praescribitur, et de impleta Institutione normale Attestatum Excelso Consilio Regio submittendum Altme ordinatur: in sequelam hujus Bgnae Dispositionis adnexum isthic Attestatum, medio Incliti Magtus Acad. Exc. Cons. Regio substernendum submitto, addita ea humillima insinuatione, pro religiosa hac Institutione Testes non fuisse vocatos, propterea, quod praefatus Iuvenis, utpote Philosophiae Auditor, sub Legibus Academicis existens, qua Alumnus R.-Sient-Univ. considerari debuerit, et se durante tota Institutione humanum ac diligentem exhibuerit. Pethini 23-a Decembr. 1827. I. M. Ac. Hum. Servus Aug. Popol m.p.”



remained faithful to his mother's confession because it also springs from Christ's doctrine, finding redemption in it.<sup>68</sup>

Once more, out of the Augustin Popol's statement that Anastasie "wishes to remain faithful to his mother's confession"<sup>69</sup> we can clearly understand that Anastasia Şaguna had been a Christian model for her children. "We ought to herald this woman's special merit, which the Romanian people and the Holy Church will have to place her from now on besides the brightest Romanian mothers and women of the past."<sup>70</sup>

After the respective delay, the petition meant to change his confession was finally approved, and the official recognition of Anastasie Şaguna's reversion to Orthodoxy came out on September 2, 1828:

"23959 Ex. Cons. ddo 2 Sept. 1828. [...] Normali Attestato, super qualiter expleta per Anastasium Sagona sex hebdomadali Institutione, abhinc altmo Loco substrato; Sua Mttas Ssma eidem Anastasio Sagona liberum G. n. u. R. Religionis exercitium in salvo reliquendum clementer admittere dignata est. Quae tc.

Cottui. Praetus DVtris fine eo hisce intimatum, ut supra nominatum Impentranthemde citer concessio libero Religionis exercitio edoceant. Dat.

Reliquis. Cottui Pestiensi fine conformiter edocenti praefati Iuvenis sub hodierno intimata TT quoque Vrae et Accademico quoque huic magistratui pro requisito no, titiae Statu hisce nota redditur. Dat."<sup>71</sup>

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<sup>68</sup> E. TODORAN, Documente istorice. 4. Acte privitoare la reînţoarcerea lui Atanasie Şaguna, 460: "Attestatum. In obsequium Benigno Gratiosi Intimati Budae ddo 8 August Anno 1827 sub Nro 20447 editi, quo mihi infrascripto Altissimo loco imposita fuit obligatio: Anastasium Sagona in Regia hac Scient: Universitate I-um in annum Philosophiae Auditorem, in doctrina Religionis Catholicae per sex septimanes erudiendi et subin Attestatum de qualiter expleta per antelatum Invenem praescripta Institutione Excelso Consilio Locum, Regio submitendi, praesentibus fide integra attestor: Invenem Anastasium Sagona in hac R. Scient. Univ. nunc secundum in annum Philosophiae Auditorem, religiosam Institutionem per sex continuas, a 5-a Novembris ad 18-am Decembris Anni 1827 diligenter subiyisse, et durante hac Institutione, integram totius doctrinae Religionis explicationem, attente ac modeste, ut Alumnum R. Scient: Univ. decet, excepisse. Interim non obstante hac Institutione, superatis sex septimanis, eundem Anastasium Sagona declarasse, se penes maternam Religionem perseverare velle, cum praesertim censeat, se etiam penes hanc, cum pariter a Christo originem trahat, salutem aeternam consecutorum esse. In quorum fidem praesens Attestatum, uti demandatum fuerat, Excelso Consilio Locumtenetiali Regio humillime substerno. Pesthini 27 Aprilis 1828. Augustinus Popol m.p. in A. Sc. Univ. Doctrinae Religionis Professor et orator sacer."

<sup>69</sup> Ibid.: "Anastasium Sagona declarasse, se penes maternam Religionem perseverare velle".

<sup>70</sup> I. LUPAŞ, Anastasia Şaguna, 36.

<sup>71</sup> E. TODORAN, Documente istorice. 4. Acte privitoare la reînţoarcerea lui Atanasie Şaguna, 461.

This personal sinuous experience beside the circumstances favourable to the Greek Catholic proselytism in Transylvania, in the nineteenth century<sup>72</sup>, were solid arguments for the future Bishop Andrei to insist that the political power should grant a new and legal impartial regulation for the conversions from one confession to another one. The imperial decision of December 26, 1848, published by the Order of the Ministry of Public Worship on January 30, 1849, simplified and equalized the conversion formalities, irrespective of confession.<sup>73</sup> Only this, like other legal regulations favourable to the Orthodox, did not find a quick and easy putting into practice.<sup>74</sup>

The period when Anastasie studied at Pest, between 1823 and 1829, was beneficial not only for his scientific studies, but also for his religious, cultural and political horizons. He had lived in all those years by the Grabovsky family, where Romanian scholars from Pest, but also personalities from the Romanian principalities met from time to time, to draw up cultural and political plans. Atanasie Grabovsky himself was a passionate patriot and “he used to help those ready to learn and make progress. This is why he was called ‘a patron of the Romanians’...”<sup>75</sup> Along with the cultural and literary issues, the Romanian Orthodox Church was a burning matter for them who gathered in Grabovsky house.

During the time of his studies at Pest, the young Anastasie Şaguna started close and lasting friendships with his former colleagues: with baron József Eötvös<sup>76</sup>, the famous man of letters, statesman and minister, with Stockinger his future doctor, “*a doctor in medicine, a former schoolmate at the gymnasium of Pest*”<sup>77</sup>, who took care of him at the end of his life.

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<sup>72</sup> See the chapter I.2.4 herein.

<sup>73</sup> Cf. circular letter No. 141/1850, dated Sibiu, February 23/March 7, 1850, in: Gh. TULBURE, *Mitropolitul Şaguna*, 404-406.

<sup>74</sup> In his complaint lodged to the emperor on December 1, 1855, Bishop Andrei Şaguna was to grant a larger space to the devious problem of the conversions. See “Gravamentul episcopului Şaguna la Împăratul contra ministrului, cerând între altele și reînființarea metropoliei românilor ortodocși” (“Bishop Şaguna’s complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 122-151 here 133-135.

<sup>75</sup> I. LUPAȘ, *Anastasia Şaguna*, 18.

<sup>76</sup> See I. LUPAȘ, *Şaguna și Eötvös*, 5-8.

<sup>77</sup> Andrei Şaguna’s letter to Ioan Cavalier of Pușcariu, dated July 27, 1872, in: II. PUȘCARIU, *Din anii ultimi*, 413.

### II.3 The years of the theological studies and monastic life in Serbian climate

In the autumn of 1829, the lawyer Şaguna decided to go to Werschetz, where there was a possibility for the Romanians of the Austrian Monarchy to study Orthodox theology for three years.<sup>78</sup> A special Romanian section had been founded here in 1822, with the purpose to train priests for the many parishes from Banat, even for the Eparchy of Sibiu, which lacked the adequate conditions. The official name of the school was “The Serbian-Vlachian Clerical Institute” and in the first series of 115 students most of them (84) were Romanians.<sup>79</sup>

There is no concrete information concerning the reasons which made Anastasie Şaguna to choose to study theology and to become a priest. His native intelligence, together with his serious studies and Anastasie Grabovsky’s material support offered him many opportunities among which the commercial business, which was a family tradition, seemed natural for him. Of course his mother’s deep piety had been a decisive factor. In addition to this, Bishop Maxim Manuilovici of Werschetz (1829-1834), closely connected to Grabovsky family, opened his house to the young apprentice: “[...] the young Anastasie Şaguna having successfully graduated Law, in 1829, at the University of Pest, went to Werschetz to study theology, the Romanian section, both at his own call and following his mother, uncle and Bishop Manuilovici’s advice; the bishop was a Romanian by birth and a friend of Grabovsky, his uncle.”<sup>80</sup> In the years, during the conflicts with the Serbian hierarchy on the re-establishment of the old Metropolitanate of Transylvania, Andrei Şaguna was to mention the Bishop Manuilovici as an example of a follower of a custom in the Orthodox monasteries from Hungary, to accomplish the religious services both in Romanian and Serbian: “*in the time of Bishop Maxim*

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<sup>78</sup> In 1820, the Serbian Metropolitan Stefan Stratimirović - following the pressures exercised by the Court of Vienna and the Government of Pest for to establish a general seminary for the Orthodox over the empire, an idea the metropolitan did not agree - suggested the reorganization of five theological Orthodox schools in the monarchy at: Karlowitz, Pacrat, Werschetz, Timișoara and Arad, according to his plan. At Timișoara the school could not be established, at Arad the teaching language was Romanian and at Werschetz there were two sections, a Serbian and a Romanian one (from 1822). Cf. T. BODOGAE, *Activitatea culturală și politică a mitropolitului sîrb Ştefan Stratimirovici*, 390.

<sup>79</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 14-15.

<sup>80</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 23.

*Manuilovici, in the Cathedral of Werschetz the church hymns were sung in Romanian and Serbian.*”<sup>81</sup>

Beyond any possible speculations<sup>82</sup>, his vocation or “the inner call” was undoubtedly the essential factor that made Anastasie Şaguna to choose the study of theology and later to join the monastic life too. “He was heard more than once saying: ‘*If I were born a hundred times, I would choose to become a priest again and again*’.”<sup>83</sup> His love and respect for Orthodoxy as well as his belief in the spiritual and social mission of the priesthood, both deepened during the time spent at Pest, had precedence over a career in business. Not in the least one can consider true the assertion that “this young man was aware of the gifts and graces God put in him, and he felt that they could not be in the service of one person only.”<sup>84</sup>

The studies at the Clerical Institute of Werschetz must have helped him at least to be initiated in the systematic knowledge of Orthodox theology, because in those years there was no such a thing as an Orthodox Theological Faculty that could provide a high level academic training. A professor of theology from Czernowitz remarked in 1883 too “the lack of qualified professors of Greek Orthodox confession not only in our area, but all through the Austrian Monarchy”<sup>85</sup>.

After he completed the theological studies, Anastasie Şaguna was invited by the Metropolitan Stevan Stratimirović (1790-1836) at Karlowitz, who later appointed him

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<sup>81</sup> “Meditaţiuni asupra trebei banesci sî monastiresci, ce compete pârţii române din fondurile sî monastirile Metropolitiei Carlovitiene, carea era comuna a Românilor sî Serbilor” (“Meditations upon the financial and monastic matter which belongs to the Romanian side, from the funds and the monasteries of the Metropolitanate of Karlowitz which was common for the Romanians and the Serbians”), signed E. M., in: *Telegraful Roman*, 1865, No. 24, 94.

<sup>82</sup> His choice to become a priest with the purpose to support the Romanians’ movement for national and church emancipation, first accredited by Nicolae Popea, then taken over by Ioan Lupaş: “We think that we are not wrong supposing that, among others, the above-mentioned tendency of emancipation of the national Church, which concerned all the good enlightened Romanians of the time, must have influenced his and his family’s decision to take this step” (I. LUPAŞ, *Vieaţa*, 28), is not well grounded. See also J. SCHNEIDER, *Der Hermannstädter Metropolit*, 45.

<sup>83</sup> N. POPEA, *Archiepiscopul şi Metropolitul*, 22.

<sup>84</sup> I. SLAVICI, *Dare de samă*, 15.

<sup>85</sup> I. ONCIUL, *Ce-va despre mersul şi dezvoltămîntul culturii teologice şi clericale în Bucovina*, 110. For some landmarks about the context of the Orthodox theological studies within Austrian Monarchy see J. SCHNEIDER, *Der Hermannstädter Metropolit*, 5-10.

as a teacher of theology and the metropolitan's secretary.<sup>86</sup> "Metropolitan Stratimirović, a man of vast knowledge and culture, was well regarded and supported by the Court of Vienna. He handled skillfully the policy of the dynasty, which was a national tradition by the Serbians."<sup>87</sup> But unfortunately, for the Romanians he was "a notorious persecutor, as he used to say that there is nothing worse for him than the Romanian language"<sup>88</sup>. Consequently, it is clear that Anastasie Şaguna was an exceptional person, because he had attended the Romanian section of the Clerical Institute, and a Serbian metropolitan having a clear dislike for the Romanians and their language would not have chosen a Romanian to be his secretary, unless he had been such an exceptional person.

The model of Metropolitan Stratimirović, a cultivated monk<sup>89</sup>, and his encouragement<sup>90</sup> strengthened Anastasie in his wish to become a monk. Thus, on April 15, 1833, he knelt at Hopovo monastery<sup>91</sup>, near Karlowitz, where on October 12, 1833, he received the tonsure and took the name of the first called apostle: Andrei. He was ordained a deacon on February 2, 1834, then appointed an archdeacon on Easter 1835. On June 29, 1837, he was ordained a priest (hyeromonk). On October 24, 1839, he was appointed a hegumen of Jazak monastery<sup>92</sup>, at the beginning of 1840 an administrator of Bešenovo

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<sup>86</sup> Stevan Stratimirović had started, in 1802, a gymnasium and a seminary at Karlowitz, with the financial support of Dim. Anastasievici Sabov, a rich Macedonian merchant. Cf. T. BODOGAE, *Documente inedite privitoare la istoria învăţământului teologic din Transilvania*, 1218.

<sup>87</sup> I. LUPAŞ, *Vieţa*, 31.

<sup>88</sup> "Petiţiunea către minister pentru separarea hierarchiei române de cea sârbească şi ţinerea unui sinod general" ("The petition to the ministry which asked the separation of the Romanian hierarchy from the Serbian one and the meeting of a general synod"), in: N. POPEA, *Memorialul*, 385-389 here 387: "er [war] ein notorischer Verfolger der Romanen, da er sich selbst auszudrücken pfligte, dass ihm nichts verhasster, als die romanische Sprache sei."

<sup>89</sup> See T. BODOGAE, *Activitatea culturală şi politică a mitropolitului sîrb Ştefan Stratimirovici*, 383-395.

<sup>90</sup> Cf. S. DRAGOMIR, *André Şaguna et Joseph Rajačić*, 244.

<sup>91</sup> The Novo Hopovo monastery, a centre of culture and literature, is one of the most prominent monasteries of the Fruška Gora Mountain, in province of Vojvodina. It was built according to the tradition, by the Despots of the Brankovic family. The present church, dedicated to St. Nicholas, was built in 1576, in place of the older one and it is one of the largest and architecturally most important religious buildings of its time. Its fresco paintings of 1608 are of exceptional artistic value. There is also a monastery Staro Hopovo, founded around the middle of the fifteenth century. Cf. *Cultural Heritage in Central Serbia and Voivodina Province* (online).

<sup>92</sup> The Jazak monastery - on the Fruška Gora Mountain - was founded in 1736, by a group of donors. The construction of the church, dedicated to the Holy Trinity and traditionally designed, lasted from 1736 to 1758 but, as early as 1741. Cf. *Monasteries of Fruška Gora* (online).

monastery<sup>93</sup>, on October 28, 1842, an archimandrite and hegumen of Hopovo monastery, and then an archimandrite of Kovil monastery<sup>94</sup> in the Eparchy of Novi Sad (Neoplanta), on April 27, 1845.<sup>95</sup>

But, “apart from these quick promotions, Metropolitan Şaguna had a lot of troubles and one could see that the difficulties and problems which made a chain until his last breath began at Karlowitz. It is the nature of spiritually inferior people to envy those who are superior in spirit and better than they are. As a temporary administrator of Bešenovo monastery, wishing to bring order to the monastery and punishing the abuses, he had a lot of enemies; he was even involved in a court trial with the monks, out of which he ended victoriously with praises too.”<sup>96</sup>

At the beginning of 1836 died Andrei Şaguna’s mother, Anastasia, “being buried on January 17, 1836, by the illuminated priest Ioan Teodorovici in ‘Kerepesi’ cemetery of Pest, in Grabovsky of Apadia family’s crypt, where a few years later Evreta/Francisc and Ecaterina were to be buried too. [...] In 1849, Bishop Andrei Şaguna laid a stone cross with this pious inscription: ‘To his beloved mother Anastasia, to his most beloved brother Evreta and to his sweet sister Ecaterina. Andreiu Şaguna, Bishop of Transylvania, raised this monument in 1849’.”<sup>97</sup>

In 1836 the Metropolitan Stratimirović passed away, but Andrei Şaguna, owing to his abilities, won the sympathies of the next Serbian Metropolitans, Stevan Stanković (1837-1842) and Josip Rajačić (1842-1860).

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<sup>93</sup> According to the legend, the monastery of Bešenovo - on the Fruška Gora Mountain - was founded by Serbian King Dragutin at the end of the thirteenth century. Other sources relate the founding of the monastery to the middle of the fifteenth century. The monastery church was dedicated to the Holy Archangels Michael and Gabriel. Bešenovo was devastated in the Second World War and has not been renovated. Cf. Monasteries of Fruška Gora (online).

<sup>94</sup> The Monastery of Kovil is situated in the village of Kovil east to Novi Sad and was founded around the turn of the thirteenth century, but the first written reference to it is to the middle of the seventeenth century. Records from 1733 mention it as an educational establishment. Cf. Cultural Heritage in Central Serbia and Voivodina Province (online).

<sup>95</sup> All these dates are in an autobiographical notice written by Andrei Şaguna, in: II. PUŞCARIU, *Metropolia*, 48. See also N. POPEA, *Archiepiscopul și Metropolitul*, 24-25; S. DRAGOMIR, *André Şaguna et Joseph Rajačić*, 244; J. SCHNEIDER, *Der Hermannstädter Metropolit*, 46-47.

<sup>96</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 25. See also “Andrei Şaguna către arhimandritul mănăstirii Srem” (“Andrei Şaguna to the archimandrite of Srem monastery”) dated Sibiu, December 12, 1867, in: A. ŞAGUNA, *Corespondența I/2*, 243.

<sup>97</sup> I. LUPAŞ, *Anastasia Şaguna*, 42.

After 1838, Hieromonk Andrei was also a librarian of the Metropolitanate: *“I was lucky to be a protosyngel in our Metropolitanate of Karlowitz and apart from my duties as a teacher of theology, having my free time I used to read canon law books. I could do this easily, as I was at the same time a librarian of the metropolitan library.”*<sup>98</sup>

As a teacher of theology at the seminary of Karlowitz<sup>99</sup>, and since 1835 as a secretary of the Metropolitan Sratimirović<sup>100</sup>, he had the opportunity to improve in Church matters and to become familiar with the administrative, judicial and others church affairs, and with all the relevant events of the Metropolitanate of Karlowitz; he could also come in touch officially or privately with many persons and authorities.<sup>101</sup> At the time, under the jurisdiction of the Serbian metropolitan there were not only the traditional Serbian territories of the monarchy (Vojvodina), but also the Romanian parishes from Banat and Buda, and the Eparchies of Bukovina and Dalmatia.<sup>102</sup>

For more than five years he was a member of the arch-eparchial consistory of Karlowitz<sup>103</sup>, then for almost three years of the eparchial consistory of Werschetz<sup>104</sup>.

By virtue of the privileges given the Serbians after 1690, the metropolitans of Karlowitz were both political<sup>105</sup> and spiritual leaders of their people and the church national congress became the supreme legislative and deliberative Serbian assembly. “Consequently, the metropolitan particularly one of the caliber of Stratimirović, enjoyed immense prestige and could on occasion even treat with the ministries in

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<sup>98</sup> A. Baronu de ȘAGUNA, *Elementele dreptului canonic*, 21855, VI.

<sup>99</sup> He was a teacher there from September 29, 1834, till the end of the school year 1841-1842. Cf. S. DRAGOMIR, *André Șaguna et Joseph Rajačić*, 245.

<sup>100</sup> Cf. S. DRAGOMIR, *André Șaguna et Joseph Rajačić*, 244.

<sup>101</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 23-24.

<sup>102</sup> At length on the expansion of the jurisdiction of the Metropolitanate of Karlowitz in the eighteenth century see the chapter I.2.3 herein.

<sup>103</sup> On October 11, 1838, he was appointed a consistorial assessor/counsellor by Metropolitan Stevan Stanković. Cf. II. PUȘCARIU, *Metropolia*, 48; S. DRAGOMIR, *André Șaguna et Joseph Rajačić*, 244.

<sup>104</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 16-17.

<sup>105</sup> Recognized as a kind of political leaders (ethnarchs), at a time when the appointment of the voivode and the political leaders proper was no longer allowed, the metropolitans of Karlowitz lead the entire life of the Serbian people which took refuge north of the Danube because of the Turks, by synods or church national congresses (genuine parliaments made up of 25 clergyman, 25 lay people and 25 delegates of the frontier guards territories). The bigger or smaller autonomy, which they were able to deal and maintain along time, was the only pledge meant to save the national and Orthodox soul of a people with a strong sense of freedom in these parts of Europe. Cf. T. BODOGAE, *Activitatea culturală și politică a mitropolitului sîrb Ștefan Stratimirovici*, 383.

By “*Benignum Rescriptum Declaratorium Illyricae Nationis*” of July 16, 1779, the Austrian régime tried to restrict the guaranteed rights of the Serbian nation, limiting the civil power and the income of the metropolitan of Karlowitz. Cf. II. PUȘCARIU, *Metropolia*, 24.

Vienna with almost sovereign authority. This striking example of the Church's preponderant role in the temporal affairs of its faithful must have made a strong impression upon Şaguna and undoubtedly served him as a model when he undertook the reorganization of the Orthodox Church in Transylvania."<sup>106</sup>

Andrei Şaguna's work within Metropolitanate of Karlowitz coincided with a period of intense cultural revival of the Serbians. Metropolitan Stevan Stanković (1837-1842) had launched a campaign meant to improve the priests' material and intellectual level, which was debated and turned into practice during his successor, Rajačić.<sup>107</sup> According to this plan of regeneration of the clergy and of the monastic life, Andrei Şaguna himself was requested to bring order to Jazak, later Bešenovo monasteries. "He insisted that the monastic clergy be guided by the highest standards of conduct because, in his view, they could accomplish their sacred mission only if they inspired respect and confidence in those they were ordained to serve."<sup>108</sup> The time spent in the Serbian monasteries of the time must have been a good life experience too, very useful for his later work as a church organizer.

Since 1842 he was appointed a teacher at the Clerical Institute of Werschetz, where had studied himself. In the same year, the new Metropolitan Josip Rajačić (1842-1860) conferred him the rank of archimandrite and entrusted him the leadership of Hopovo monastery.<sup>109</sup>

At Werschetz, Archimandrite Andrei faced the serious conflict between the Serbians and the Romanians concerning their rights within the common eparchy. The Romanians said that the Serbians had the monopoly of all high church offices and monasteries, even in areas where the Romanians made up the overwhelming majority, for example in the Eparchy of Timișoara. The Serbian metropolitans did not deny this, but they invoked the lack of the Romanian trained church personnel. At the same time, the Romanians were discontented with the disproportionate use of the church revenues and demanded more financial resources for the Romanian schools, churches and

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<sup>106</sup> K. HITCHINS, *Orthodoxy and Nationality*, 16.

<sup>107</sup> Cf. I. LUPAŞ, *Vieața*, 35.

<sup>108</sup> K. HITCHINS, *Orthodoxy and Nationality*, 17.

<sup>109</sup> Cf. S. DRAGOMIR, *André Şaguna et Joseph Rajačić*, 245. The Metropolitan Josip Rajačić came himself from the Eparchy of Werschetz, knowing its situation well.



monasteries. Not in the least did they claim that the Romanian language should be used in church services and administration.<sup>110</sup>

As a result of the increasing antagonisms, the situation had become critical, and Stratimirović's successors recognized the urgent need to make concessions to the Romanians in order to keep the unity and the existence of the Orthodox Church in the monarchy, because in the meantime the Uniate movement had made proselytes in the Eparchies of Arad and Timișoara, and in Transylvania too, among those Romanians who preferred a national church (as the Uniate nationalists imagined that they could make one), to a church dominated by the foreigners. The Romanian section of the Clerical Institute of Werschetz was enlarged; they took the custom of ordaining Romanian priests at Karlowitz in the Romanian language also; the Romanian parishes were kept for Romanian priests; the principle that the bishops of the eparchies whose faithful were Romanians for their majority should be in their turn Romanians, or at least should speak Romanian, began to be respected. Both Stevan Stanković and Josip Rajačić appointed more Romanians in important administrative positions.<sup>111</sup>

Within this ecclesiastical context, in which the Serbian hierarchy had to find the solution of a change concerning the issue of nationality, could be interpreted the fact that Archimandrite Andrei Șaguna was appointed in 1846 as a vicar-administrator of the vacant Eparchy of Sibiu. Metropolitan Rajačić, the one who warmly recommended Șaguna to the Court, saw in the intelligent archimandrite of Macedo-Romanian origin a magnet that could tame the opposing relationships between the Serbian hierarchy and the Romanian faithful. When the episcopal see of Novi Sad became vacant, some would have recommended Andrei Șaguna as the future bishop, but Rajačić opposed this, saying: "I will keep Șaguna for the Eparchy of Transylvania, whose present day bishop, Vasile Moga, is an old man and whose chair will be vacant."<sup>112</sup>

According to Ioan Lupaș, "as long as he lived among the Serbians, we do not know if Șaguna had written or published anything. We only know one single work dating back from that time: 'Gramatica Valachica' ('Vlachian Grammar'), kept among the

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<sup>110</sup> See M. PĂCURARIU, 100 de ani de la reînființarea Mitropoliei Ardealului, 816.

<sup>111</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 18-19.

<sup>112</sup> S. DRAGOMIR, *André Șaguna et Joseph Rajačić*, 248.

manuscripts of his library and maybe written after 1842, as he was a teacher at the Romanian section of the Theological Seminary of Werschetz ...”<sup>113</sup> This work also points out that Andrei Şaguna knew well and dealt with the study of his maternal language<sup>114</sup> - which will allow him to write and publish a lot of articles, brochures and books in Romanian, and even to revise the Bible<sup>115</sup> - contrary to the statements of some late biographers.<sup>116</sup> It was natural that at the beginning of his activity in Transylvania he might not have used his mother-tongue like Hungarian, German or Serbian, because in the Austrian Monarchy the language of a people long oppressed from a political, social and religious point of view was not by far a widely used one, and less as an official one.

## II.4 Vicar-administrator of the Eparchy of Sibiu

### II.4.1 Andrei Şaguna’s appointment as a vicar-administrator

On October 17, 1845, Bishop Vasile Moga of Sibiu, the first Orthodox Romanian bishop of Transylvania after 1700, passed away. He inherited the episcopal see in 1810, after a vacancy of fourteen years, and although “*the deceased bishop worked well and by his will one could see that he had good intentions*”<sup>117</sup>, since he had lived “in the non-Uniate Church of Transylvania disorder, personal liking and simony ruled; Moga himself was not aware of his high ministry and let himself be led by those around him or by his many relatives”<sup>118</sup>.

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<sup>113</sup> I. LUPAŞ, *Vieţa*, 33.

<sup>114</sup> See I. MĂRZA, *Andrei Şaguna’s Grammar Book*, 65-74.

<sup>115</sup> Cf. the chapter III.2.8 herein.

<sup>116</sup> The statement that Andrei Şaguna would have become familiar with the Romanian language as an adult only, and that he did not master it well, sustained by Ioan Lupaş (I. LUPAŞ, *Vieţa*, 34), Gheorghe Tulbure (Gh. TULBURE, *Activitatea literară*, 12-15; Gh. TULBURE, *Mitropolitul Şaguna*, 3, 72) and by other authors (P. MORUŞCA, *Cuvânt la centenarul marelui mitropolit Andrei, Baron de Şaguna*, 434-435) is rejected by later studies. See T. BODOGAE, *Dintr-o corespondenţă timişoreană*, 28.

<sup>117</sup> “14/2 Febr. 1847. Vicarul general Andrei Şaguna către Mitropolitul Iosif Raiacici (Nr. 948)” (“February 14/2, 1847. Vicar Andrei Şaguna to Metropolitan Josip Rajačić (No. 948)”), in: T. BODOGAE, *100 de ani*, 14-19 here 17. Cf. also A. ŞAGUNA, *Corespondenţa I/2*, 69-73.

<sup>118</sup> “Staats-Archiv Nr. 2173/1846. Raportul vicepreşedintelui Cancelariei aulice transilvane din 19 Aprilie 1846 privitor la numirea unui vicar pentru episcopia ort. vacantă a Transilvaniei” (“Staats-Archiv No. 2173/1846. The report of the Vice-president of the Transylvanian Aulic Chancellery of April 19, 1846, concerning the appointment of a vicar for the vacant episcopal see of Transylvania”), in: T. BODOGAE, *100 de ani*, 26-32 here 29-30.

Aware of the serious condition of this eparchy, Metropolitan Josip Rajačić thought enthusiastically to appoint Andrei Șaguna as a temporary administrator or vicar-administrator, until the decision on the new bishop's appointment. Emperor Ferdinand (1835-1848) received references for the Archimandrite Andrei, from the Serbian metropolitan on the one hand, and from the civil authorities of Transylvania on the other hand. "The difficulty of finding among the natives from Transylvania a worthy priest, able to manage the Greek non-Uniate Eparchy, encouraged Baron Jósika, the vice-president of the Aulic Chancellery, [...] to get in touch by word with the archbishop and metropolitan of Karlowitz, who was at the time at Vienna, in order to find the right person."<sup>119</sup> As a result of this request, Baron Samuel Jósika agreed with the Serbian metropolitan's opinion<sup>120</sup> and reported it to the Court, as an extra reference for the one who was to become a vicar: "Archbishop Rajačić thinks the Archimandrite Andrei Șaguna from Kovil monastery entirely worthy for this post; he is aged forty, a Romanian by origin, trained in Philosophy, Law and Theology, fully in command of Hungarian, German, Romanian, Slavonic, Serbian and Latin languages; he has become a monk under the deceased Metropolitan Stratimirović [...]; he is a man who has served under three archbishops and who has been used for twelve years in all eparchies - under direct supervision - and also in all kinds of missions assigned by hierarchs, enjoying everywhere perfect trust. Very appreciated in terms of behaviour, far from being a fanatic, he might be able to put order in the church matters of Transylvania, to cultivate the good understanding with those of other confessions, to promote the moral growth of his people, and above all to be active for the benefit of the state and Church."<sup>121</sup> Further on, the report of the Aulic Chancellery of Transylvania added one more argument to determine the Emperor Ferdinand to appoint Andrei Șaguna as vicar: "The appointment of Archimandrite Șaguna suggested by Rajačić seems the more

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<sup>119</sup> Ibid., 29. According to the Diploma Leopoldinum of December 4, 1691 - the Constitution of Transylvania until 1848/1867 - apart from the government (Landesgubernium) the Aulic Chancellery of Transylvania was set up, having its centre in Vienna and the task to connect the Court and the principality.

<sup>120</sup> Metropolitan Rajačić had presented a memorandum on November 15, 1845, at the Chancellery of Transylvania, in order to recommend the Archimandrite Andrei Șaguna. Cf. S. DRAGOMIR, *André Șaguna et Joseph Rajačić*, 248.

<sup>121</sup> "Staats-Archiv Nr. 2173/1846. Raportul vicepreședintelui Cancelariei aulice transilvane din 19 Aprilie 1846 privitor la numirea unui vicar pentru episcopia ort. vacantă a Transilvaniei" ("Staats-Archiv No. 2173/1846. The report of the Vice-president of the Transylvanian Aulic Chancellery of April 19, 1846, concerning the appointment of a vicar for the vacant episcopal see of Transylvania"), in: T. BODOGAE, *100 de ani*, 26-32 here 30-31.

meaningful to Jósika, the more this depends only on Your Majesty [choosing and confirmation of a worthy future bishop, who will stop the disorders left by Bishop Moga], and the more he remains in this position just as long as he is worthy of it. On the other hand, Şaguna was expected to win the non-Uniate clergy's sympathy by his wise behaviour and fruitful activity, so that Your Majesty shall count on his successful election as a bishop, ordered by the recent high Decree."<sup>122</sup> Out of this it is clear that the ecclesiastical and political authorities of the time were very interested in entrusting the Eparchy of Sibiu to a worthy bishop, following to cross the climbing of such successors as those of Vasile Moga's caliber, and Archimandrite Andrei was by far, in the Serbian metropolitan's view - a view also shared by the Aulic Chancellery of Transylvania - the most serious choice of the moment.

The emperor let himself persuaded by these references, and he issued on June 27, 1846, the resolution of appointment of the vicar-administrator of Transylvania: "We assign the Archimandrite Andrei Şaguna of Kovil the position of vicar-administrator for the episcopal vacant see of the Eparchy of Greek rite of the non-Uniates in Transylvania<sup>123</sup>, and pay an annual salary of 2,000 florins."<sup>124</sup>

In this way started Andrei Şaguna's long and difficult ministry in the Eparchy of Sibiu, which from "a vast eparchy lying on thousands sq.km and was awfully disordered"<sup>125</sup>, he was to turn, within twenty-five years, into the best organized metropolitanate of the Austrian Monarchy, and of the entire Orthodox world too. His appointment as a vicar "was a moment in which God threw a certain eye on Transylvania"<sup>126</sup>.

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<sup>122</sup> Ibid., 31.

<sup>123</sup> As it was pointed out herein, in the chapter I.2.3, since 1700 up to the end of the eighteenth century not any Romanian Orthodox canonical territory was officially recognized in Transylvania. Once the Eparchy of Sibiu was founded, in 1783, by the appointment of the Archimandrite Gedeon Nikitić as a bishop, it was implicitly officially recognized the existence of such a canonical territory.

<sup>124</sup> The resolution issued at Schönbrunn, on June 20, 1846, signed by the Emperor Ferdinand of Austria, in: T. BODOGAE, 100 de ani, 32.

<sup>125</sup> "Staats-Archiv Nr. 2173/1846. Raportul vicepreşedintelui Cancelariei aulice transilvane din 19 Aprilie 1846 privitor la numirea unui vicar pentru episcopia ort. vacantă a Transilvaniei" ("Staats-Archiv No. 2173/1846. The report of the Vice-president of the Transylvanian Aulic Chancellery of April 19, 1846, concerning the appointment of a vicar for the vacant episcopal see of Transylvania"), in: T. BODOGAE, 100 de ani, 26-32 here 32.

<sup>126</sup> A. PLĂMĂDEALĂ, Momentul Şaguna în istoria Bisericii Transilvaniei, 205.

Arriving at Sibiu, on August 21/September 2, 1846, he found the episcopal residence occupied by the school principal, whom he “invited” to get out and concede it to him.<sup>127</sup> His reception by the clergy, especially by the previous protégées of Bishop Vasile Moga - who would have themselves liked this post - was not very friendly. “His appointment as a vicar was met coldly, we might say unwelcoming, especially by those of Transylvania; first of all he was not known in Transylvania, and secondly it was believed extensively that he was a Serbian by nationality.”<sup>128</sup> Although both the Serbian metropolitan and Baron Jósika had recommended the Archimandrite Andrei to the Court as “a Romanian by origin”, the Romanians doubted his nationality. But the fact that he had been appointed by Vienna, without having been invited or elected by someone from Transylvania, led to suspicions, actually justified.<sup>129</sup>

Despite the unfriendly reception, the young vicar quickly made a good impression on the faithful and the intellectuals of his time: “He is a handsome man, tall and strong, with a white and handsome face; his forehead is broad and smooth, and he wears a large black beard; he gives the appearance of piety and also of seriousness and authority.”<sup>130</sup> Even the Magyar intellectuality had been seduced by his charismatic personality, which eclipsed the Uniate bishop, and they stated the followings: “Lemeni [the Uniate bishop of the time] is a clever fellow, but compared to Şaguna, he’s just a Wallach priest.”<sup>131</sup> On his coming to Transylvania, the Saxons “who were accustomed to his predecessor Vasile Moga, the former bishop, looked down on him, like to a simple ‘Walachischer Bischof’. They soon realized how wrong they had been. The honour the young Emperor Francis Joseph showed to Şaguna in the summer of 1852, when he first came to Sibiu, threw them out of confusion and inspired respect.”<sup>132</sup> A story told by a Saxon doctor of Sibiu sums up the impression Vicar Andrei Şaguna

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<sup>127</sup> Cf. A. ŞAGUNA, *Memoriile*, 11.

<sup>128</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 27-28.

<sup>129</sup> Cf. I. LUPAŞ, *Vieța*, 47.

<sup>130</sup> Library of the Romanian Academy - Romanian Manuscripts, Puşcariu to Barițiu, August 22/September 3, 1846, as cited by K. HITCHINS, *Orthodoxy and Nationality*, 20.

<sup>131</sup> Library of the Romanian Academy - Romanian Manuscripts, Puşcariu to Barițiu, December 11/23, 1847, as cited by K. HITCHINS, *Orthodoxy and Nationality*, 35.

<sup>132</sup> *Amintiri din viața Mitropolitului Şaguna*, 249.

made on his contemporaries: “The Nature appears to have overwhelmed this high prelate with all its many graces, and thus he is a masterpiece both in body and spirit.”<sup>133</sup>

Later, one of his close collaborators spoke well of him: “His high spirit, solid education, tireless activity, refined and serious behaviour, natural beauty and majestic and lofty appearance, rare features for a mortal, were magnetic forces which conquered everybody’s heart.”<sup>134</sup> And Bishop Nicolae Ivan<sup>135</sup> remembered: “Metropolitan Andrei with his great and lofty appearance drew a special respect from all the believers, and we, the youth, looked to him as to a supernatural being.”<sup>136</sup>

#### II.4.2 The state of the Orthodox Eparchy of Sibiu on Andrei Şaguna’s arrival

If Vicar Andrei Şaguna had quickly succeeded in drawing his faithful’ sympathy, he was not at all pleased with what he had found in the eparchy. The Orthodox Church of Transylvania was in a terrifying situation because of the persecutions which lasted for centuries, and the extremely precarious political situation the Romanian people had.<sup>137</sup>

“At the time, Şaguna had a scattered flock, which was not educated, disciplined, or in good order, also poor and haunted by both the foreigners and impassioned brothers.”<sup>138</sup>

It was already known that the former bishop had not been able to do much, because of the famous nineteen points<sup>139</sup> of the imperial instruction, of December 21, 1810<sup>140</sup>.

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<sup>133</sup> “Dr. F. Jikeli an seine Gattin Therese, 10 X 1846”, in Archiv des Siebenbürgen-Instituts Gundelsheim, B I 62, No. 1201: “Die Natur scheint diesen hohen Geistlichen mit allen ihren Gaben recht verschwenderisch überschüttet zu haben, und so steht er da als ihr Meisterstück sowohl in körperlicher als auch in geistiger Hinsicht.” As cited by J. SCHNEIDER, *Der Hermannstädter Metropolit*, 62.

<sup>134</sup> N. POPEA, *Arhiepiscopul*, Discurs, 4. See also the gravure in the annex I herein.

<sup>135</sup> Bishop Nicolae Ivan (1921-1936) accomplished, in 1921, Andrei Şaguna’s dream to re-establish the Eparchy of Vad, Feleac and Cluj (having its centre at Cluj).

<sup>136</sup> N. IVAN, *Momente din viaţa mitropolitului Andreiu*, 8.

<sup>137</sup> Cf. S. DRAGOMIR, *André Şaguna et Joseph Rajačić*, 249.

<sup>138</sup> C. ERBICEANU, *Jubileul centenar*, 727-728.

<sup>139</sup> The humiliating restrictions imposed to Bishop Vasile Moga by the decree of appointment of December 21, 1810, were a magnifying of the decree of November 6, 1762, by which Dionisije Novaković was imposed eleven restrictions. Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 66.

<sup>140</sup> See the imperial instruction from December 21, 1810, in: N. POPEA, *Vechi`a Metropolia*, 149-152. See also the chapter I.2.4 herein.

As a contemporary described the Romanian Church of Transylvania “it was divided [...] into the Orthodox and the Greek Catholic Church, and all this could show the saddest icon of its condition. [...] the Orthodox Romanian Church, we could say without any exaggeration was even more oppressed than the Romanian nation [...] because, in spite of the legal article No. 60 of 1791, by which it was taken out of the tolerated confessions, conceding the free practice of religion, in fact it continues to suffer, because it was actually further just ‘tolerated’. It had long lost its independence and autonomy, being subordinated to the Serbian metropolitan of Karlowitz since October 9, 1783, and December 8, 1786, against all canons, by Joseph II’s decision. Our bishop, lacking political rights, not living a correspondingly decent life, sometimes supported by the modest financial contributions of the faithful, was paid a modest salary of 4,000 florins coming from sidoxyal taxes<sup>141</sup> - he was also tied by the legal royal instruction of December 21, 1810, by which he was totally limited in his episcopal activity and call, not enjoying any esteem and authority.”<sup>142</sup>

Although subordinated from an organizing point of view to the Metropolitanate of Karlowitz, the Romanian Orthodox Church did not enjoy the privileges of the Illyrian/Serbian nation and was not equally recognized in the country Constitution, although it was the oldest Church of Transylvania, having the most numerous parishioners. The fact that it was not legally recognized made possible the persecutions exercised by the state and the Court of Vienna, and also by the local administrative authorities - represented for the most part by the Magyars; it also determined a humiliating status which faithfully reflected the consequences of the political régime.<sup>143</sup> As Bishop Andrei was to point out in his opening speech of the first mixed eparchial synod of 1850<sup>144</sup>, the political background was the only reason of the precarious situation of the Orthodox Church: “*the makers of the old Constitution do not shrink from accusing and blaming us that our priests are uneducated, that our teachers are not hard working, that we do not have schools. It is true; but who is to blame that we*

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<sup>141</sup> The Sidoxy/sydoxial tax was a religious tax introduced for the Orthodox since 1783, two coins for each family. From this humble fund there were paid the salaries of the bishop, vicar, Orthodox schools’ principal and of some teachers too. Cf. M. PĂCURARIU, 150 de ani de la înființarea primei școli teologice ortodoxe din Ardeal, 340; P. BRUSANOWSKI, Reforma constituțională, 77-78.

<sup>142</sup> N. POPEA, Arhiepiscopul și Metropolitul, 14-15.

<sup>143</sup> Cf. S. DRAGOMIR, André Şaguna et Joseph Rajačić, 249.

<sup>144</sup> At length on the mixed eparchial synod of March 1850 see the chapter III.2.5 herein.

*are today so poor and humiliated in everything? Are not the rich and the high ranking officials to be blamed for our poverty and humiliation? Did we, as sons of the Eastern Church, unjustly take anything that belongs to the sons of other Churches? Out of my respect for the truth I feel obliged to confess that we have not taken anything justly, or unjustly; on the contrary, many things may have been taken from us, and nothing was justified.”*<sup>145</sup>

Yet, the hierarchs’ incompetence and neglect lead to this lamentable situation too, because what had to be done was not accomplished. “Apart from all oppressions and injustices done, I see [...] that us, and especially our hierarchy are to be blamed for the condition of our Church, worthy to be pitied. [...] I must say that, if we had as leaders of the Church men more suited to their calling, more interested in the common good of the Church, yet we could have had a better fortune in many respects.”<sup>146</sup> The vicar himself had to see, shortly after his coming to Sibiu: “*We can see that the former bishop did not enjoy any consideration, either personal or official. This is why the high authorities entrusted the cause of the Church to foreign laymen, under whose obedience the bishop himself was subjected.*”<sup>147</sup>

The consistory - the eparchial superior executive body - did not have a pre-established agenda it kept the reports of its meetings at random and left the vital problems, such as the education and finances, at random too, flowing from one year to another.<sup>148</sup> Moreover, the project of reorganization of the consistory had not been entrusted to the former bishop, but to two Greek Catholic lay people, who supervised both the activity of the consistory and the bishop, and who had worked out a project with some

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<sup>145</sup> Actele Soboarelor...1850 și 1860, 6.

<sup>146</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 17.

<sup>147</sup> “14/2 Febr. 1847. Vicarul general Andrei Șaguna către Mitropolitul Iosif Raiacici (Nr. 948)” (“February 14/2, 1847. Vicar Andrei Șaguna to Metropolitan Josip Rajačić (No. 948)”), in: T. BODOGAE, *100 de ani, 14-19 here 18*. Cf. also A. ȘAGUNA, *Corespondența I/2*, 69-73.

<sup>148</sup> The consistorial system had been introduced at Karlowitz in 1782, by “Systema consistoriale”, and consequently used in the Transylvanian Orthodox Church too. Cf. A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 45.

As a matter of fact, Andrei Șaguna won’t shrink from denouncing to the political authority this uncanonical institution within the Orthodox Church, the political, not religious character of the consistory of his time. See the chapter VI.1.1 herein.



provisions of which the vicar “*did not stop wondering enough*”<sup>149</sup>. He was mostly dissatisfied with “*that disposition which, on no canonical or legal ground, let to the protopopes or sometimes to their ignorant substitutes the prerogative to mend the abuses occurred until that moment. Now, the protopopes were to throw the priest out of service in an arbitrary cruel way, a fact they do not report to their chief. They hear the parties and approve the divorce, sending only the documents to the bishop to be confirmed. This way, according to my humble opinion, organization is not promoted, on the contrary, disorganization is at home and, against all canons, confusion is legislated. Thus the bishop’s rights are taken away and transferred to the consistory. [...] In one word, in the project elaborated by the laymen, there is no reason, no order, because they do not have the knowledge and the necessary skill for this.*”<sup>150</sup>

The eparchial archive and library were also at a loss; the vicar himself took care to recover some books in Slavonic, which had not been registered yet, as considered superfluous.<sup>151</sup>

The eparchial finances which had been administrated by Bishop Vasile Moga not by the State Treasury were also intricate. The bishop had lent big sums of money which now could no longer be recovered, to some private people, Hungarian aristocrats, aiming to obtain ascendancy to the country political bodies, for the cause of the Orthodox Church.<sup>152</sup>

The Orthodox churches were scarce and modest. “You can say that the faithful of the Romanian Orthodox Church were oppressed and mocked to the extreme. It suffices to notice that in towns they were not excused if they built towered churches, with bells and façades facing the streets - they had to build hidden churches [...]. The proofs are our churches from the fortress of Sibiu and Braşov.”<sup>153</sup>

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<sup>149</sup> “14/2 Febr. 1847. Vicarul general Andrei Şaguna către Mitropolitul Iosif Raiacici (Nr. 948)” (“February 14/2, 1847. Vicar Andrei Şaguna to Metropolitan Josip Rajačić (No. 948)”), in: T. BODOGAE, 100 de ani, 14-19 here 17. Cf. also A. ŞAGUNA, Corespondenţa I/2, 69-73.

<sup>150</sup> Ibid., 17-19.

<sup>151</sup> Ibid., 16.

<sup>152</sup> Ibid., 17.

<sup>153</sup> N. POPEA, Archiepiscopul şi Mitropolitul, 16.

The Church members, both the clergy and the parishioners, were uneducated.<sup>154</sup> The priests, in a vast proportion “attended only the primary schools according to the old system, too few attended the secondary schools and very, very few the gymnasium or high school”<sup>155</sup>. A systematic course for training Orthodox priests started at Sibiu in 1811.<sup>156</sup> It lasted only six months and this situation continued until Andrei Şaguna’s coming to Transylvania. The priests did not have salaries or canonical portions, because the Orthodox confession was not considered among the accredited ones. Moreover, the vicar had to ascertain painfully that many of them were not even moral: “*As it was said that there is no remedy on Earth to make man immortal, I am saying that there is not a man born on Earth able to deliver the Orthodox Church [of Transylvania] from breaking up. And they are the priests who do that, out of whom few are right people, while as many as possible are evil and reprobate. The daily experience confirms this judgment more and more.*”<sup>157</sup>

The Orthodox elementary schools were almost non-existent and those which worked were precarious, having untrained teachers; the only “textbooks” were the Book of the Psalms, Catechism or Bucoavna (The ABC); the school principals were priests, in their turn. “As far as the learning system is concerned, it was in a primitive condition. Except the high schools from Blaj and the primary ones lying in the neighbouring villages (in the Saxon counties), there were no other ones. In the other parts of Transylvania inhabited mostly by Romanians there were no schools at all.”<sup>158</sup> As Vicar Andrei wrote to the metropolitan of Karlowitz “*the schools here lack order and rules. The teachers are simple, untrained people, who can read and write shamefully and are totally unworthy. The children attend school only in winter, about five-six weeks, because their parents use them at the housework and thus, coming to school too short time on the one hand, and not having capable guides on the other hand, they remain primitive or savage, while the love for learning planted in the nature of man, as well as its progress, which makes of the mortal man a real human being, all this remains unshared. In fact, the real reason why this people are so dark and uneducated is not people themselves,*

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<sup>154</sup> Cf. N. IORGA, *Istoria românilor din Ardeal și Ungaria*, vol. II, 127.

<sup>155</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 16.

<sup>156</sup> Cf. M. PĂCURARIU, *150 de ani de la înființarea primei școli teologice ortodoxe din Ardeal*, 343.

<sup>157</sup> “3 Iunie 1847. A. Şaguna către I. Raiacici (Nr. 168)” (“June 3, 1847. A. Şaguna to J. Rajačić (No. 168)”), in: T. BODOGAE, *100 de ani, 20-22 here 20*. Cf. also A. ŞAGUNA, *Corespondența I/2, 75-77*.

<sup>158</sup> N. POPEA, *Archiepiscopul*, *Discurs*, 8.

*because a question is raised: Is he a teacher the one who teaches for five-six florins?”*<sup>159</sup> The parents who wish to see their children educated had to send them to Roman Catholic or Protestant schools. Attending school was considered by some parents a luxury and an occupation without a future.<sup>160</sup> Because they were conscious that the only social status they themselves and their children could afford was that of a serf: “Until the year 1850, the Romanians were not accepted in the Saxon guilds; neither could they learn a craft.”<sup>161</sup>

Besides all this, during the first part of the nineteenth century added the insistent attempts of the central and local administration of Transylvania - represented by the Habsburgs together with the Magyars now - to impose the church Union among the Orthodox.<sup>162</sup>

A comprehensive description of the Orthodox Church in Transylvania was drawn by Bishop Andrei Șaguna in his complaint to the emperor, of December 1, 1855: “*The history of the Greek-Eastern Church of Transylvania was a series of troubles and pains, showing the image of a slave who carries on living in bitterness, by the grace of suffering.*”<sup>163</sup>

Confronted with those dark realities, Vicar Andrei “had to face everything: the Romanian clergy; the lack of schools, churches, intellectuals; unfriendly and opposing authorities; confessional jealousy and even the false traditions which penetrated people’s settlements and mentality as a result of the difficult times of misery”<sup>164</sup>.

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<sup>159</sup> “3 Iunie 1847. A. Șaguna către I. Raiacici (Nr. 168)” (“June 3, 1847. A. Șaguna to J. Rajačić (No. 168)”), in: T. BODOGAE, 100 de ani, 20-22 here 21. Cf. also A. ȘAGUNA, Corespondența I/2, 75-77.

<sup>160</sup> Cf. K. HITCHINS, Orthodoxy and Nationality, 22.

<sup>161</sup> I. LUPAȘ, Vieața, 205.

<sup>162</sup> See the chapter I.2.4 herein.

<sup>163</sup> “Gravamenul episcopului Șaguna la Împăratul contra ministrului, cerând între alte și reînființarea metropoliei românilor ortodocși” (“Bishop Șaguna’s complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians”), in: II. PUȘCARIU, Metropolia, colecția de acte, 122-151 here 122: “Die Geschichte der griechisch-orientalischen Kirche in Siebenbürgen war eine Reihe von Drangsalen und Leiden, das Bild einer Sklavin darstellend, die in Fesseln geschlagen nur von der Gnade der Duldung ihr Dasein kümmerlich fristet.”

<sup>164</sup> T. BODOGAE, 100 de ani, 4.

#### II.4.3 The first church and social-political actions; Ecaterina Varga “episode”

In the tumult of the problems he found in the eparchy, the vicar began with the catechism of the youth, forbidding the young students to attend the courses of the religious doctrines held by foreigners, obliging them to attend catechism sessions organized by the Romanian Orthodox priests.<sup>165</sup> Then he modified in the autumn of 1846 the length of the course for priesthood candidates, from six months to a year.<sup>166</sup>

A partisan of the illuminating faith, “since he arrived in Transylvania he broke away with the old obscurantism. He began to draw on his side educated and intelligent men; and because such men were scarce, he began to shape them, sending qualified young men abroad, especially to the universities of Leipzig and Vienna, for their future training and improvement; by their coming back they were sent to the consistory and to teach at the Pedagogical-Theological Institute, in the Archdiocesan Seminary.”<sup>167</sup>

The first circular letters of Andrei Țaguna aimed to improve the discipline of the clergy.<sup>168</sup> He also obtained the consent of the government<sup>169</sup> on April 15, 1847, for pastoral visits in the eparchy, with the same purpose.<sup>170</sup> As far as church order and discipline are concerned, namely their turning into practice, he was very severe because the matters were neglected before him: “You could see him getting angry, when he met on the streets of Sibiu a priest inadequately dressed, or one having negligent bushy hair, a tumbled lawn or muddy boots. [...] Laziness and drunkenness were the defects he hated most [...]. He made many opponents among the clergy by the severe measures taken - as it happens all the time and everywhere - but he reached his goal, his measures were effective; his enemies had to admit, that under his leadership the clergy, the

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<sup>165</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 74.

<sup>166</sup> Cf. S. ȘEBU, *Din activitatea pastorală a Mitropolitului Andrei Țaguna*, 532.

<sup>167</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 161.

<sup>168</sup> See S. ȘEBU, *Din activitatea pastorală a Mitropolitului Andrei Țaguna*, 533.

<sup>169</sup> The National Government (*Das Landesgubernium*) was established in 1691 (by Diploma Leopoldinum) as the supreme administrative authority in Transylvania, and was dissolved in 1869. It can be most closely compared to a provincial government. Its residence was mainly Sibiu or Cluj. The governor was the representative of the monarch. At length about the Transylvanian government and all governors see R. KUTSCHERA, *Landtag und Gubernium*, 141-312.

<sup>170</sup> Cf. I. LUPAȘ, *Vieța*, 54.

faithful and the entire condition of the Church changed, inspiring respect everywhere.”<sup>171</sup>

Although he promoted the strict discipline of the clergy, he imposed it paternally: “Since for the good of our clergy he was severe in sustaining the discipline and sometimes harsh in punishments, in exchange he has never allowed his clergy to be attacked or slandered, he rejected any unjust attack against his priests and he was never selfish with praise and acts of gratitude for his hardworking and worthy subordinates.”<sup>172</sup>

He also fought a lot to raise the clergy’s sad material and intellectual standard. The priest shared the same kind of simple, poor life as his parishioners and he had a great influence on them. “It was precisely because of this influence and its immense potential for good that Şaguna made the parish clergy the central object of his ambitious programme of church reform. He was certain that only with enlightened priests in the villages could he hope to bring his people spiritually and materially into the modern world.”<sup>173</sup>

The first direct appeals made toward the government of Transylvania, asking the full legality and consequently the official material help for the Orthodox, were - as one might have expected - ignored. “[...] *passing officially through Cluj I recommended the magnates the cause of our Church, namely our lawful existence as religion within state, and I was met with comforting explanations, but weak hopes are lying before me.*”<sup>174</sup>

In spite of the modest nature of some of the claims - equal rights for the faithful and the protest against the discrediting denomination, such as “schismatic” or “tolerated”, in the official documents or in the press - the government was not ready to bring changes to the social and political structure, old for centuries, in the principality.<sup>175</sup>

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<sup>171</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 162.

<sup>172</sup> I. LUPAȘ, *Vieța*, 142.

<sup>173</sup> K. HITCHINS, *Orthodoxy and Nationality*, 23.

<sup>174</sup> “14/2 Febr. 1847. Vicarul general Andrei Şaguna către Mitropolitul Iosif Raiacici (Nr. 948)” (“February 14/2, 1847. Vicar Andrei Şaguna to Metropolitan Josip Rajačić (No. 948)”), in: T. BODOGAE, *100 de ani, 14-19 here 15*. Cf. also A. ŞAGUNA, *Correspondența I/2*, 69-73.

<sup>175</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 29.

After a year of efforts, the results were discouraging: “*our Church here is completely disorganized and there is no man who could save it from death, because the priests and especially the protopopes are totally blinded by their personal interests and are on the Greek Catholic side. So they would be the first who separate from the Church, if they knew that the people let themselves be drawn to their side. But this good people, however poor it might be, are ashamed of something like this. It is a bad situation, nothing worse could have happened. We ought to help this people. But which are the means that could help it? This is the first and the last problem. I do not know, because my judgment has grown less, and my soul is tired of so many calamities.*”<sup>176</sup>

Apart from the strictly church issues, Vicar Andrei Șaguna had to face social-political problems too. Since the eighteenth century there was a tradition in Transylvania that the Romanian Church leaders of both Orthodox and Greek Catholics were treated like official servants, at the state’s disposal. In the report of the Chancellery of Transylvania addressed to the Court, by which the Archimandrite Andrei was recommended to be appointed a vicar-administrator, the hope that “he will be used for the state and Church interests, first of all”<sup>177</sup> was clearly expressed. Therefore - if we are to interpret the meaning *ad litteram* - at the time, the Church leaders were first of all necessary and subordinated to the state, then to the Church, from the perspective of the political authorities.

The first political act taken by the future metropolitan, “extremely important by its consequences, by which he positively surprised the Romanians and the foreigners”<sup>178</sup> is the so-called “Ecaterina Varga episode” that occurred in the autumn/winter of 1846-1847. Several mountain villages from Apuseni Mountains - Abrud-Sat, Bucium, Cărpiniș - had brought the Fisk to court before 1846, invoking the toil tax (labour

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<sup>176</sup> “5 Oct. 1847. Șaguna către Raiacici (754)” (“Oct. 5, 1847. Șaguna to Rajačić (754)”), in: T. BODOGAE, 100 de ani, 22-24 here 23. Cf. also A. ȘAGUNA, Corespondența I/2, 77-79.

<sup>177</sup> “Staats-Archiv Nr. 2173/1846. Raportul vicepreședintelui Cancelariei aulice transilvane din 19 Aprilie 1846 privitor la numirea unui vicar pentru episcopia ort. vacantă a Transilvaniei” (“Staats-Archiv No. 2173/1846. The report of the Vice-president of the Transylvanian Aulic Chancellery of April 19, 1846, concerning the appointment of a vicar for the vacant episcopal see of Transylvania”), in: T. BODOGAE, 100 de ani, 26-32 here 31.

<sup>178</sup> N. POPEA, Archiepiscopul și Metropolitul, 190.

conscription) exempt, by virtue of the rights they thought they were having.<sup>179</sup> Losing the case, the villagers refused to submit to the claims of the Fisk and the army was sent there in the summer of 1837, to restore order.<sup>180</sup> Thus, they were forced to carry out the imposed obligations<sup>181</sup>, a fact which has lasted for only six years. New cases were brought to court and new files against the Fisk. Looking for lawyers, the villagers met at Aiud “one woman named Varga Katalin [...]. She was a bright, eloquent woman.”<sup>182</sup> She seemed to be a set down noble Hungarian woman, who promised that she would win the case, as she had a brother who was an agent at the Court of Vienna. So in spite of the administrative pressure and the danger of a slaughter, the villagers did not carry the toil anymore, on Ecaterina Varga’s advice. She already had a permanent dwelling at Bucium-Poieni, where she settled comfortable, supported by the villagers the period between 1840 and 1847.<sup>183</sup> Because of the villagers’ refuse to deliver her to the authorities, a military intervention was imminent, so long she “hold speeches to the people”<sup>184</sup> on Sundays, instigating them.

Within this tense context, the Governor József Teleki of Transylvania (1842-1848) appealed to the Orthodox vicar to calm down the parishioners, by the address of November 14, 1846.<sup>185</sup> After two visits paid in the area, one in the autumn of 1846<sup>186</sup>, and the next on January 4/16, 1847, Andrei Şaguna succeeded in restoring the state of peace, a relative one, of course.

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<sup>179</sup> All the villages have had since the national princes reign a privilege, by which they were exempt of the labour conscription to the landlord (namely the Fisk), and the miners working in the golden mines of Apuseni Mountains had to pay annually to the Treasury a certain amount of gold. This privilege lasted until 1820. Cf. S. BALINTH, *Scurta descriere a unoru evenimente*, 13.

<sup>180</sup> See S. BALINTH, *Scurta descriere a unoru evenimente*, 13-15.

<sup>181</sup> The labour days have been settled as six weeks a year and the peasants were promised a sum of money for this work, a sum the peasants have eventually given up because of excessive formalities. Cf. S. BALINTH, *Scurta descriere a unoru evenimente*, 15.

<sup>182</sup> *Ibid.*, 15.

<sup>183</sup> *Ibid.*, 15.

<sup>184</sup> I. STERCA SIULUTIU, *O lacrima ferbinte*, 52.

<sup>185</sup> Cf. G. NEAMŢU, *Adevărul atestat de documente*, 66.

<sup>186</sup> Cf. I. STERCA SIULUTIU, *O lacrima ferbinte*, 53.

Although it was presented sometimes incorrectly or incomplete<sup>187</sup>, this episode pointed out that Vicar Andrei Șaguna “had the strength and quickness of the spirit to intercede, and if he had not hurried, a great misfortune might have occurred on both sides.”<sup>188</sup> Then “it also showed that the people trusted him, otherwise he would not have dared to face that woman, ‘our lady’ [as the people called her] and take her from there, without any words on the villagers’ part. And he had won this trust by his speeches and explanations about the state and nature of the trial, convincing them that he, as a spiritual father who had compassion for them, would get justice from the political régime, according to the law and circumstances, rather than a woman like Varga Catarina, who was an imposter and tried to impoverish them, to ruin and bring misfortunes on their entire life.”<sup>189</sup> By his tactful and pastoral diplomacy, he made the peasants to cooperate - because they first refused any dialogue on this topic; then he convinced them to deliver the impostor and also to write the statements by which they obliged themselves to toil the land. On the other hand, he drew the authorities’ attention on the importance of solving as soon as possible and as correctly as possible the peasants’ complaints, in order to avoid an open conflict with them.<sup>190</sup>

People contemporary with the event as well as the historians do not have the same opinion in interpreting and assessing this event.

Nicolae Popea considered this risky action on the one hand an expression of Andrei Șaguna’s consciousness as pastor “who puts his soul in the service of his spiritual sons”<sup>191</sup>, and on the other hand an expression of his spirit of a clever politician “who

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<sup>187</sup> See S. BALINTH, *Scurta descriere a unor evenimente*, 16; I. STERCA SIULUTIU, *O lacrima ferbinte*, 52-53; Eugen von FRIEDENFELS, *Joseph Bedeas von Scharberg. Beiträge zur Zeitgeschichte Siebenbürgens im 19. Jahrhundert, Erster Teil*, Wien 1876.

A presentation of this episode made by Andrei Șaguna himself to Metropolitan Josip Rajačić, in: “14/2 Febr. 1847. Vicarul general Andrei Șaguna către Mitropolitul Iosif Raiacici (Nr. 948)” (“February 14/2, 1847. Vicar Andrei Șaguna to Metropolitan Josip Rajačić (No. 948)”), in: T. BODOGAE, 100 de ani, 14-19. Cf. also A. ȘAGUNA, *Correspondența I/2*, 69-73.

<sup>188</sup> S. BALINTH, *Scurta descriere a unor evenimente*, 16.

<sup>189</sup> N. POPEA, *Archiepiscopul și Mitropolitul*, 194-195.

<sup>190</sup> See “Scrisoarea lui Șaguna către cancelarul aulic baronul Josika Samuel” (“Șaguna’s letter to Baron Josika Samuel the Aulic Chancellor”), in: N. POPEA, *Memorialul*, 14-18; “Scrisoarea lui Șaguna către guvernatorul țerii, contele Teleki Josef” (“Șaguna’s letter to Count Teleki Josef the Country Governor”), in: N. POPEA, *Memorialul*, 29-33 (in Hungarian language).

<sup>191</sup> N. POPEA, *Archiepiscopul și Mitropolitul*, 202.



foreseeing the danger from the distance, embarked upon, solving it with his entire determination.”<sup>192</sup>

Later, Ioan Lupaș wrote that “some would say about this case with Ecaterina Varga that Șaguna would have done this service to the government in order to pave his way to the vacant episcopal see.”<sup>193</sup> But one should not forget that “among our priests there was not a person showing episcopal aspirations who could have seriously competed with Șaguna”<sup>194</sup>.

Our contemporary historian Gelu Neamțu speaks first of all about “a devilish plan of the authorities. Using the pretext Ecaterina Varga, two objectives could have been attained: first, to compromise the vicar if it [arresting her] ended in a failure; second, a military execution of the villagers who sheltered her.”<sup>195</sup> Then Gelu Neamțu refers to the summons of November 14, 1846, the very arresting order delivered by the governor of Transylvania, and ended like this: “In the last analysis, Șaguna had to carry out an order. Whoever knows the situation of the Romanian priests of Transylvania before the revolution, knows very well that they were treated worse than a civil servant, even though they held a higher position.”<sup>196</sup> This last way to understand the things is the most realistic and lasting. Historian Keith Hitchins makes reference to it too.<sup>197</sup>

The conclusion which presents itself is that Vicar Andrei Șaguna “jumped in the middle, not driven by low and mean personal interests, but only by noble, moral ones, related to the good of the people whom he saved from the threatening danger. He was not the soldier of the government as he was accused, but an intercessor between the régime and his people he had defended.”<sup>198</sup> The legality was another reason of his actions: “He considered it his duty as a priest to protect his flock from violence and to do what he could to ensure their well-being; and as a loyal subject he felt he could do no less than encourage respect for the law.”<sup>199</sup> Actually the respect for the law will be in the years to come, the years of the revolution of 1848, the strong point of his discourses held before the people.

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<sup>192</sup> Ibid., 202.

<sup>193</sup> I. LUPAȘ, *Vieța*, 57.

<sup>194</sup> Ibid., 58.

<sup>195</sup> G. NEAMȚU, *Adevărul atestat de documente*, 66.

<sup>196</sup> Ibid., 66-67.

<sup>197</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 32-34. See also S. D. CÂRSTEA, *Activitatea național-politică a mitropolitului Andrei Șaguna*, 78-80.

<sup>198</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 203.

<sup>199</sup> K. HITCHINS, *Orthodoxy and Nationality*, 32.

#### II.4.4 Organizational measures; the appointment and consecration as a bishop

The eparchial emergency in which Archimandrite Andrei had been appointed as a vicar was the vacancy of the episcopal see, which had exceeded the canonical term of three months.<sup>200</sup> The situation was the more constraining, as a similar precedent before the previous Bishop Vasile Moga had continued in spite of the claims in this respect for more than fourteen years (1796-1810/11) having disastrous effects on the eparchy.<sup>201</sup>

One of the first serious consequences generated by the lack of a bishop of Sibiu was the problem of the consecration of new priests, at a time when they were much needed all over Transylvania: “*The consistory sent to Arad a clergy candidate who found the bishop seriously ill, lying in bed and because of it, or God knows why, he traveled eight weeks from Arad to Timișoara to be consecrated. The poor man was obliged, apart from the tiredness of the travels, to rent a horse for to ride to Timișoara, but then he had to sell it in Arad to face the many privations, and on the ninth Sunday he left ‘per pedes apostolorum’ in a heavy winter, coming back home bare handed, because he spent the last little money he had, about 350 florins, by remaining there for examination [canonical examination].*”<sup>202</sup>

Second, the lack of a solid organization of the Orthodox eparchy favoured the Uniate proselytism: “There are documents which point out, that at the time of the episcopal vacancy even in some members of the eparchial consistory the gangrene of confessional proselytism had penetrated.”<sup>203</sup>

The vicar insisted that the episcopal see should be filled as soon as possible, and together with the consistory “he made up a petition to the régime, asking that the appointment of a new bishop should be done as in the case of Moga, the bishop of 1810.”<sup>204</sup> He was obliged to insist on the claim: “*The consistory decided these days to*

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<sup>200</sup> According to c. 25 of the Fourth Ecumenical Council the metropolitans must perform ordinations of the new bishops within three months of vacancy, unless some unavoidable necessities require the time to be lengthened. See the text of the canon in the annex XV herein.

<sup>201</sup> See M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 65.

<sup>202</sup> “26/14 Febr. 1847. Șaguna către Raiacici (Nr. 402)” (“February 26/14, 1847. Șaguna to Rajačić (No. 402)”), in: T. BODOGAE, *100 de ani*, 19-20. Cf. also A. ȘAGUNA, *Corespondența I/2*, 74-75.

<sup>203</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 29.

<sup>204</sup> *Ibid.*, 28.

*draw to the High Government a petition signed by all the assessors, for His Majesty in his mercy to agree with the plan of appointing an Orthodox bishop in Transylvania.”*<sup>205</sup>

On the one hand, the Greek Catholic bishop took steps at the Court, in order to endlessly delay the appointment of an Orthodox bishop, especially in the person of Andrei Șaguna.<sup>206</sup> On the other hand, among the Orthodox voting priests there was a climate hostile to Andrei Șaguna, a situation created by Vasile Moga’s former partisans’ intrigues, they seeing their positions jeopardized. Because of all this Vicar Andrei was skeptical, a few months before the election, concerning his chances of becoming a bishop: *“I, personally have little hope of being appointed, because many elements stand against me, better said against us, and I also cannot believe that our Eastern Church, so corrupted today, will be allowed to be in the hands of a healthy and wise leadership, to be revived after it has fallen in such a deep abyss. I would gladly offer myself, yet I would rather withdraw.”*<sup>207</sup>

In the end, “by His Majesty’s resolution of July 24, 1847”<sup>208</sup> the claim of the eparchial consistory for the filling of the vacant episcopal see in the same way as in 1810 was approved, without the restriction that the potential candidates come exclusively out of the members of the clergy from Transylvania.<sup>209</sup> The Decree issued by the Aulic Chancellery of Transylvania, on October 20, 1847, established the election date for December 1, 1847, at Turda.<sup>210</sup>

From that moment the fever of election grew day by day. Two categories of enemies rose up against the vicar: those inside the Orthodox Church, namely Vasile Moga’s partisans, who supported two of the former bishops’ nephews with the hope to keep their privileges; those who were outside the Orthodox Church, the Roman and Greek

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<sup>205</sup> “26/14 Febr. 1847. Șaguna către Raiacici (Nr. 402)” (“February 26/14, 1847. Șaguna to Rajačić (No. 402)”), in: T. BODOGAE, 100 de ani, 19-20 here 19. Cf. also A. ȘAGUNA, Corespondența I/2, 74-75.

<sup>206</sup> Cf. “5 Oct. 1847. Șaguna către Raiacici (754)” (“Oct. 5, 1847. Șaguna to Rajačić (754)”), in: T. BODOGAE, 100 de ani, 22-24. Cf. also A. ȘAGUNA, Corespondența I/2, 77-79.

<sup>207</sup> “3 Iunie 1847. A. Șaguna către I. Raiacici (Nr. 168)” (“June 3, 1847. A. Șaguna to J. Rajačić (No. 168)”), in: T. BODOGAE, 100 de ani, 20-22 here 21. Cf. also A. ȘAGUNA, Corespondența I/2, 75-77.

<sup>208</sup> A. ȘAGUNA, Istoria Bisericei Ortodoxe Răsăritene Universale, vol. II, 204.

<sup>209</sup> Cf. S. DRAGOMIR, André Șaguna et Joseph Rajačić, 255.

<sup>210</sup> Cf. A. ȘAGUNA, Memoriile, 12-13.

Catholics, whose bishop complained at Vienna that if Andrei Şaguna was to be appointed a bishop, then the Greek Catholic Church in Transylvania “will collapse”<sup>211</sup>.

On December 1 and 2, 1847, the election assembly made of the eparchial protopopes gathered at Turda, headed by the vicar-administrator. As a result of the voting, a list with the first three candidates was sent to the Court, which appointed the future bishop. The destiny ranked Andrei Şaguna the third with 29 votes.<sup>212</sup> The first two candidates were the priest Vasile Moga with 33 votes, followed by the priest Moise Fulea, with 31 votes.<sup>213</sup>

“He [Andrei Şaguna] did nothing to be [only] third; on the contrary, in the few months of his ministry, he had inspected his eparchy, made contact with the priests, made an improvement plan for schools. He was to continue this path.”<sup>214</sup> Although the last on the list with the elected priests, Andrei Şaguna was appointed the new bishop of the vacant episcopal see by Emperor Ferdinand himself, by the imperial resolution of January 24/February 5, 1848<sup>215</sup>, “without those restrictions which were imposed on his predecessor, Bishop Vasile Moga”<sup>216</sup>.

Immediately after the event, the appointed bishop wanted to thank the Serbian metropolitan, his ecclesiastical superior who had recommended him favourably at Court. At the same time, he made public the principles he wanted to have in view by leading of the eparchy entrusted to him; those principles were the canonicity and the needs of the Church: “*I am making my way to the priceless fatherly endeavour of Your Excellency for to express deeply my thanks, and to renew the vow that I wish to guide and I will guide this eparchy of mine not according to my will and passion, but just*

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<sup>211</sup> “5 Oct. 1847. Şaguna către Raiacici (754)” (“Oct. 5, 1847. Şaguna to Rajačić (754)”), in: T. BODOGAE, 100 de ani, 22-24 here 22. Cf. also A. ŞAGUNA, Corespondența I/2, 77-79.

<sup>212</sup> Cf. S. DRAGOMIR, André Şaguna et Joseph Rajačić, 259.

<sup>213</sup> See A. ŞAGUNA, Memoriile, 13.

<sup>214</sup> N. IORGA, Istoria românilor din Ardeal și Ungaria, vol. II, 133.

<sup>215</sup> See “Diploma împăratăescă pentru denumirea lui Andreiu Şaguna de episcop în eparchia ortodoxă română a Ardélului” (“The imperial Diploma which appointed Andrei Şaguna as a bishop of the Romanian Orthodox Eparchy of Transylvania”), in: IL. PUŞCARIU, Metropolia, colecția de acte, 420-421.

<sup>216</sup> N. POPEA, Archiepiscopul și Metropolitul, 37.

About the imperial instruction with restrictive measures which accompanied the appointment of Bishop Vasile Moga, of December 21, 1810, see the chapter I.2.4 herein.

*according to the canonical dispositions, and to the needs imposed by the special situation in which our Church is.*<sup>217</sup> What Andrei Şaguna understood by the needs of the Church was not the same as Josip Rajačić thought, but the young bishop, in spite of his respect for his superior and supporter, will listen to his conscience and will follow his convictions, a fact which led to energetic disputes, on the one hand, and to exceptional achievements, on the other hand.

By the pastoral letter of February 12/24, 1848, Andrei Şaguna shared with his clergy and parishioners the news that he was appointed by the emperor as their bishop, and let his poor people, oppressed for centuries, know the way he wanted to pastor them in fatherly love: *“I promise you solemnly that [...] I will endeavour with all my forces [...] to be the father of the clergy and our faithful; I say, I want to be a father and again I say, I want to be a father in the true sense of the word.*”<sup>218</sup>

At the beginning of April 1848 he set off for Karlowitz, to be consecrated bishop, stopping on his way at Deva, west of Transylvania, with a mission received from the authorities to calm down the peasants seized by the ideas of the revolution: *“Dear Brother! The circumstances of our days, related to my position, obliged me to leave for Deva, on April 4, and the needs from the area will tell me how long I shall linger; I will not be back too soon, as I will continue my journey to Karlowitz, for the consecration ceremony ...*”<sup>219</sup>

On April 18/30, 1840, on the first Sunday after the Holy Easter<sup>220</sup>, took place the consecration ceremony in the cathedral of Karlowitz, officiated by Metropolitan Josip

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<sup>217</sup> “18/6 Febr. 1848. Andrei Şaguna către Mitrop. Raiacici (Nr. 295)” (“February 18/6, 1848. Andrei Şaguna to Metropolitan Rajačić (No. 295)”), in: T. BODOGAE, 100 de ani, 24. Cf. also A. ŞAGUNA, Corespondența I/2, 80.

<sup>218</sup> Andrei Şaguna’s pastoral letter dated Sibiu, February 12/24, 1848, in: Gh. TULBURE, Mitropolitul Şaguna, 137-139 here 137.

<sup>219</sup> “Episcopulu Andreiu lui dr. P. Vasici pentru G. Baritiu” (“Bishop Andrei to dr. P. Vasici, for G. Baritiu”), in: G. BARITIU, Parti alese din istoria Transilvaniei, 588. The letter is drafted in Romanian with Cyrillic letters and is dated Sibiu, April 4, 1848.

Although his presence at Deva and the surrounding areas is not explained in the letter, the fact that this visit is described as being determined by the situation of the time and his position in the Church justifies us to believe that it was again - likewise in Ecaterina Varga’s case - an order passed by the civil authorities to the former vicar-administrator (the new bishop) to temper his faithful. More on this issue at F. DOBREI, Legăturile lui Andrei Şaguna cu românii ortodocși hunedoreni, 359-360.

<sup>220</sup> The first Sunday after the Holy Easter is called in the Orthodox Church the Thomas’s Sunday.

Rajačić together with two bishops<sup>221</sup>, Eugen Ioanović of Karlstadt and Stevan Popović of Werschetz, the latter substituting Bishop Pantelimon of Timișoara, initially invited by Rajačić.<sup>222</sup>

In the traditional speech after the consecration ceremony, Bishop Andrei spoke in public of his personal view on his responsibilities within Church: *“I am required to revive our Eparchy of Transylvania by my ministry, and this revival should be according to the Church’s needs, the people’s redemption and the spirit of the time.”*<sup>223</sup> By naming the Church’s needs he placed as a centre and starting point of his episcopal ministry the Church, such values as people, nation and relatives, cultural-political emancipation etc., all being subordinated to this centre.<sup>224</sup> *“This is not a sentence dictated by the occasion, but the conscious confession about a mission long meditated upon.”*<sup>225</sup>

By the end of the speech the bishop emphasized once more that the Church was to be the very centre and priority of his episcopal ministry: *“my call and all it implies I shall guide and accomplish so that they would be for the great benefit of the Church and my people.”*<sup>226</sup> Of course, he did not understand by “Church” only the spokesmen of the clergy, a widespread view in the ecclesiastical mentality of the time. Maybe this difference of comprehension made him add almost as a pleonasm the word “people” after “Church”, so long in his understanding the people were anyway active member of the Church.<sup>227</sup>

Finally he entrusted God the entire plan, in a prayer springing out of the conviction given by the sincerity of his noble scope: *“Before You, oh, my Lord, I kneel and say: You know, Lord, that I wish to run to accomplish this scope: to wake dormant Romanians from their deep sleep and guide them, with their will, to whatever is true, pleasant and good! Oh Lord, cover me with Your strong shield! And in the hour of my*

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<sup>221</sup> Cf. P. GÂRBOVICEANU, Andreiu Șaguna, 431.

<sup>222</sup> Cf. S. DRAGOMIR, André Șaguna et Joseph Rajačić, 260; See also A. ȘAGUNA, Memoriile, 13.

<sup>223</sup> Andrei Șaguna’s speech after his consecration ceremony as bishop, in: N. POPEA, Arhiepiscopul și Metropolitul, 37-41 here 37-38.

<sup>224</sup> Cf. J. SCHNEIDER, Der Hermannstädter Metropolit, 1.

<sup>225</sup> I. SLAVICI, Dare de samă, 25.

<sup>226</sup> Andrei Șaguna’s speech after his consecration ceremony as bishop, in: N. POPEA, Arhiepiscopul și Metropolitul, 37-41 here 39.

<sup>227</sup> At length on Andrei Șaguna’s ecclesiological conception see the chapter V.4 herein.

*death, render sweet the fruits of my bitter endeavours! Amen!*”<sup>228</sup> For Andrei Şaguna faith, living the Christian truths, or prayers were not only concepts used in the sermons. His entire life was centered in God in a deep way. He knew himself very well, he knew his charisma (for this, many thought he was a proud man), but he never let himself be defeated by the spirit of arrogance. All his plans and accomplishments were rooted in God and His help, even if his huge energy, exceptional talents and tenacity worked endlessly.

It is important to mention, in this speech, the syntagm “*with their will*”: “[...] ‘with the people’s permission’ (*cum consensu plebis*) was the motto with which Şaguna was beginning his activity as a bishop. Among his exceptional features, Şaguna had more than any of his contemporaries the gift of comforting his people by spiritual words, fit to touch their heart and make them act. [...] Understanding that only in this way can one infuse in the people’s soul the consciousness of personal and national dignity, he did not want to give his people everything on a tray, nor did he wish to impose anything authoritatively; but like in the old days the famous Church Father Cyprian, he liked to follow under all circumstances the traditional formula of Christian democracy: *coram populo* and not to fulfill any great deed without his people’s consent (*sine consensu plebis*). This procedure was not a random invention in his spiritual pasturing and political leadership, but the result of a long meditation and of a steadfast conviction [...]. Our national history knows few bishops or statesmen who reached the high rank as leaders of the people with such a comprehensive and clear programme as Şaguna had.”<sup>229</sup>

While at Karlowitz the new bishop was consecrated for “the chair of the most deserted eparchy in Austria”<sup>230</sup>, the revolution of 1848 was in full boom. On the first Sunday after the Holy Easter an assembly of about 6,000 people<sup>231</sup> had been summoned at Blaj, by the revolutionary Romanian intellectuality of Transylvania.

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<sup>228</sup> Andrei Şaguna’s speech after his consecration ceremony as bishop, in: N. POPEA, *Archiepiscopul și Metropolitul*, 37-41 here 40-41.

<sup>229</sup> I. LUPAŞ, *Sufletul lui Şaguna*, 275-276.

<sup>230</sup> I. SLAVICI, *Dare de samă*, 21.

<sup>231</sup> Cf. A. PAPIU ILARIANU, *Istori`a*, 144.

### III. ANDREI ŞAGUNA - BISHOP OF TRANSYLVANIA

#### III.1 The political missions in 1848-1849

##### III.1.1 The year 1848 in Transylvania

When the reforming ideas of the revolution in France of February 24, 1848, reached on March 13, Vienna and on March 15, Pest, it was natural that their echo came to Transylvania too. The revolutionary movements spread all over the three Romanian historical provinces: in Moldavia the revolution was quickly shifted and in Wallachia the revolutionaries were in power between June and September 1848; in Transylvania, where the contradictions were more numerous and bigger, the unrest was stronger. Here the revolution lasted until 1849.

Between the borders of the Austrian Empire the nationalism and the liberalism witnessed extreme forms by the Magyars<sup>1</sup>: Batthyány government declared that they wanted the reconstruction of medieval Hungary, which included Transylvania, Croatia, and other territories. Based on the legitimacy of the historical right, the Magyar political leaders were leaving aside the ethnic and natural rights. According to their theory, there were “historical peoples” and “non-historical peoples” and only the

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<sup>1</sup> In the uprisings of 1848 Italians and Hungarians went so far as to call for the overthrow of the Habsburg dynasty and for the establishment of independent national states; the Polish thought along similar lines.

On March 3, 1848, Lajos Kossuth, leader of the Hungarian opposition, delivered his “Taufrede der österreichischen Revolution” (“Baptismal speech of the Austrian Revolution”) in the Hungarian Imperial Diet in Bratislava, in which he demanded a modern constitution for Hungary. Unrest broke out in Hungary on March 15, and a day later, the Diet’s liberal-dominated Lower House demanded establishment of a national government responsible to an elected parliament, and on March 22, a new national cabinet took power with Count Lajos Batthyány as chairman and Lajos Kossuth as minister of finance. Hungary was now linked with Austria only in personal union. Under duress, the Diet’s Upper House approved a sweeping reform package (the so-called April Laws), signed by the Emperor Ferdinand, which altered almost every aspect of Hungary’s economic, social, and political life. The April Laws - which functioned as Hungary’s new constitution - brought Transylvania under Hungarian rule. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 344 et seqq.

Some days after the Hungarian constitution, on April 25, 1848, Vienna enacted the Pillersdorf Constitution - the first Austrian constitution - but it did not regard Hungary and Italian territories. Actually it was met with heavy criticism by the liberal circles, on May 16, 1848, it was declared as provisory by an imperial proclamation and on July 1848 it was definitely revoked. The drafting of a constitution for the non-Hungarian Lands was assigned to the imperial parliament, the Reichstag. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 294; F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 146-150.



former had absolute rights to a political state life, while the members of the latter had to integrate and to become constituting members of the “historical” or “political” people. Recognizing and legislating the existence of a sole and only political nation - the Magyar one -, rejecting the idea of any territorial or institutional autonomy for the peoples which were not Magyar, by virtue of preserving state integrity of St. Stephan Crown territory, the nobles, leaders of the revolution in Pest made a mistake, understanding the multinational historical state just as a Magyar national state. Thus, the non-Magyar nations from Hungary were deprived and rejected from their political affirmation, as equals in a new state which they wished to be a democratic one.<sup>2</sup>

Those who felt called to take a stand toward the revolutionary ideas which had reached Transylvania gathered in a hurry at Cluj, where between March 18 and 23 the opinions inspired from Pest coagulated in the sense of the unification of Transylvania with Hungary.<sup>3</sup> But finally Simeon Bărnuțiu<sup>4</sup> imposed himself as the ideologist of the Romanian revolution in Transylvania. He composed “an inspiring proclamation”<sup>5</sup>, which moved among the young Romanian intellectuals. “A determined and precise direction was given to all the Romanians by Bărnuțiu’s proclamation of Sibiu and only to it can be assigned the reaction of the Romanians of Transylvania against the unification [with Hungary].”<sup>6</sup> The proclamation “reached its culminating point when it was suggested that the Romanians must meet themselves in national conferences, where they decide that the unification of Transylvania should not be made, until the Romanian nation is not received among the other regnicolar [privileged] nations of the

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<sup>2</sup> Cf. D. SUCIU, *Lupta naționalităților din Imperiul Habsburgic*, 174-175.

<sup>3</sup> Cf. I. PUȘCARIU, *Notițe*, 15.

<sup>4</sup> The son of a village school teacher, Simeon Bărnuțiu (1808-1864) studied theology between 1826 and 1829 at the seminary in Blaj, the principal religious and cultural centre of Romanian Greek Catholics in Transylvania. Choosing not to follow a career in the Church, he remained at Blaj as a teacher of philosophy until 1845, when Bishop Ioan Lemeni, the head of the Greek-Catholic Church, dismissed him after a long and bitter dispute. Bărnuțiu then studied Law in Sibiu until the spring of 1848, when his energies became absorbed in the Romanian struggle for national rights. By education and in spirit Bărnuțiu was a typical representative of the Romanian generation of 1848 in Transylvania. His political thought reflected the romantic élan of the age, and at the same time his philosophical inclinations accorded pride of place to the rationalism and empiricism of the Enlightenment as the guide to social change. At the centre of his preoccupations was the emancipation of the Romanians from subordination to the ruling nations of Transylvania, notably the Magyars, whose aristocracy had dominated political life in the principality for centuries. But his idea of nation differed from that of his predecessors in the eighteenth century. Deeply influenced by the philosophy of Kant, Bărnuțiu saw in philosophy an instrument which, if properly applied, could transform society. Cf. Keith HITCHINS-Apostol STAN, Bărnuțiu, Simeon, in: *Encyclopedia of 1848 Revolutions* (online).

<sup>5</sup> N. POPEA, *Memorialul*, 48.

<sup>6</sup> I. PUȘCARIU, *Notițe*, 16-17.

country.”<sup>7</sup> The threat of the Romanians’ national existence, which the militant Magyar nationalism represented<sup>8</sup>, convinced the majority of the Romanians - in spite of their sympathy for the Magyars’ political and economic liberalism - to support the cause of the Habsburgs. They were to eventually obtain, by this demonstration of loyalty toward the dynasty, the accomplishment of their aspirations: national unity and autonomy within the monarchy.<sup>9</sup>

On April 3, 1848, the Saxon University (the Diet of the Saxons of Transylvania) recognized the Romanians living on the “Fundus Regius” a series of rights. It was the Saxons’ attempt to cooperate, because they were afraid to lose their historical privileges, if the unification of Transylvania and Hungary would take place. So they needed the Romanians’ support, opposing the Magyars.<sup>10</sup>

While the Orthodox vicar was in Karlowitz for the consecration ceremony, Sibiu became an important revolutionary centre. Romanian revolutionaries from different Transylvanian counties gathered at Sibiu, encouraged by the Saxon opposition. There, Avram Iancu<sup>11</sup>, Timotei Cipariu and other revolutionary leaders decided to summon a national congress at Blaj, on April 18/30, the very day when Andrei Șaguna was to be

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<sup>7</sup> Ibid., 16.

<sup>8</sup> The partisans of the forced assimilation of the non-Magyars, preached by the Magyar liberal current lead by Lajos Kossuth, imposed the Diet in 1842/1843 a Law of language, which empowered the use of the Hungarian language in the government and in justice at all levels, even in the administration of the Greek Catholic and Orthodox Romanian Churches and in school. Although it was never applied because the emperor did not approve it, the law stirred animosity. Cf. K. HITCHINS, *Conștiință națională și acțiune politică*, 105.

<sup>9</sup> Cf. K. HITCHINS, *Andrei Șaguna și românii din Transilvania în timpul perioadei absolutiste*, 14.

<sup>10</sup> Cf. M. SOFRONIE, *Participarea*, 18.

About the historical privileges of the Saxons see the chapter I.1.1 herein.

The Hungarian nobility and the Szeklers hoped to be able to assure themselves a dominant position in the Diet in the case of unification between Transylvania and Hungary. The Saxons and those Romanians who were not represented in Diet were opposed to this. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 370.

<sup>11</sup> Avram Iancu (1824-1872) was a lawyer and military hero of the Romanians of Transylvania in 1848-1849. Born into a peasant family of modest means in the Apuseni Mountains of western Transylvania, he received an education rare for a Romanian of this time, attending the Piarist lyceum in Cluj. He studied the humanities and then, between 1844 and 1847, Law. After graduation he took a post as cancelist (law clerk) at the High Court of Transylvania in Tirgu-Mures, a mainly Hungarian city. It was here among some thirty fellow Romanian lawyers (and their 170 Hungarian colleagues) that the first news of the events of March 1848 in Vienna and Pest reached him. Like liberals elsewhere in Europe, he stood for individual freedoms, but the long struggle to protect the Romanian nation from subjugation by others had led him to put the interests of the entire ethnic community ahead of individual rights. Such a commitment explains the apparent paradox of his ultimate rejection of Hungarian liberalism in 1848. Yet, his brand of nationalism was by no means anti-liberal, and he displayed exemplary toleration toward the other peoples of Transylvania. Cf. Keith HITCHINS, Iancu, Avram, in: *Encyclopedia of 1848 Revolutions* (online).

consecrated bishop. The government of Cluj was in a difficult position. Trying to stop an ample social movement Governor József Teleki forbade the meeting. Continuing the tradition, he passed any political responsibility on behalf of the Greek Catholic and Orthodox bishops. As the Orthodox bishop had already left for Karlowitz<sup>12</sup>, the governor asked the consistory of Sibiu and the Greek Catholic Bishop Ioan Lemeni of Blaj to forbid the faithful to go to Blaj on April 18/30, announcing - for a change - an approved meeting<sup>13</sup> going to take place on May 3/15.<sup>14</sup>

In spite of the authorities' interdiction and of the Greek Catholic bishop's sampling to dissipate the 6,000 people gathered in the town square of Blaj, the intellectuals organized the meeting on April 18/30. Bărnuțiu held a temperate speech, urging people to avoid any violence and rebellion toward the authorities, and announcing the great future assembly of May 3/15. The meeting was successful because his speech "pleased even the Magyar commissioners"<sup>15</sup> who gave the participants "certificates of good conduct" which provided their security on the way home.<sup>16</sup>

After this first meeting held without official approval, Governor József Teleki arrived on April 21/May 3 at Sibiu, to talk to General Anton Puchner the commander of the imperial troops in Transylvania and to the opposition. Teleki's firm declaration concerning the unconditionally voting of the unification of Transylvania with Hungary in the Diet of Cluj stirred general perplexity. In this context, a Saxon delegation went in audience to the governor in order to sustain the recognition of the traditional autonomy of the Saxons from "Fundus Regius" after the eventual unification too.<sup>17</sup>

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<sup>12</sup> A. ȘAGUNA, *Memoriile*, 13: "I left for Karlowitz for the consecration ceremony on April 6, to spend the Holy Week and Easter there."

<sup>13</sup> "The country government seeing that all its efforts meant to stop the national meeting to take place were in vain, that all threats or persecutions of all kind are useless, not having any choice, agreed, approving the meeting ..." N. POPEA, *Memorialul*, 51-52.

<sup>14</sup> See "Cerculariulu consistoriului din Sabiniu chiamatoriu la adunarea natiunale din 15./3. maiu" ("The circular letter of the consistory of Sibiu, inviting to the national meeting of May 15/3") and "Cerculariulu episcopiei din Blasiu totu in acestu obiectu" ("The circular letter of the Diocese of Blaj concerning the same matter"), in: A. PAPIU ILARIANU, *Istori`a*, 277-279.

<sup>15</sup> A. PAPIU ILARIANU, *Istori`a*, 146.

<sup>16</sup> *Ibid.*, 142-147.

<sup>17</sup> Cf. M. SOFRONIE, *Participarea*, 18.

Waiting for the moment of the following people's meeting, approved to be held on May 3/15 at Blaj, everybody looked for the Orthodox bishop, designed by the authorities to preside over the assembly together with the Greek Catholic bishop. Yet the intellectuality did not had time to meet him during the two years of vicarship at Sibiu, they trusted Andrei Șaguna more than Ioan Lemeni, who had too acid controversies with Simeon Bărnuțiu.

### III.1.2 May 3/15, 1848: the claim of the legal recognition of the Romanian nation and Church

A week before Easter, while at Karlowitz, Andrei Șaguna was informed by the commander of the imperial troops of Transylvania that the organization of a people's assembly in Blaj under the bishops' presidency was approved: *"I received from Baron Puchner the general commander three notices, by which I was let known that the government of Transylvania approved a general assembly of our Romanian nation irrespective of confession to be held at Blaj and that I shall preside over together with the Greek Catholic Bishop Lemeni. [...] and having received my episcopal consecration on the Sunday of St. Thomas - that day, after lunch I left home ..."*<sup>18</sup>

"Everybody's eyes were on him."<sup>19</sup> The intellectuality of Transylvania lead by Simeon Bărnuțiu gathered at Sibiu and "waited for [Andrei Șaguna] like for Messiah. Arriving, before the meeting, he was received pompously by the Romanians irrespective of confession as it had never happened at Sibiu before."<sup>20</sup> Even the Saxon national guard of Sibiu came to meet him.<sup>21</sup> The Orthodox bishop's warm reception was due to the fact that the Greek Catholic Bishop Ioan Lemeni has lost his popularity following the suing to court of a group of students and teachers from Blaj, lead by Simeon Bărnuțiu.<sup>22</sup> This is why "the national intelligentsia did everything to have him [Andrei Șaguna] on

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<sup>18</sup> A. ȘAGUNA, *Memoriile*, 13.

<sup>19</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 204. See also G. NEAMȚU, *Episcopul Andrei Șaguna, „regele românilor” la 1848*, 31-32.

<sup>20</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 204.

<sup>21</sup> Cf. A. PAPIU ILARIANU, *Istori`a*, 189.

<sup>22</sup> Cf. M. SOFRONIE, *Participarea*, 17.

their side - the national cause.”<sup>23</sup> The Saxons felt their privileged historical state is in danger and “sensed in the bishop the main leader in the difficult fight which was to take place”<sup>24</sup>. Accepting with gratitude and thanking for the “honour manifestations”, the new bishop wanted to let everybody know his political slogan he was faithful to along the revolution and all his entire life: loyalty toward the Habsburg dynasty.<sup>25</sup>

The historical documents quoted above show undoubtedly that Bishop Andrei Şaguna did not place him as a leader of political affairs in 1848, but he was urged by the civil rulers of the time to take the leadership. Second, he was supported by the political leaders of different confessions and nationalities, because he was considered - in their view - a personality of the Transylvanian area who could best represent their interests.

Yet, the Communist-nationalist mystification eluded and even contradicted grossly these documents: “Although, before this [the assembly of May 3/15 from Blaj] he had already left for Karlowitz for consecration, he gave orders to the consistory of Sibiu that a circular letter should be sent all over Transylvania by which the representatives of the clergy and laity should be summoned for the great assembly.”<sup>26</sup>

It was not Andrei Şaguna who had planned the assembly, but the intellectuals; it was not he who gave orders to the consistory to send a circular letter to the clergy and the faithful, but the government of Cluj. He was announced just in Karlowitz about the meeting, and was made responsible for its good display. The fact that before consecration he had been sent west of Transylvania, at Deva and the surrounding area, to temper the peasants stirred by the revolutionary spirit, proves that he was involved in enough responsibilities and problems to have no time for political plans by the side of the revolutionary intellectuals, excepting the case the authorities requested him to involve in social-political matters. As a matter of fact, such a political activity resembling that of the revolutionary intellectuals was not on his mind, objectively speaking, because the bishop either Orthodox or Greek Catholic had a different status as compared to the intellectuals, the bishops were not allowed to organize political

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<sup>23</sup> A. PAPIU ILARIANU, *Istori`a*, 189.

<sup>24</sup> M. SOFRONIE, *Participarea*, 18.

<sup>25</sup> Cf. K. HITCHINS, *Andrei Şaguna*, 74.

<sup>26</sup> A. PLĂMĂDEALĂ, *Andrei Şaguna în 1848*, 215.

meetings and gatherings without the state authorities' previous consent. Not in the least, the multitude of ecclesiastical problems of the eparchy was serious reason for reflection and action priority to any revolutionary action.

Thus, to describe Andrei Şaguna as “a revolutionary of 1848” is at least unrealistic. The time spent among the Serbians, at Karlowitz and then at Werschetz, had a major role in defining Andrei Şaguna's personality: seeing and living among the rivalries and injustices between the Romanians and the Serbians, he felt how far those things from the spirit of the Gospels were; the more as he strongly believed in God and dedicated himself to Him, serving the Gospel. To exacerbate the concept of nationalism was an extreme political act, not a Christian one. So “he could never become one of them [the revolutionary intellectuals] because he could never make the idea of nationality his master, as they had done. He viewed the national movement both in 1848 and later on as only one aspect of the complex process of social change. Although he recognized the idea of nationality as the dominant motive force in contemporary Europe, he consistently measured its aspirations and accomplishments against what were for him ‘eternal values’ - the teachings of Christianity and those worldly ideas that had already proved their validity in the long course of human development. Consequently, he believed that whatever progress the Rumanian nation might make would depend upon the welfare of the Orthodox Church and loyalty to the Habsburg dynasty.”<sup>27</sup>

On April 24/May 6, at Sibiu took place preliminary talks concerning the future assembly of Blaj; the Orthodox bishop participated in. He accepted the principles formulated by Simeon Bărnuţiu, but insisted on an oath of faithfulness towards the House of Habsburg.

A day before the meeting, on May 2/14, 1848, in the cathedral of Blaj, Bărnuţiu presented the priorities of the Romanians once more, as at the previous meeting of April 18/30, this time before the intellectuals. The speech, a long, impressive one, had an obvious nationalist and anti-Magyar character. Historical, political, legal arguments combined in a whole which could be understood only by people of a certain educational

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<sup>27</sup> K. HITCHINS, *Orthodoxy and Nationality*, 46.

level.<sup>28</sup> Of course, Bărnuțiu's acid speech was grounded in Lajos Kossuth's affirmations which made other small peoples of the monarchy be afraid: "The Magyars started their own job with all forces, namely to Magyarize everybody."<sup>29</sup>

The ending of this speech, apart from the rejection of the confessional matter which had split the Romanians so much, and the magnifying of the concept of nationality which had to become the first, shaped the idea that the intellectuals showed suspicion toward the service of the hierarchs of Transylvania as representatives of their people, after 1700: "My goal is not to call the Romanians to unite from a confessional point of view, but to national unification [...] you cannot bring the Romanians to a greater confusion more easily than using the confessional proselytism [...]. What partakes to the Union [with Rome] or its opposite, is a matter of consciousness, it must be let on behalf of every Romanian's soul [...]. So the Romanians should not try any religious union, but strengthen the ties of the national unification [...] because the problem of nation cannot be solved quarrelling here on earth, over things which are not defined in heaven either [...]. Out of this solemn union and out of the obligation toward the national cause it follows, that the Romanians should not entrust their cause only to the bishops anymore. In the last hundred and fifty years, since we knew in detail the events in the life of the Romanians, the bishops assumed the cause of the Romanian nation; and look: the nation did not make any progress ..."<sup>30</sup>

This speech would suffice to understand why the intellectuals of 1848 in Transylvania will deny Andrei Șaguna, later in years. Although Bishop Andrei mastered as well as Bărnuțiu the elocution and the law, he never had such an accent, even in his most biting standpoints. Bărnuțiu's slogan "the nationality is our last liberty"<sup>31</sup> was not by far identical with Andrei Șaguna's principles. Actually, Bărnuțiu was an idealist, even in politics: "he did not have an education for the practical life as it was in the world; on the contrary he was isolated. His world was made up of Kant's philosophy, his motifs were a logical consequence in which he got stuck as a former teacher of philosophy,

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<sup>28</sup> See Simeon Bărnuțiu's speech held in the cathedral of Blaj, on May 2/14, 1848, in: N. POPEA, Memorialul, 83-130.

<sup>29</sup> Ibid., 101.

<sup>30</sup> Ibid., 125-127.

<sup>31</sup> Ibid., 121.

and concerning the procedures of the political matters he, as a lawyer, could not abandon Justinian's Code, as if Transylvania would be governed by Roman consuls only."<sup>32</sup>

As he shall define himself, Bishop Andrei was rather a patriot than a nationalist and this also taking into account his position, as a spiritual leader. His love for the own people did not exclude the respect for other ethnic groups and nations, on the contrary: "[...] *I wished and wish with all my heart that the ground of all our deeds, as Romanians, should be the peace, harmony, good understanding with all our fellow inhabitants; I have done my best for this, on any occasion ...*"<sup>33</sup> Moreover, the idea of nation represented for him something differently as for the intellectual politicians at the time: "Andrei Şaguna's view on nation was at a distance from the theoreticians of the nationalism of his time, considering that the nation is a law in itself and not the reason and the supreme goal."<sup>34</sup>

The following day, on May 3/15, an assembly of about 40,000 people<sup>35</sup> approved the programme in sixteen points<sup>36</sup>, which contained the principles stated by Simeon Bărnuţiu in the previous months. Simeon Bărnuţiu and Andrei Şaguna dominated the assembly. "It appears that here he [the bishop] did create the secret and lasting tie with his people."<sup>37</sup> Both bishops, the Orthodox and the Greek Catholic, had a moderate attitude<sup>38</sup>, meant to mitigate the nationalist accent of the programme. First, it was claimed the legal recognition of the Romanian nation in Transylvania, having equal political rights with the privileged nations; second, it was made reference concerning the legal recognition of the Orthodox and Greek Catholic Churches. Generically entitled "the Romanian Church", the two confessions went over the barriers which separated them after 1700 and this occurred within a vast, popular background.<sup>39</sup> Thus, the point two of the decision of the second meeting of May 4/16, 1848, reads as

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<sup>32</sup> I. PUŞCARIU, *Notiţe*, 30.

<sup>33</sup> "Domnului Nicolae Abraham Penciu, Pesta, în 11 Iulie 1848" ("To Mr Nicolae Abraham Penciu, Pest, July 11, 1848"), in: N. POPEA, *Memorialul*, 156-157 here 156.

<sup>34</sup> P. TEODOR, *Preface* at K. HITCHINS, *Ortodoxie şi naţionalitate*, 14-15.

<sup>35</sup> Cf. A. ŞAGUNA, *Memoriile*, 15.

<sup>36</sup> See this programme at K. HITCHINS, *Orthodoxy and Nationality*, 48-50.

<sup>37</sup> R. CÂNDEA, *Andrei Şaguna*, 180.

<sup>38</sup> This is a further argument in order to counteract the theory which stated that Andrei Şaguna was a revolutionary.

<sup>39</sup> After 1700, there were common actions taken by the Orthodox and Greek Catholic bishops, but never did they have the amplitude and the popular support of the one from Blaj.



follows: “The Romanian nation declares that the Romanian Church, regardless of denomination, is and shall remain free and independent of any other [local] Church and shall enjoy the same rights and benefits as the other Churches of Transylvania. It demands the restoration of the Romanian Metropolitanate and the annual general synod<sup>40</sup>, in accordance with its ancient rights. In this synod there shall be lay and ecclesiastical deputies, and here Romanian bishops shall be freely elected by a majority of votes, without candidature.”<sup>41</sup> The historians state that this desideratum of re-establishing of the Romanian Metropolitanate and of the annual general synod was the initiative of the Orthodox bishop.<sup>42</sup> The other points of the programme had social character, first of all dissolving serfdom, followed by economical and cultural ones.<sup>43</sup> The Romanian ideologists of the revolution in Transylvania did not intend to undermine Hungary’s state unity, they only asked that the Romanian nation should be consulted, being a part of this state. If the claims of Blaj had been accomplished, this would have allowed that the Romanian nation manifest its political character within the administrative, legal, religious and educational autonomy. “In 1848, the Slovaks and the Romanians aimed at the existence of several political nations as state making individualities, thus Hungary’s political institutional federalization, while the Croats and the Serbians openly reclaimed the territorial federalization too.”<sup>44</sup>

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<sup>40</sup> About this so-called “big synod” see the chapter VII.1 herein. It is an old institution of the Transylvanian Orthodox Church, a mixed ecclesiastical body, composed of laymen and clergymen.

<sup>41</sup> “Protocolul adunării generale a națiunii române din Transilvania, care s’a ținut la Blaj în anul Domnului 1848, Maiu 15/3” (“The Protocol of the general meeting of the Romanian nation in Transylvania which was held at Blaj in the year of the Lord 1848, May 15/3”), point two of the decision of the second meeting of May 4/16, 1848, in: N. POPEA, Memorialul, 59. Cf. also K. HITCHINS, *Orthodoxy and Nationality*, 49.

<sup>42</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 75; I. MATEIU, *Șaguna și restaurarea Mitropoliei*, 6.

<sup>43</sup> The national programme from Blaj included, as principal demands: dissolving of the serfdom without paying compensations, commercial and industrial freedom, freedom of speech and of the individual, abolishing censorship and privileges, setting up Romanian national guards checking the boundaries of the estates and forests, endowment of the Romanian clergy from the State Treasury, Romanian schools of all levels, a new constitution, union with Hungary should not be discussed in the Diet until the Romanian nation has not been constituted with a deliberative and decisive vote in the legislative chamber. Cf. N. POPEA, *Memorialul*, 56-64; K. HITCHINS, *Orthodoxy and Nationality*, 49-50.

<sup>44</sup> D. SUCIU, *Lupta naționalităților din Imperiul Habsburgic*, 182.

The newly declared (in March 1848) Ban of Croatia - Josip Jelačić (1801-1859) - took immediate steps to terminate Hungarian control over Croatia, officially severed all relations between Croatia and Budapest, declaring Croatia’s “independence and equality to Hungary” on April 19.

The delegates to the Serbian national assembly in Karlowitz, of May 1848, elected the conservative church leader Josip Rajačić patriarch, who wished to obtain from the Habsburg Court an autonomous province of Serbians of Hungary led by the patriarch. Cf. Brian SMITH, *Jellacic, Ban Josif; Rajacic, Josif*, in: *Encyclopedia of 1848 Revolutions* (online); R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 392 et seq., 426.

The assembly from Blaj displayed in three meetings.<sup>45</sup> Before the first meeting, Bishop Andrei organized a moment of prayer. At his invitation the representatives of the civil authorities took also part in. Then the instructions of the commissaries were read and explained to everybody. In the second meeting, Bishop Andrei held a speech in which he urged the people to keep all their duties towards the nobles, until the serfdom shall have been abolished by law. In this meeting he was elected president of the Romanian National Board/Permanent Committee, “the first standing political organization the Rumanians [of Transylvania] had ever had”<sup>46</sup>, and of the Romanian delegation that was to go to the emperor. The delegation which had to represent the assembly before the Diet of Transylvania of Cluj was to be lead by Greek Catholic Bishop Ioan Lemeni.<sup>47</sup>

On May 4/16, at the end of the meetings, the bishops as co-presidents “signed a certificate in Hungarian language for the people, as a passport for the travel security.”<sup>48</sup> In order to eliminate extremes, they were asked to work out a circular letter, so that the peasants should wait peacefully the solution to their situation.<sup>49</sup> As the Greek Catholic bishop did not submit the circular letter of the Orthodox one, each of them addressed their own faithful.<sup>50</sup> Andrei Şaguna wrote in the same conciliatory spirit, which in the intellectuals’ view was not enough nationalist: “*I give you an episcopal advice to live further as until now, in the fear of God, faithful to our emperor, obeying and following the authorities and keep in mind soon the serfdom of the poor people will end - obey your landowners until serfdom will be legally abolished.*”<sup>51</sup> Although “*bishop Lemeni also wrote a circular letter to his faithful, which contained not few invectives toward the Greek Eastern Church*”<sup>52</sup>, out of its context we understand that the period of Greek Catholic proselytism had already partially gone at least for the moment: “you will teach and urge the people to stay closed in faith; you should not understand that in this assembly of Blaj it was decided that from now on we are one in faith; you should only

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<sup>45</sup> See “Protocolul adunării generale a naţiunii române din Transilvania, care s’a ținut la Blaj în anul Domnului 1848, Maiu 15/3” (“The Protocol of the general meeting of the Romanian nation in Transylvania which was held at Blaj in the year of the Lord 1848, May 15/3”), in: N. POPEA, Memorialul, 56-64.

<sup>46</sup> K. HITCHINS, *Orthodoxy and Nationality*, 51.

<sup>47</sup> Cf. I. PUŞCARIU, *Notiţe*, 19.

<sup>48</sup> N. POPEA, *Archiepiscopul şi Metropolitul*, 207.

<sup>49</sup> Cf. M. SOFRONIE, *Participarea*, 20.

<sup>50</sup> Cf. A. ŞAGUNA, *Memoriile*, 15.

<sup>51</sup> Andrei Şaguna’s circular letter dated Blaj, May 4/16, 1848, in: N. POPEA, *Memorialul*, 79.

<sup>52</sup> A. ŞAGUNA, *Memoriile*, 16.

understand that the Uniates and the non-Uniates [Orthodox] should be like brothers of one nation, enjoying the same rights from now on.”<sup>53</sup>

Bishop Andrei’s conclusion about the assembly was that “*everything went on well*”<sup>54</sup>. Here is the description made by the Hungarian government councillor Ludovic Szabó, and the supreme country officer Nicolae Bánffy, on what at Blaj happened: “This uneducated people, which numbered more than 20,000 and who made the great majority during the meeting behaved wisely and morally, an admirable circumstance [...] due just to the wise guidance of His Holiness, Bishop Andreiu Şaguna, strong in body and soul; the punctual accomplishment of his measures can be assigned to his great popularity.”<sup>55</sup>

In the interpretation of the facts by our contemporary historian Keith Hitchins “Şaguna pondered a given situation to determine what was both right - that is, consistent with the ‘spirit of the times’, the spiritual principles of Orthodoxy, and the prerogatives of the civil authority - and feasible, in that order. Only then he did act. Caution and deliberation were qualities that rarely produced a popular hero, but Şaguna’s directness elicited the respect of friends and opponents alike among the intellectuals, and he wielded great influence over the peasantry by virtue of his ecclesiastical office.”<sup>56</sup>

In spite of the Romanians’ moderate claims, the answer to their demands expressed at Blaj will be not according to their expectancies: on May 17/29, 1848, the Diet of Cluj ignored totally the Romanians and voted in its Article I the Law of unification of Transylvania with Hungary, in order to empower the Article VII of the Hungarian Diet of Bratislava which adopted the April Laws. On June 10, 1848, the Law of unification was to be signed by the Emperor Ferdinand too.<sup>57</sup>

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<sup>53</sup> Ioan Lemeni’s circular letter dated Cluj, June 2/14, 1848, in: N. POPEA, Memorialul, 77-79 here 78.

<sup>54</sup> A. ŞAGUNA, Memoriile, 15.

<sup>55</sup> Commissars Szabó and Bánffy’s report to the government, in: N. POPEA, Memorialul, 69-70 here 70. Cf. also C. von WURZBACH, Biographisches Lexikon, 87: “[...] da war es Bischof Schaguna, welcher in der Versammlung sich Gehör und unbedingtes Vertrauen zu verschaffen wußte, so daß durchwegs den Kossuth-ischen Agitationen entgegengesetzte Beschlüsse gefasst wurden.”

<sup>56</sup> K. HITCHINS, Orthodoxy and Nationality, 52.

<sup>57</sup> Cf. D. SUCIU, Lupta naționalităților din Imperiul Habsburgic, 183.

### III.1.3 Andrei Șaguna - leader of the first delegation at Vienna and Budapest

As the assembly of Blaj had decided, Bishop Andrei Șaguna was to be the leader of the Romanian delegation to the emperor. Because he did not come to make the fidelity oath to the government of Cluj, the members of the delegation left for Vienna, while the bishop went firstly to Cluj. *“On May 7/19, I traveled from Blaj to Cluj; arriving I went to see the governor, Count Teleki, whom I found experiencing the greatest perplexity for the unrest which had started<sup>58</sup>, and this is why only after several days since my arrival could he summon a meeting so that I could sworn. [...] from Cluj I had to go back to Sibiu to prepare such a distant journey.”<sup>59</sup>* Coming back to Sibiu, the bishop had to protect the Romanian National Committee - whose president he had been appointed by the assembly of Blaj - from the possible suspicions: *“here I found some of our intelligentsia who asked me, as a president of the National Committee appointed by the assembly of Blaj, to assure the country government about the patriotic mission of this National Committee, so that it should not be under suspicion. In this spirit I wrote a paper to the government ...”<sup>60</sup>*

Arriving at Vienna, he found out from the members of the delegation that some of these went to Innsbruck *“where His Majesty [Emperor Ferdinand] was; on May 30, they were received in audience and drew a national petition followed by an imperial resolution of June 11, 1848 ...”<sup>61</sup>* This resolution was passed a day after the Law of unification of Transylvania with Hungary of the Diet of Cluj of May 17/29, 1848, was signed by the emperor. Lajos Batthyány, the chairman of Hungarian government and Paul Anton III Eszterházy, the minister of foreign affairs played a direct role in shattering the action of the first Romanian delegation to the monarch.<sup>62</sup> Under the circumstances, the emperor did not accept the basic premises of the Romanian delegation’s petition: *“After the petition was solved in the Article VII of the Magyar Diet by the unification unanimously voted in the Diet of Transylvania and sanctioned by me, I enjoy when I can assure the present delegates that I complied with all their*

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<sup>58</sup> On May 3/15, 1848, new riots took place in Vienna. Under such circumstances, Emperor Ferdinand and the imperial family fled to Innsbruck on May 5/17.

<sup>59</sup> A. ȘAGUNA, *Memoriile*, 16.

<sup>60</sup> *Ibid.*, 17.

<sup>61</sup> *Ibid.*, 17.

<sup>62</sup> Cf. D. SUCIU, *Lupta naționalităților din Imperiul Habsburgic*, 183.

wishes, because the Law from the Article VII gives the same rights and liberties to all the inhabitants of Transylvania, irrespective of their nationality, language and confession; their future prosperity depends on the enforcement of this Law ...”<sup>63</sup> The claims from Blaj had in view corporate rights for the Romanian nation and Church and the emperor’s resolution made reference to some rights<sup>64</sup> which anyway were a utopia, as long as the Court had signed a series of oppressing measures against the non-Magyar populations from the historical Hungary (Croatians, Germans, Romanians, Serbians)<sup>65</sup>. So the Romanians’ desiderates clearly expressed in the national assembly from Blaj by the programme of sixteen points were totally ignored.<sup>66</sup>

Consequently, “*the deputies and I found necessary to go to Innsbruck and petition once more to His Majesty...*”<sup>67</sup> The second delegation drew another petition conceived by the bishop himself, in broader terms, containing about the same demands.<sup>68</sup> The delegation

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<sup>63</sup> Emperor Ferdinand’s resolution, dated June 11, 1848, in: N. POPEA, Memorialul, 136: “Indem das [...] Bittgesuch durch die seither auf dem siebenbürgischen Landtage einstimmig beschlossene, und von Mir durch den 7. Artikel des letzten ungarischen Reichstages vorläufig schon sanctionirte Union Siebenbürgens mit Ungarn, erledigt wurde, freut es Mich die hier anwesenden Abgeordneten versichern zu können, dass durch den betreffenden Gesetzartikel, welcher ohne Rücksicht auf Nationalität, Sprache und Religion allen Einwohnern Siebenbürgens dieselben Freiheiten und Berechtigungen ertheilt, ihren Wünschen grösstentheils entsprochen wurde; ihre künftige Wohlfahrt daher nur von dem Vollzuge dieses Gesetzes abhängt ...”

<sup>64</sup> The so-called April Laws proclaimed some rights (guilds lost their privileges; the nobles became subject to taxation; entail, tithes, and the corvee were abolished; some peasants became freehold proprietors of the land they worked; freedom of the press and assembly were created; the equal rights of all Christian denominations were declared, ending the Catholics’ status as a state Church) but the non-Magyar ethnic groups in Hungary feared the nationalism of the new Hungarian government and this is why Transylvanian Germans and Romanians opposed the incorporation of Transylvania into Hungary. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 344. See also Istvan DEAK, *The Lawful Revolution. Louis Kossuth and the Hungarians 1848-1849*, New York 1979.

<sup>65</sup> A major flaw of the Hungarian constitution of 1848 (April Laws) was that it did not mention the non-Magyar nationalities, although they made up about half of Hungary’s population. The non-Magyars felt threatened, for instance the Vojvodina’s Serbians and Transylvania’s Germans and Romanians: the emperor signed the unification of Transylvania with Hungary, the unification of Croatia with Hungary; then it was an attempt to annex the frontier guard territories to Hungary, because they were provided representatives in the Parliament of Pest. Until September 1848, the imperial troops in Hungary were placed under the obedience and competence of the Magyar Ministry of the War and so they fought against the Slavs who rebelled against Pest. Cf. D. SUCIU, *Lupta naționalităților din Imperiul Habsburgic*, 176; R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 345 et seq.

<sup>66</sup> Cf. M. SOFRONIE, *Participarea*, 22.

<sup>67</sup> A. ȘAGUNA, *Memoriile*, 18.

<sup>68</sup> The Petition of the Romanian delegation, dated Vienna, June 18, 1848, in: N. POPEA, Memorialul, 136-138 here 138: “Wir erklären daher Euer Majestät, dass wir bei den in unserer Petition ausgesprochenen Wünschen bleiben und bitten Eure Majestät um gnädige Genehmigung derselben. Was die ohne uns auf dem Klausenburger Landtage ausgesprochene Union anbelangt, protestieren wir gegen dieselbe, wie wir in unserer Petition gegen die Verhandlung einer so wichtigen, uns so sehr angehenden Frage im Voraus protestiert haben.”

was received by the emperor on June 23<sup>69</sup>, but the answer<sup>70</sup> was not far from the previous one: the laws adopted by the Magyar Diet satisfy at great extent the Romanian's claims and the Romanian nationality will be pledged by the Magyar government by a special law. The emperor recommended them to be in touch with the Magyar government of Pest for negotiations and details.<sup>71</sup>

The honest-minded bishop took the emperor's answer for granted<sup>72</sup>, believing that he attended the official inauguration of a new policy of the Court toward the numerous nationalities within the monarchy. The reality was different. After the Hungarian constitution/April Laws was signed by the Emperor Ferdinand, on April 11, 1848, a "modern dualism" was set up inside the monarchy. The leadership of the Magyar revolution aimed at achieving a compromise and an alliance with the "constitutional" emperor. Between March and September 1848, the greatest majority of the Magyar revolutionary leaders understood not to break up entirely the relationships with Vienna. This was explained by the necessity to crush the resistance of the non-Magyar populations.<sup>73</sup>

Andrei Şaguna's following steps were a consequence of his trust in the emperor's word. Even the Romanian Permanent Committee of Sibiu, much more reserved toward the collaboration with the Austrians, showed some interest in the emperor's answer of June 23.<sup>74</sup> By the end of June 1848, the bishop and some members of the delegation left for Pest "to become more familiar with the situation."<sup>75</sup> There, he was announced by the authorities to take part in the session of the Diet, or he will be punished: "*the Diet of Pest was summoned on July 1, 1848, and I was announced and participated in the meetings a few times...*"<sup>76</sup> He also took part - being appointed as a member by the Diet of Cluj - in the works of the Regnicolar Committee, which was to finalize the details concerning the unification of Transylvania with Hungary.<sup>77</sup>

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<sup>69</sup> Cf. A. ŞAGUNA, *Memoriile*, 18.

<sup>70</sup> See the emperor's answer dated June 23, 1848, to the Romanian petition from June 18, 1848, in: N. POPEA, *Memorialul*, 138-139.

<sup>71</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 55.

<sup>72</sup> Cf. Andrei Şaguna's circular letter dated Pest, July 18, 1848, in: N. POPEA, *Memorialul*, 147-150.

<sup>73</sup> Cf. D. SUCIU, *Lupta naţionalităţilor din Imperiul Habsburgic*, 176.

<sup>74</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 55.

<sup>75</sup> A. ŞAGUNA, *Memoriile*, 21.

<sup>76</sup> *Ibid.*, 23.

<sup>77</sup> Cf. M. SOFRONIE, *Participarea*, 22-23.

But “Șaguna’s stay at Pest, with the so-called members of the delegation, raised suspicions and bewilderment among some of his countrymen.”<sup>78</sup> The extreme anti-Magyar and nationalist attitude of the revolutionary intellectuals excluded any collaboration with the government of Pest, especially after the unification of Transylvania with Hungary has been sealed. A moderate and “naïve” such as Andrei Șaguna, was looked at as a traitor in their eyes. One of the delegates who remained at Vienna calmed down his community: “The Romanian nation can enjoy having an advisor who by his rank and authority can do a lot for it. Any blame of defects which might fall upon him in my and other people’s view are improper; the future will discover all this and the Romanian nation will better come to know its real patriots and nationalists, who have worked more for its good ...”<sup>79</sup> The bishop himself, sure on his open-mindedness and goodwill, answered back firmly to the accusations: *“I dare so, before those who want to know, that there is no power to turn me away from the path of justice, common sense and peace; there is no power to distract me from my goal, namely accomplishing the happiness of my beloved nation. Irrespective of the gossip and slander, I shall not let myself worried, because ‘tuta conscientia, jure convivium’. Peace is in my soul with all my deeds ...”*<sup>80</sup>

One of Andrei Șaguna’s first actions taken at Pest was to counteract the negative image the Romanian revolutionaries had there: *“The ones who have gone to Pest, had to fight too much to defend our men [...]; because the government of Transylvania described them before the Hungarian Ministry as trouble makers.”*<sup>81</sup> Governor Teleki accused the Permanent Committee of Sibiu as undermining, betraying the Court and promoting pan-Romanian movements meant to lead to the creation of a Dacian-Romanian state, made up of all the Romanian provinces.<sup>82</sup>

In July 1848, the government of Cluj sent to Apuseni Mountains 300 Szeklers and 115 soldiers from the imperial army to arrest the Romanian leaders of the revolution.<sup>83</sup>

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<sup>78</sup> N. POPEA, Memorialul, 151.

<sup>79</sup> Romanian deputy’s letter to his community dated Vienna, June 2, 1848, in: N. POPEA, Memorialul, 153.

<sup>80</sup> “Domnului Nicolae Abraham Penciu, Pesta, în 11 Iulie 1848” (“To Mr Nicolae Abraham Penciu, Pest, July 11, 1848”), in: N. POPEA, Memorialul, 156-157.

<sup>81</sup> A. ȘAGUNA, Memoriile, 22.

<sup>82</sup> Cf. K. HITCHINS, Orthodoxy and Nationality, 58-59.

<sup>83</sup> Cf. D. SUCIU, Lupta naționalităților din Imperiul Habsburgic, 183.

Andrei Şaguna remained optimistic and he encouraged the believers by pastoral letters to trust the Magyar government led by Lajos Batthyány, because it was looking after their prosperity. Guided by open-mindedness and good intentions, he urged the people by a circular letter sent from Pest: *“as I have always told you to live like brothers with all the other peoples of Transylvania, so I advise you all fatherly now to be good, to be as you have always been, faithful to the emperor, to the country, obeying your masters. My beloved, let’s have fraternal love among us and toward the other nations which live with us; because God has liked that we are several nations in one country, and so can enjoy together the good, being brothers, sharing with other nations the goodness and sweetness of our country...”*<sup>84</sup>

After several meetings of the Regnicolar Committee designed to state the way the unification of Transylvania and Hungary will be like, which took place in July and August 1848<sup>85</sup>, the Magyar majority decided do not grant additional laws for the Romanians, because the Hungarian legislation and the unification themselves offered equality of rights for all citizens. Bishop Andrei declared that this solution could not be accepted by the Romanians, who wanted their own legislation meant to guarantee the nationality, the independence of the two Churches, Orthodox and Greek Catholic, and the use of the Romanian language in the public life. Proving courage worth admiring he criticized the unification and opposed the measures established by the Regnicolar Committee which were not in favour of the Romanians, asking that the claims of the programme of Blaj shall be satisfied. He also protested firmly against the military executions which were carried out in the Apuseni Mountains against the peasants who did not pay the quitrents imposed by the commissary of Transylvania.<sup>86</sup>

This critical situation divided the leaders of the Romanian national movement because of the different opinions on immediate solutions and on the political future. The fact that Bishop Andrei, who had been appointed president of the National Committee, remained at Pest for negotiations with the Magyars made the partition strong and public. The consistory of Sibiu was blamed for sabotage against the goals of the

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<sup>84</sup> Andrei Şaguna’s pastoral letter dated Pest, July 18, 1848, in: Gh. TULBURE, Mitropolitul Şaguna, 142-146 here 145-146.

<sup>85</sup> Cf. A. ŞAGUNA, Memoriile, 23.

<sup>86</sup> Cf. P. DAN, Andrei Şaguna, 42.



revolution because of the quickness with which it spread the decrees of the Magyar government, many contradicting the declarations of the intellectuals. Although in the beginning the National Committee accepted the idea of the unification with Hungary, as a last solution of the desideratum of the revolution, when it was made clear that it did not care too much on the Romanians' claims, some members of the Committee blamed directly the Orthodox bishop protesting against him, accusing him to have exceeded his competences assigned by the assembly of Blaj, which limited themselves only to the presentation of the programme of sixteen points to the emperor.<sup>87</sup>

The Austrian Empire, encouraged by the victories obtained by Prince Alfred Windischgrätz (Prague, June 1848) and General Josef Radetzky (who defeated the Sardinian troops at Custoza, on July 25, and entered Milan on August 7), took the offensive against the Magyar revolution. On August 12, the imperial Court returned to Vienna from Innsbruck. By a manifesto of October 3, 1848, the Crown declared a substantial part of the revolutionary legislation in Hungary void, dissolved the Diet of Pest, and introduced a stage of siege. In defiance of these royal decrees, the Hungarian Diet declared itself in permanent session. Batthyány resigned, but a committee of national defense under Kossuth took the control, authorized the establishment of a Hungarian army, and issued paper money to fund it. Kossuth decided the valid promulgation and enforcement of laws, without the emperor's sanction.<sup>88</sup>

Against the background of Vienna's courage to face Pest, the Romanians became more important in the Court's eyes, as Austrians' potential allies against the Magyars.<sup>89</sup> In Transylvania the situation was tenses and tenses.<sup>90</sup> Avram Iancu - the military hero from the Apuseni Mountains - emphasized the righteousness of the Romanians' claims;

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<sup>87</sup> As a matter of fact, the problem was neither of the Orthodox bishop, nor of the Transylvanian intellectuals, but of the Magyar revolution itself "which in many ways stood for the cause of liberalism", but "was compromised by the narrow nationalism of its charismatic, brilliant leader Kossuth." R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 345.

<sup>88</sup> Cf. D. SUCIU, *Lupta naționalităților din Imperiul Habsburgic, 1848*; R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 345 et seq.

<sup>89</sup> Actually, the Viennese government enlisted the non-Magyar nationalities in the attempt to overthrow the Hungarian government. The Croatian invasion of Hungary, from 11 September 1848, led by Ban Josip Jelačić, was used by Vienna as a means of inducing the more moderate elements in Pest to compromise. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 345.

<sup>90</sup> Cf. T. BODOGAE, *Cîteva documente în legătură cu frămîntările sociale la Romînia ardeleni în vara anului 1848*, 282-292.

the Magyars counterattacked and resorted to repressive measures with the purpose to discourage the Romanians. In August 1848, the commissioner of Pest in Transylvania Baron Miklós Vay had ordered the arresting of the Romanian Permanent Committee of Sibiu.<sup>91</sup> In this situation Baron Anton Puchner, the commander-in-chief of the imperial troops in Transylvania approved a third meeting of the Romanians at Blaj, for September. At that meeting the Romanians protested firmly against the unification of Transylvania with Hungary, and decided their military organization. A new National Committee was elected, with Simeon Bărnuțiu as a president.<sup>92</sup>

By the middle of September 1848 Bishop Andrei was convinced about Hungarians' lack of sincerity; they did not intend to grant national rights to the Romanians, as the negotiations from Pest became merely formal: "*political affairs became more and more fatal every day, and we, the Romanian men were looking for ways to come back home.*"<sup>93</sup>

The nationalities' brotherhood declared in spring turned into history in autumn. On October 30, 1848, imperial troops entered Vienna and suppressed a workers' uprising, effectively ending the revolution everywhere in the empire except Hungary, where Kossuth's army had overcome Josip Jelačić's forces. In a proclamation of October 10, 1848, Kossuth had told the Romanians to join the Hungarian programme, or otherwise - he threatened - the Transylvanian Romanians shall be destroyed, if they do not submit to his armies.<sup>94</sup> Since October 1848 the civil war - the bloodiest conflict in the Europe of its day - broke out in Hungary and Transylvania.

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<sup>91</sup> Cf. I. PUȘCARIU, *Notițe*, 20.

<sup>92</sup> Cf. M. SOFRONIE, *Participarea*, 24.

<sup>93</sup> A. ȘAGUNA, *Memoriile*, 23. Cf. also C. von WURZBACH, *Biographisches Lexikon*, 87: "Auf der Rückreise hatte er von Seite der fanatischen Magyaren alle nur erdenklichen Unbilden zu erdulden, er wurde mit Roth beworfen, öffentlich beschimpft und sogar an seinem Leben bedroht."

<sup>94</sup> Cf. M. SOFRONIE, *Participarea*, 26.

### III.1.4 The second political delegation to Court; the civil war and the end of the revolution in Transylvania

*“Overwhelmed, I arrived at Sibiu on September 26/October 8, and there I found out that Baron Puchner, the commander-in-chief [...] set up a Romanian National Committee, so-called ‘the peace maker’.”*<sup>95</sup> Bishop Andrei, hurt by some of its members’ mistrust toward his activity at Pest, broke any contact with the new National Committee led by Simeon Bărnuțiu. As a matter of fact, many Romanians accused him that he sympathized with the Magyar revolutionaries.<sup>96</sup>

When Andrei Șaguna arrived home after a long absence “the country was boiling, the enmities between the peoples reached the culmination; the cruelties toward the Romanians were terrifying; the bloody courts and the pitchforks were all over the country, all was at work. Fierce terrorism ruled everywhere.”<sup>97</sup> The first measure the bishop asked from Commander-in-chief Anton Puchner was protection for the citizens.<sup>98</sup>

On October 6/18, 1848, Baron Puchner repudiated by a public proclamation the authority of the Magyar government in Transylvania and proclaimed himself as a governor.<sup>99</sup> “Standing openly against the Magyars, he let the Romanians and the Saxons defend themselves against the Magyars.”<sup>100</sup> The intellectuals responded affirmatively the request to support the imperial army, according to the negotiations from the meeting of September, at Blaj. Bishop Andrei answered also positively: *“To this proclamation [...] which I received, I sent a circular letter on October 7/19, in which I drew our faithful’ attention to stay armed against abuses and use the weapons just to defend peace and good order in the country ...”*<sup>101</sup>

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<sup>95</sup> A. ȘAGUNA, *Memoriile*, 23.

<sup>96</sup> Cf. M. SOFRONIE, *Participarea*, 24.

<sup>97</sup> N. POPEA, *Memorialul*, 159.

<sup>98</sup> See “An Seine Excellenz, den Comandierenden Generalen Baron Anton Puchner, Hermannstadt, am 27. October 1848”, in: N. POPEA, *Memorialul*, 165: “[...] nehme ich die Freiheit Euerer Excellenz mit der gehorsamsten Bitte zu überschicken, die gequälten Geistlichen sowohl, als auch das verfolgte Volk, unter den hohen Schutz nehmen, und für die Sicherheit ihres Lebens und Eigenthums das Nöthige schleunigst verfügen zu wollen.”

<sup>99</sup> Cf. A. ȘAGUNA, *Memoriile*, 23.

<sup>100</sup> I. PUȘCARIU, *Notițe*, 21.

<sup>101</sup> A. ȘAGUNA, *Memoriile*, 24.

By virtue of the successes obtained by Puchner in bringing Transylvania under the imperial control using the Romanian army, he began to treat the Romanian leaders, the members of the new National Committee, scornfully.<sup>102</sup> The Orthodox bishop was the favourite again, for his moderate attitudes: *“The fury of the stirred spirits among nations was so frightening, that Commander-in-chief Puchner did not have the force to tame them, so he resorted on moral means and directed an official address to me, No. 4866, of December 9, 1848, in order to invite the Romanian honourable men to a meeting at Sibiu, which I did, summoning the meeting on December 16/28 ...”*<sup>103</sup>

So it was summoned a new meeting of smaller proportions; almost two hundred and fifty representatives gathered.<sup>104</sup> The meeting’s opening speech held by Andrei Șaguna<sup>105</sup> as president is “one of his most important political speeches”<sup>106</sup>. On this occasion he made public his view on the nationalism and liberalism, the fashionable political currents: *“The liberal feeling is the aspiration toward the free development of state and citizen’s references; the national feeling is the special sympathy for all those who belong to the same nation and language. [...] But the liberal and national feelings remain priceless if considered abstract. If it is something which will bear fruits - a fact that theoretically works - it must be based on morality, because the most beautiful social virtues are derived from it. Therefore, when the liberal-national feeling is based on morality, it is not limited to join its own side - because this may be lead by selfishness or separatism - but it expands furthermore, includes all the state institutions and one’s motherland, and it chooses to be guided especially by love upon the motherland. This is why I dare glorify the liberal and national feeling only when it is based on morality and is advised by the love for the motherland.”*<sup>107</sup> In this speech Bishop Andrei also expressed his conviction that people’s prosperity and happiness have their origins in faith and morality, as he was to sustain many times that faith, morality and science were the only springs of his personal successes: *“Brothers! Only*

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<sup>102</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 66.

<sup>103</sup> A. ȘAGUNA, *Memoriile*, 24.

<sup>104</sup> Cf. “Protocolul adunării naționale-române, ținută în Sibiu la 16/28 Decembrie 1848” (“The Protocol of the Romanian national meeting gathered at Sibiu, on December 16/28, 1848”), in: N. POPEA, *Memorialul*, 229-233. See also A. ȘAGUNA, *Memoriile*, 24.

<sup>105</sup> See “Cuvântul lui Șaguna de deschidere a adunării” (“Șaguna’s opening speech of the meeting”), in: N. POPEA, *Memorialul*, 219-227.

<sup>106</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 222.

<sup>107</sup> “Cuvântul lui Șaguna de deschidere a adunării” (“Șaguna’s opening speech of the meeting”), in: N. POPEA, *Memorialul*, 219-227 here 221-222.

*religion and morality can make us happy; if we are able to honour these duties for ever, then God and the emperor will be on our side, and with their help we will be able to shatter the chains of our slavery and let them as souvenirs to the future, free generations.*”<sup>108</sup>

It was drafted a new programme of thirteen points, mostly resembling the one of sixteen points from Blaj<sup>109</sup>; Andrei Şaguna was once more assigned to lead the Romanians’ delegation to Court, to the new emperor, because on December 2, 1848, Emperor Ferdinand abdicated in favour of his nephew Francis Joseph I (1848-1916)<sup>110</sup>.

The Magyar forces regrouped quickly and reassumed the offensive. The Magyar revolutionary army - entrusted to the leadership of General József Bem at the end of 1848, and in 1849 - advanced quickly in Transylvania. Alfred Windischgrätz, the commander of all imperial armies employed in the fight against Hungary wanted to avoid the confusion in recognizing publicly that Austria needed the intervention of the Russian troops from Wallachia which came out victoriously against the revolutionaries from Bucharest.<sup>111</sup> Bishop Andrei understood that his people was in a great danger and advised Governor Puchner to apply for Russian help. The answer was that an Austrian could not do this, but he allowed the bishop to go to Bucharest and ask unofficially for help in the name of his nation. The National Committee was discontent again, because the political issues were discussed with the bishop, not with it. Finally the intellectuals were obliged to accept the plan, when Andrei Şaguna refused to assume the responsibility before his people, if the Hungarian army was to be victorious in

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<sup>108</sup> Ibid., 226.

<sup>109</sup> See “Protocolul adunării naționale-române, ținută în Sibiu la 16/28 Decembrie 1848” (“The Protocol of the Romanian national meeting gathered at Sibiu, on December 16/28, 1848”), in: N. POPEA, Memorialul, 229-233. The Romanian programme drafted after discussions contained the following important demands: armed Romanian guard, opening of Romanian schools, non-recognition of the unification of Transylvania with Hungary, Transylvania’s autonomy, recognition of the Permanent Committee as Romanian political body, seats in the future Diet for all the nationalities, a national leader of the Romanians, confirmed by the monarch.

<sup>110</sup> In December 1848, Emperor Ferdinand abdicated in favour of Francis Joseph, who claimed more freedom of action because, unlike Ferdinand, he had given no pledge to respect the April Laws. The Magyars, however, refused to recognize him as their king because he was never crowned.

<sup>111</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 68.

Transylvania.<sup>112</sup> This is how the Orthodox bishop got involved in a new mission of saving his people from a massacre, before going with the delegation to Court.

So Bishop Andrei left Sibiu for Bucharest<sup>113</sup> following to head to Moldavia, Bukovina and Galicia to Vienna. Arriving at Curtea de Argeș he was obliged to sell his horses and coach to get money for the travel.<sup>114</sup> He was so pinched for money, that - for the first and last time during his ministry<sup>115</sup> - he sent a letter to Brașov “out of special consideration and fatherly care”<sup>116</sup>, by which he applied deliberately for money: “*My comfort is that you are familiar with my financial condition and this gives me the courage to ask you, if you wish to support me with money from the church revenues.*”<sup>117</sup>

In Bucharest, in spite of the commander of the Tsarist expeditionary corps in Wallachia, General Lüders’ sympathy for the Romanians, he refused any intervention in Transylvania without previous instructions from Saint Petersburg.<sup>118</sup> Yet, the bishop was optimistic after the meeting of December 24: “*I hope they will help us, only it wouldn’t be too late.*”<sup>119</sup> Bishop Andrei was described before the government of Bucharest as the head of the liberal Transylvanian Romanians and thus one and the same with the Romanian liberal refugees, dangerous for the Romanian régime of the time. For this “the Romanian government of Bucharest not only hurried feverishly to remove Bishop Șaguna, but also escorted him under police guard until he passed the border. His Excellency Metropolitan Neofit of Wallachia received him in Christ’s brotherly love, facilitating all he needed.”<sup>120</sup>

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<sup>112</sup> See “Împuternicirea episcopului Șaguna și a profesorului Gottfried Müller, pentru de a cere ajutorul Rușilor din România” (“Bishop Șaguna and Professor Gottfried Müller’s authorization to ask the Russians for help”), in: N. POPEA, Memorialul, 233-234.

<sup>113</sup> Cf. D. BĂLAȘA, Un document în legătură cu trecerea lui Andrei Șaguna prin Schela Cîneni, 1848.

<sup>114</sup> Cf. N. POPEA, Arhiepiscopul, Discurs, 13.

<sup>115</sup> N. POPEA, Arhiepiscopul și Metropolitul, 228: “He never petitioned to his faithful again although there were enough similar difficult circumstances which caused great espenses.”

<sup>116</sup> Ibid., 227.

<sup>117</sup> Andrei Șaguna’s letter to the Orthodox from Brașov, of January 2, 1849, in: N. POPEA, Arhiepiscopul și Metropolitul, 228.

<sup>118</sup> See “O copie a unei copii a raportului deputaților din Bucuresci către comitenți, despre așternerea petițiunii la Lüders.” (“A copy of a copy of the deputies’ report from Bucharest, to the members of the Committee, about the petition toward Lüders”), in: N. POPEA, Memorialul, 238-239.

<sup>119</sup> “Andrei Șaguna către Consistoriul diecezan din Sibiu” (“Andrei Șaguna to the eparchial consistory of Sibiu”), in: A. ȘAGUNA, Corespondența I/1, 166.

<sup>120</sup> N. POPEA, Arhiepiscopul și Metropolitul, 224.

The faithful were again encouraged by a circular letter to go on living “*in virtue and a little patience*”, until “*everything turns for the good of our emperor and of course, our good.*”<sup>121</sup>

After the mission to ask for Russian help was accomplished, Bishop Andrei regained the health and went on his journey, stopping at Czernowitz, where he became more familiar with the Romanians living there, and especially with the noble family of Hurmuzachi<sup>122</sup>; he was to keep constant friendly relationship with this family.

On January 23/February 4, 1849, he arrived at Olmütz; the seat of the Austrian Court was there since the people’s uprising in Vienna of October 1848. On January 25/February 6, the new Emperor Francis Joseph received the Orthodox bishop of Transylvania in an audience<sup>123</sup>, where he personally presented the wish of the Romanian nation that “*Your Majesty show mercy to this loyal nation and grant it constitutional freedom as a source of peace, order and prosperity, which the other peoples of the monarchy will enjoy too.*”<sup>124</sup>

At Olmütz Bishop Andrei worked also to draft a new programme, because the one of thirteen points from the assembly of December in Sibiu was no longer valid. At the same time, because of his insistences, all the representatives of the Romanians in the Austrian Monarchy - of Banat, Bukovina and Transylvania - decided to make up one delegation only.<sup>125</sup>

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<sup>121</sup> “Cătră clerul și poporul ortodox român din Ardeal” (“To the Romanian Orthodox clergy and people of Transylvania”), in: N. POPEA, Memorialul, 241-242 here 242.

<sup>122</sup> Hurmuzachi brothers, Alexandru (1823-1871), Constantin (1811-1869), Eudoxiu (1812-1878), and Gheorghe (1817-1882) were members of a leading family of Romanian nobles in Austrian Bukovina, activists in the Romanian national movement in Bukovina and elsewhere. All of them studied and graduated Law in Vienna. Their estate at Cernauca became a center and haven for Romanian revolutionaries in exile, transit, and conspiracy during 1848-1849. The material and financial support provided by the Hurmuzachi family was indispensable for the Romanian exiles and their future activities. At the same time, the exiles had a powerful effect on the development of the Romanian national movement in Bukovina through their prolonged contact with Cernauca. Cf. Paul E. MICHELSON, Hurmuzachi Brothers, in: Encyclopedia of 1848 Revolutions (online); Il. PUȘCARIU, Metropolia, colecția de acte, 180-187.

<sup>123</sup> Cf. “Andrei Șaguna către Consistoriul diecezan din Sibiu” (“Andrei Șaguna to the eparchial consistory of Sibiu”), in: A. ȘAGUNA, Corespondența I/1, 167-168.

<sup>124</sup> Andrei Șaguna’s official speech in front of the emperor, on February 6, 1849, in: N. POPEA, Memorialul, 243-246 here 245.

<sup>125</sup> Cf. I. LUPAȘ, Vieța, 84.

On February 13/25, 1849, the common delegation of all Romanians of the monarchy presented the emperor the new programme<sup>126</sup>. The idea of federalism with enough freedom of self-determination was considered as the only solution to the national issues of the monarchy.<sup>127</sup> The representatives of all Romanians asked the union of the Romanians of Transylvania, Bukovina, Banat, Crişana, Maramureş in one single national body, as an integrating part of the empire, having its own administration, under the jurisdiction of Vienna. The claims were justified based on the ethnic principle, because the Romanians were the oldest and the most numerous nation, of 3,5 million people.<sup>128</sup> The emperor, fighting the government of Pest and still needing the Romanians' sacrifices, promised to consider the petition in detail and to solve it positively: "I dispose that the petition of the Romanian loyal nation be debated, and I will solve it in the shortest time possible, to its peace and tranquility."<sup>129</sup>

After the meeting of February 13/25, both the bishop and the members of the delegation were optimistic: "*These days, I was a third time by the emperor and asked him for our nation. We always received comforting answers. Now, we are waiting for the resolution. I hope it will give us solace.*"<sup>130</sup> What they did not know was that the major decisions concerning the Romanians had already been discussed and decided.

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<sup>126</sup> See the national petition to the Emperor Francis Joseph I, of February 25, 1849, in: N. POPEA, Memorialul, 247-250 here 248-249: "1.Vereinigung aller Rumänen der österreichischen Staaten zu einer einzigen selbstständigen Nation unter dem Szepter Österreichs als integrierender Theil des Gesamtstaates. 2. Selbstständige Nationaladministration in politischer und kirchlicher Hinsicht. 3. Baldige Eröffnung eines allgemeinen Kongresses der ganzen Nation zur Selbstkonstituierung, und zwar: a) zur Erwählung eines von Eurer Majestät zu bestätigenden Nationaloberhauptes, dessen Titel ebenfalls Euerer Majestät zu bestimmten geruhen werden; b) eines nationalen Administrationsrathes unter dem Titel rumänischer Senat; c) eines selbstständigen von Eurer Majestät zu bestätigenden Kirchenoberhauptes, dem die übrigen Nationalbischöfe untergeordnet werden sollen ..." Cf. also "Petiţiunea generală a Naţiunii române. Olmütz 13/25 Febr. 1849" ("The general petition of the Romanian Nation. Olmütz, February, 13/25, 1849"), in: II. PUŞCARIU, Metropolia, colecţia de acte, 10-13.

<sup>127</sup> Under the new circumstances created by the conflicts between Vienna and Pest, the national programmes aimed at the national political federalization of the monarchy. By the end of 1848 and the beginning of 1849 "one can notice at all the non-Magyar national programmes the tendency of transformation and ethnic federalization of the entire monarchy, without any concession made to the historic right of the Crown of St. Stephan or to the integrity of the Hungarian state as its leaders wanted." D. SUCIU, Lupta naţionalităţilor din Imperiul Habsburgic, 187.

<sup>128</sup> Cf. D. SUCIU, Lupta naţionalităţilor din Imperiul Habsburgic, 186.

<sup>129</sup> The emperor's answer to the national petition, in: N. POPEA, Memorialul, 250-251: "Die Petition der getreuen rumänischen Nation werde Ich in genaue Erwägung ziehen lassen und in der kürzesten Zeit zu ihrer Befriedigung erledigen."

<sup>130</sup> Andrei Şaguna's letter to the eparchial consistory of Sibiu, undated, in: N. POPEA, Memorialul, 251.



On March 4, 1849, the new imperial constitution for the entire monarchy was decreed.<sup>131</sup> In virtue of the new constitution Hungary was just a province of the Austrian Empire, and was reduced by the formation of its southeastern, partly Serbian territory, the Serbian Vojvodina and the Banat of Timișoara, as a new a separate crownland. Transylvania and Croatia reverted to the status of separate Lands. This will determine Lajos Kossuth and the Hungarian Diet - moved to Debrecen in early January 1849 - to declare Hungary separated from Austria and the Habsburg Dynasty deposed, in April 1849. Kossuth entitled himself as a governor of the new proclaimed Hungarian independent state. He “continued fighting the Austrians everywhere”<sup>132</sup>, because with the beginning of Januar 1849 “the Hungarian revolution was transformed into a war of independence”<sup>133</sup>.

The Romanians’ loyalty toward the Crown along the revolution did not matter at all. Only one paragraph, namely article 74, paragraph first could make them contented.<sup>134</sup> The organization of the Austrian provinces on the criteria of national territories was not accepted and the Romanian nation was not mentioned anywhere, although the Serbians of Vojvodina were granted a high degree of autonomy<sup>135</sup> and the Saxons in “Fundus

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<sup>131</sup> The Reichstag - assigned for to draft a constitution for the non-Hungarian Lands of the Austrian Monarchy, after the Pillersdorf Constitution of 25 April 1848 was revoked - met in Vienna from July to October 1848 and reconvened in the Moravian Kroměříž (Kremsier) in November. It was drafted a constitution “which represented a genuine compromise with the national group outside of Hungary.” R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 294.

But the Reichstag was dissolved on March 7, 1849, by Prince Felix Schwarzenberg, the prime minister, and the new Emperor Francis Joseph and the Viennese government decreed the so-called Stadion Constitution, a new, centralist constitution, based on the monarchic principle, named after its author, the minister of the interior, Count Franz Stadion. Unlike the Kroměříž draft, it applied to the entire monarchy including Hungary. The constitution dated March 4, 1849 marks the beginning proper of constitutionalization at the level of the Austrian Empire because up to 1848 there was no constitution for the entire state. It is also called “the decreed Constitution”. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 294. See also Andreas GOTTMANN, *Der Reichstag von Kremsier und die Regierung Schwarzenberg. Die Verfassungsdiskussion des Jahres 1848 im Spannungsfeld zwischen Reaktion und nationaler Frage*, Wien u.a. 1995; F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 143-168.

See also the Austrian Constitution of 4 March 1849 (online).

<sup>132</sup> I. PUȘCARIU, *Notițe*, 24.

<sup>133</sup> R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 346.

<sup>134</sup> Austrian Constitution of 4 March 1849: Art. LXXIV, al.1: “The internal administration and constitution of the Principality of Transylvania will be fixed by a special statute; on the principle, however, of its entire independence of Hungary, and of equal justice being done to all races inhabiting the country and in harmony with this Constitution.”

<sup>135</sup> *Ibid.*, Art. LXXII.

Regius” kept their privileges<sup>136</sup>. The unification with Hungary was called off, but without mention of the Romanians.<sup>137</sup>

Once more Bishop Andrei and the other members of the delegation tried to mend the situation by a memorandum presented to the Council of Ministers, on March 5, 1849.<sup>138</sup> In this memorandum it was underlined that the Romanian nation addresses its claims as a constitutive part of the monarchy, and as such it wishes to be represented in the parliament of the empire proportionally; all this being in fact for the state interest.<sup>139</sup> The Council of Ministers did not accept any discussion or explanation, but it decided not to communicate the refusal to Bishop Andrei, because the Romanians’ army was still necessary to the monarchy.<sup>140</sup>

Two other petitions were presented to the emperor (on March 12, 1849)<sup>141</sup> and to the Council of Ministers (on March 23, 1849)<sup>142</sup>. One of the Romanians discontents was that the same constitution which proclaimed the principle of equal justice<sup>143</sup>, granted

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<sup>136</sup> Ibid., Art. LXXIV, paragraph 2: “The privileges of the Saxon nation are assured to them and maintained by this Constitution.”

About the historical privileges of the Saxons see the chapter I.1.1 herein.

<sup>137</sup> In fact, both recognizing Croatia and Vojvodina as separate entities from Hungary and Transylvania, too, was a punishment given to the Magyars, not a special interest in the aspiration of these nations. Even this “decreed Constitution” has never been turned into practice, being denounced by the emperor after the following two years. Instead, a new era of absolutism began: the Patent of 31 December 1851 formally invalidated the Stadion Constitution in favour of some principles, usually mentioned as “Kübeck proposals”, which entitled the emperor the supreme legislative and executive authority and established an Imperial Council (Reichsrat) made up of older statesmen. Cf. K. HITCHINS, *Andrei Șaguna și românii din Transilvania în timpul decadelor absolutiste*, 16, 20; F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 169-183.

<sup>138</sup> See the memorandum to the ministry, dated Olmütz, March 5, 1849, in: N. POPEA, *Memorialul*, 258-264. Cf. also “Memorand către ministeriu. Olmütz, 5 Martie 1849” (“Memorandum to the ministry. Olmütz, March 5, 1849”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 13-18.

<sup>139</sup> The memorandum to the ministry, dated Olmütz, March 5, 1849, in: N. POPEA, *Memorialul*, 258-264 here 263: “Dies Alles fordert die Nation nur als integrierender Theil der Gesamtmonarchie, weswegen sie auch bei dem österreichischen Reichstage nach der Seelenzahl vertreten zu sein wünscht. Es liegt gewiss nur im Interesse des Gesamtstaates, diesem Wunsche zu willfahren.”

<sup>140</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 73.

<sup>141</sup> See the petition to the emperor, of March 12, 1849, in: N. POPEA, *Memorialul*, 264-266. Cf. also “Plânsórea către Împăratul după eșirea constituțiunei. Olmütz 12 Martie 1849” (“The complaint to the emperor after the Constitution was issued. Olmütz, March 12, 1849”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 18-20.

<sup>142</sup> See the petition to the ministry, of March 23, 1849, in: N. POPEA, *Memorialul*, 267-268. Cf. also “Deslușire către ministeriu. Viena 23 Martiu 1849” (“Explanation to the ministry. Vienna, March 23, 1849”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 20-21.

<sup>143</sup> Austrian Constitution of March 4, 1849, Art. V: “Equal justice will be given to all races, and each race has the inviolable right of preserving and maintaining its own nationality and language.”

the Saxons of Transylvania the same historical privileged situation.<sup>144</sup> Moreover, the Saxons became hostile to the Romanians appearing they had made a covenant with the Magyar rebels.

The Council of Ministers did not show any sign to have received the petitions.<sup>145</sup>

By the end of March 1849 Transylvania was lost for the Habsburg dynasty; the Magyar revolutionary army lead by General József Bem had advanced triumphantly, succeeding to defend the most important border fortresses: Sibiu (on March 11) and Braşov (on March 20). Just on the Apuseni Mountains defended by Avram Iancu the Magyars could not lie their hands.<sup>146</sup>

On April 19, 1849, in the meeting of Debrecen, the Magyars declared their independence.<sup>147</sup> Transylvania was considered as a part of the Magyar state, according to the former Hungarian constitution, the April Laws of 1848: “Hungary united with Transylvania by law with all its neighbouring parts which belong to it declares itself a free European state, independent and self-governing; its territory is indivisible and integrity unprejudiced.”<sup>148</sup>

Bishop Andrei Şaguna’s last public effort on behalf of autonomy was made on April 26, 1849, when he joined the Slovakian and Croatian leaders to present the emperor a joint memorandum urging the federalization of the monarchy.<sup>149</sup> The same day, by coincidence, the revolutionary leader Lajos Kossuth sent from Debrecen a letter to Ioan Dragoş, a deputy of the Hungarian Diet and his emissary in the Apuseni Mountains, in

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<sup>144</sup> The petition to the emperor, of March 12, 1849, in: N. POPEA, Memorialul, 264-266 here 266: “Der Boden, den die Rumänen mit den Sachsen zusammen, aber mit überwiegender Mehrheit auf Seite der Ersteren bewohnen, hiess immer Königsboden. [...] Die Erklärung des Königsbodens zu einem Sachsenlande, zum Nachtheile der älteren und zahlreicheren rumänischen Bevölkerung wird das Misstrauen, das auch in der jüngsten Zeit Unglück genug über Siebenbürgen gebracht hat, zwischen diesen zwei Nationen steigern und Reibungen und Verwirrungen hervorrufen. [...] Eure Majestät! Wir glauben uns verpflichtet zu versichern, dass wir in dieser Eingabe von keiner gehässigen Leidenschaft gegen die Sachsen, sondern einzig und allein von der Gerechtigkeit und Wahrheitsliebe geleitet sind. Wir wünschen aufrichtig, dass die Sachsen für sich, aber auf ihren eigenen Kosten bestehen: wir wünschen aber zugleich, dass auch die Rumänen für sich und als solche nicht unter sächsischer, sondern unter ihrer eigenen Jurisdiction bestehen sollen.”

<sup>145</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 74.

<sup>146</sup> Cf. I. LUPAŞ, *Vieaţa*, 90.

<sup>147</sup> See “Declaraţia naţiei maghiare de neatîrnare” (“The Magyar nation’s declaration of independence”), in: N. POPEA, Memorialul, 288-303.

<sup>148</sup> *Ibid.*, 302.

<sup>149</sup> See the Romanian, Croatian and Slovakian deputies’ memorandum to the ministry, dated Vienna, April 26, 1849, in: N. POPEA, Memorialul, 315-324.

which he shows that the guilty for the Romanians' insubordination toward the Magyars and for their fight under the Austrian Crown is one single person: Andrei Şaguna "who infamously abused of his high ecclesiastical position and of the people's trust" and who "degraded himself by betraying his country, a thing that can never be forgiven"<sup>150</sup>. There is a bitter irony: the Transylvanian intellectuals suspected the bishop to have "sold" himself to the Magyars, while the Magyar revolutionaries considered him the only to be blamed because of the Romanians insubordination toward them.

Between April and July 1849 only Avram Iancu resisted the Magyar armies. The imperial army in Transylvania led by Baron Puchner was obliged to withdraw in Wallachia. The Transylvanian intellectuals and other Romanians took refuge at Bucharest too. "Only there, instead of a good reception and support, they were exposed to the harshest persecutions on the part of the Romanian government; it plotted with the commanders of the Russian troops, arresting and mal-treating them savagely."<sup>151</sup> Consequently, the Romanian delegation from Vienna led by Andrei Şaguna felt obliged to intervene in favour of the arrested intellectuals.<sup>152</sup> They were liberated, except George Bariţiu, who was transferred to Czernowitz. A stranger to confessional or political barriers, the Orthodox bishop interceded personally, especially by the Prime Minister Felix Schwarzenberg<sup>153</sup>, to set Greek Catholic George Bariţiu free - as he was a prisoner of the Russians.<sup>154</sup>

At the beginning of May 1849, at the Emperor Franz Joseph's demand the coalition of the Austrian and Russian armies was formed, and in June Russian troops attacked from the east and overwhelmed the Hungarian army, the coalition succeeding in defeating the Magyar revolutionary army at Şiria (near Arad), on August 13. By the end of August 1849 almost all the resistance centres of the Magyars were destroyed.<sup>155</sup>

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<sup>150</sup> Lajos Kossuth's letter to Ioan Dragoş, dated Debrecen, April 26, 1849, in: N. POPEA, Memorialul, 307-311.

<sup>151</sup> N. POPEA, Memorialul, 324.

<sup>152</sup> See the petition to the ministry, undated, in: N. POPEA, Memorialul, 325-327.

<sup>153</sup> On his person and activity see Adolf zu SCHWARZENBERG, Prince Felix zu Schwarzenberg, Prime Minister of Austria 1848-1852, New York 1946; Stefan LIPPERT, Felix Fürst zu Schwarzenberg, Eine politische Biographie, Stuttgart 1998.

<sup>154</sup> See Andrei Şaguna's petition to the ministry, concerning George Bariţiu's liberation, dated Vienna, July 4, 1849, in: N. POPEA, Memorialul, 348-349.

<sup>155</sup> Cf. R. A. KANN, Z. V. DAVID, The Peoples of the Eastern Habsburg Lands, 1526-1918, 346; History of Romania. Compendium, 495.

On July 18, 1849, the Council of Ministers finally gave an official answer to the the petition of February 13/25, 1849, of the common delegation of all Romanians of the monarchy to the emperor. It was a negative answer, of course.<sup>156</sup> They were laconically told that all their demands are included in the Constitution of 4 March 1849. That day, the delegation petitioned again to the emperor, hoping for a positive answer.<sup>157</sup> But the emperor's answer was no more than polite.<sup>158</sup>

During the spring and summer of 1849, until the autumn, Bishop Andrei Șaguna stayed at Olmütz, Prague and Vienna “where he did not miss any opportunity used for the benefit of the righteous cause of Romanians. He did not stop intervening everywhere, wherever necessary, with his moral force and episcopal authority, to draw attention, to obtain competent men's influence and to pledge the best possible result for the Romanian aspirations.”<sup>159</sup> Although his interventions were ignored, he felt obliged as a spiritual leader of his people to continue to insist: “*Transylvania and my eparchy reached the door of desperation, where it still precipitates. To make the Romanian nation get rid of this painful condition which it has never earned is a sacred duty of each Christian. I think that I would sin if I let aside any insignificant means of salvation of my people not used; but when I lost from sight the person that is important for us and can help, then I would make myself guilty of a crime, God shall and I shall take care of it.*”<sup>160</sup>

Coming back home in the autumn of 1849, the bishop found his residence totally devastated by the Magyar revolutionaries, who used it as a barrack. The chapel, his personal library made up of more than 3,000 books, even the consistorial archives were turned to ashes: “*Seeing that the imperial armies will stifle the civil war soon, by the*

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<sup>156</sup> See “Răspunsul ministrului Bach, în numele ministerului întreg, către episcopul Șaguna asupra petițiunii generale a deputațiunii române”, datat Viena, 18 iulie 1849 (“Minister Bach's answer in the name of the entire ministry to Bishop Șaguna, concerning the general petition of the Romanian delegation”, dated Vienna, July 18, 1849), in: N. POPEA, Memorialul, 341-343. Cf. also A. ȘAGUNA, Memoriile, 28-30.

<sup>157</sup> See the petition of the Romanian delegation to the emperor, dated Vienna, July 18, 1849, in: N. POPEA, Memorialul, 334-341.

<sup>158</sup> The emperor's answer to the petition of July 18, in: N. POPEA, Memorialul, 341: “Ich werde also gleich Meinem Ministerium den Auftrag ertheilen, ihre Petition zu erledigen, und Sie können versichert sein, dass die billigen und gerechten Wünsche der Romanen erfüllt werden.”

<sup>159</sup> N. POPEA, Archiepiscopul și Metropolitul, 230.

<sup>160</sup> “Șaguna către episcopul Bucovinei Hacman. Viena, în 26 Martie 1849” (“Șaguna to Bishop Hacman of Bukovina, Vienna, on March 26, 1849”), in: N. POPEA, Memorialul, 273. Cf. also A. ȘAGUNA, Corespondența I/1, 291-292.

*end of August 1849 I set off through Galicia, Bukovina and Romania. [...] Arriving at Sibiu I could not put up at my residence, because it was totally ravaged and filled with prisoners; so the magistrate invited me to live in the Baron Brukenthal's houses, in Urezului street, where I have spent for three months, until the residence was repaired ...*<sup>161</sup>

Later, Bishop Andrei described suggestively the destructions of the bloody year 1849: *"As the bishop's residence was robbed, likewise the most part of our parish churches have been robbed, others were dishonoured or desecrated. The holy icons were profaned; they shot at Jesus Christ's icon and yelled: 'he ceased to be the God of the Romanians!' [...] They killed, hang and shot twelve priests and a few thousands Christians because they did not want to rebel against the emperor and to recognize the supremacy of the Magyar nation. This is why they entitled me a proscribed and if they had been able to lay hands on me, they would have tormented me more than the Metropolitan Sava [Branković]."*<sup>162</sup>

He was just back home, when one of those who remained to support the Romanians and their cause at Court called the bishop again, because: "Schmerling told me these days, when I was giving him the petition, that the Serbian bishops, if they debate, they won't be able to decide anything for the Romanians; because to us will be given a proper archbishop. If Your Excellency have a mandate, come so that *viris unitis* succeed in drawing the resolution."<sup>163</sup> A realistic and penetrating spirit, Andrei Şaguna answered:

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<sup>161</sup> A. ŞAGUNA, *Memoriile*, 32.

<sup>162</sup> *Actele Soboarelor...1850 și 1860*, 24 et seqq.

Sava Branković was a metropolitan of Transylvania, with small interruptions, between 1656 and 1680. In February 1669, Prince Michael Apaffi I issued a decree by which the metropolitan was imposed a series of restrictions, among which the most difficult was to submit to the Magyar Calvin superintendent of Alba-Iulia in all church problems, a measure renewed after five years. The discovery of a plot directed against Apaffi, to which the metropolitan's brother - George Branković, a diplomat in the service of Prince Michael Apaffi - consented, determined the setting of "a court of justice" at Alba-Iulia, out of the prince's disposition, on June 2, 1680, made up of 101 persons (Magyar Calvinist leaders, Romanian pro-Calvinists protopopes, lay people, etc.) with an aim to judge the Metropolitan Sava. He was judged and sentenced the same day, according to the well-known collection of Transylvanian medieval laws - *Approbatæ Constitutiones* - and according to the canons of the Magyar Calvinist Church, followed by his being defrocked. Petru Maior, in his book "The history of the Romanians' Church", tells this: "In Prince Apaffi's castle from Blaj - by whose order the praised Sava was beaten to death, then sent back to prison and pulled out every Friday - was beaten by sticks until he died." Cf. Mircea PĂCURARIU, *Sfinți daco-români și români*, Iași 1994, 102-106.

<sup>163</sup> Ioan Dobran's letter to Andrei Şaguna, dated Vienna, October 30, 1849, in: N. POPEA, *Memorialul*, 379-380 here 379: "Schmerling sagte dieser Tage, wie wir das Gesuch einreichten, dass die Serbischen Bischöfe, falls sie berathen - nichts über Romanen entscheiden sollen dürfen - dass uns eigener Erzbischof wird ertheilt werden. Wenn Illustrissime Domine Vollmachten haben, kommen's jetzt herauf, damit wir unitis viribus die Resolution herausbekommen."

*“Concerning my journey, I have to notice that even when the whole world might make illusions and have hopes we can receive any resolution for our national cause, I state my opinion and say: the time of resolutions has gone.”*<sup>164</sup>

In the autumn of 1848 his only brother died, but the bishop found out the news only at the beginning of 1849, when he was at Olmütz, with the national deputies.<sup>165</sup> He became the owner of a considerable fortune left from his brother, the merchant, as being the only lawful heir. Although the fortune was inherited only partly<sup>166</sup> because of the political unrest, it was a material support so necessary and welcome to such a poor eparchy, as the Eparchy of Sibiu was.

The documents discovered up to now leave a blank space concerning Andrei Şaguna’s sister, Ecaterina, after 1825, when she received the right of free religious practice.<sup>167</sup>

*“In the year 1849, Ecaterina was not alive. We know this for sure.”*<sup>168</sup>

### III.1.5 Andrei Şaguna’s social and ecclesiastical actions during the revolution

Although seriously involved in the political missions entrusted to him, the bishop was always interested in what was going on with those who remained home, and for whom he felt extremely responsible.

He urged his priests to show a good Christian behaviour toward the faithful: *“I heard the saddest news coming from everywhere. I heard and read from the newspapers how our people are exposed to the most terrible things; the fierce rebels kill them, rob them, and torment them to despair. So both you [the members of the consistory] and the priests do your best to comfort the people, retaining yourself from everything that might cause grief and sorrow. The priests must pray every Sunday for the victory of the imperial armies and calm, according to the texts of liturgical books, until they will*

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<sup>164</sup> Andrei Şaguna’s answer to Ioan Dobran, dated Sibiu, November 10, 1849 in: N. POPEA, Memorialul, 380-381 here 381: “In Betreff meiner Hinaufreise muss ich noch bemerken, das wenn auch die ganze Welt sich Vorspiegelungen macht, und die Hoffnung hegt, dass wir bezüglich unserer nationalen Angelegenheiten eine Resolution bekommen können, ich dennoch bei meiner Meinung verbleibe, und sage: dass die Zeit der zu ertheilenden Resolutionen vorüber ist.”

<sup>165</sup> Cf. Anticritic’a, 22.

<sup>166</sup> Cf. N. POPEA, Archiepiscopul și Metropolitul, 54.

<sup>167</sup> See the chapter II.2.2 herein.

<sup>168</sup> I. LUPAŞ, Anastasia Şaguna, 31. Cf. also the chapter II.3 herein.

*receive another special liturgical rule. Out of their faith and piety the people will invite the priests to pray for their deceased; I recommend the clergy to deal with the sacred things so that no complaints will be born by the payment of the religious services.”*<sup>169</sup>

The authorities were asked to do not any injustice to the Romanian nation, as compared to the historical privileged nations in Transylvania: *“The Saxon authorities become more and more hostile to the Romanians in attitude, and do their best to reveal with all their forces and to comment upon the reprisals committed by the Romanian mobs - and all this because the Romanians were forced to; but I wonder who has committed more cruelties, the Romanians or the rebels? There is no one to pity these frightening scenes more than I do; but when about two hundred and fifty villages are turned to ashes, and more ten thousands Romanians have been slaughtered, when many old people, widows and innocent children wander through mountains and forests, on a hard winter, without clothes, hungry and tormented, and when our entire nation is destroyed, then only inhuman wickedness can remind us many times of sole catastrophes [...] for to stigmatize the Romanian nation.*

*What did the Romanian nation have to defend when it rebelled? Nothing, because it had nothing until now - of what a nation ought to have; it rebelled only led by loyalty to the dynasty and support for the entire monarchy, **then for constitutional freedom and equal rights** [our reference]. Why did it deserve such a hostile treatment from the part of the Saxon nation, so long they fought together for a common cause? When did Romanian nation answer the Saxons evil to evil - although it was cruelly treated by them? Is not it the same nation, which in the assembly of Blaj drew the entire monarchy’s attention for its rare wise, peaceful and brave behaviour? It is very striking that the Saxons sympathize more with the rebels than the Romanians, who rather defend the Saxons than themselves!*

*[...] I appeal to Your Excellency’s noble feelings, asking humbly not to withdraw your powerful shield from the hardened Romanian nation.*

*Like the one who has encouraged the innocent nation to go to war, I feel responsible before God and my nation for the blood shed and for the terrible damages suffered by my sons in Christ. My consciousness as a clergyman drives me to beseech Your Excellency to stop the suggestions made by the enemies of my nation to your subordinates - please stop them so that they should not become harmful! At the same*

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<sup>169</sup> Andrei Şaguna’s letter to the eparchial consistory of Sibiu, undated, in: N. POPEA, Memorialul, 251.



*time please stop [the negative commentaries of] the Saxon press and be for my nation what you have promised in May, a guardian angel! The glory of having helped an old brave nation - in enmity by many sides - to obtain its rights will not be less than the gratitude the history will show you, for Your Excellency's heroic deeds.*"<sup>170</sup>

Toward the end of the civil war, understanding that the imperial troops will defeat and peace will be established in Transylvania, Bishop Andrei interceded by the authorities to recommend distinguished Romanians<sup>171</sup>, familiar with the Romanian realities of Transylvania, for the positions of commissaries on the foreign commandants and military governors' side, because the foreigners could have been easily deceived concerning the Romanians. Then, worried "*because the imperial army in Transylvania*

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<sup>170</sup> "Sr. Excellenz dem k.k. General der Cavallerie Commandirenden in Siebenbürgen Herrn B. Puchner, Olmütz, 20. März 1849", in: N. POPEA, Memorialul, 270-273: "Die sächsischen Organe stimmen von Tag zu Tag einen immer feindseligeren Ton gegen die Romänen, und emsig bemühen sie sich alle Repressalien, die der Landsturm hier und da, wie ich glaube nothgedrungen, geübt hat, aus allen Winkeln hervorzuziehen und zu commentieren, um den Beweis auszuführen, dass es zweifelhaft sei, ob von den Romänen oder von den Rebellen mehr Gräueltaten vollbracht wurden? Niemand kann diese Gräuelszenen tiefer beklagen als ich; wo aber gegen 250 romänische Ortschaften in Asche liegen und mehrere zehntausende Romänen hingeschlachtet wurden, - wo unzählige Greise, Witwen und unschuldige Kinder in den Wäldern und Gebirgen, im strengsten Winter nackt und vom Hunger geplagt herum irren, und die ganze Nation vernichtet erscheint, da kann nur die unmenschliche Böswilligkeit einzelne Katastrophen [...] wieder und wieder in Erinnerung bringen, um die romänische Nation zu brandmarken.

Was hat die romänische Nation zu vertheidigen gehabt, als sie sich erhoben hatte? (Nichts, denn sie hatte bisher nichts von allem dem, was einer Nation als solcher zukommt); sie erhob sich in ihrer kindlichen Treue für die Beschützung der Dinastie und für die Aufrechthaltung der Gesamtmonarchie und zuletzt für die constitutionelle Freiheit und Gleichheit. Womit hat sie diese so feindliche Behandlung von Seite der sächsischen Nation, - mit welcher sie ja gemeine Sache macht, - verdient? Wann hat die romänische Nation den Sachsen, von denen sie immer stiefmütterlich behandelt wurde, Böses mit Bösem vergolten? Ist diese Nation nicht dieselbe die in den Kongressen zu Blasendorf durch ihr seltenes, weises, ruhiges aber zugleich männliches Benehmen die Augen der ganzen Monarchie auf sich gezogen? Es ist höchst auffallend, dass die Sachsen mehr mit den Rebellen als mit den Romänen, die doch mehr die Sachsen als sich selbst beschützt haben, sympatisiren!

[...] ich appelliere an die edlen Gefühle Euerer Excellenz und bitte gehorsamst Ihren mächtigen Schutz der vielgeprüften romänischen Nation nicht zu entziehen.

Als einer, der auch ich die Nation zum Kampfe ermunterte, fühle ich mich in meinem Gewissen verantwortlich vor Gott und vor der Nation, für das in Strömen vergossene unschuldige Blut und für die ungeheuren Schaden meiner vielgeliebten Kinder in Christo. Dieses Bewusstsein drängt mich, Euere Excellenz, kraft meines geistlichen Hirten-Amtes zu beschwören, den Einflüsterungen der Feinden meiner Nation bei den Untergeordneten Euerer Excellenz Halt zu gebieten und sie unschädlich zu machen, zugleich der sächsischen Presse die gebührenden Gränzen anzuweisen, und überhaupt der romänischen Nation das zu sein, was Euere Excellenz im Monate Mai versprochen, ein Schutz-Engel. Der Ruhm, einer alten, getreuen und braven, aber vielseitig angefeindeten Nation, zu ihren Rechten geholfen zu haben, wird nicht der geringste nebst dem sein, was die Geschichte den Heldenthaten Euerer Excellenz zollen wird."

<sup>171</sup> See "Recomandarea lui Andreiu Mocionyi de Foen de comisar imperial" ("The recommendation of Andrei Mocionyi of Foen as imperial commissary"), undated, in: N. POPEA, Memorialul, 349-352; "Recomandarea lui Petru Mocsonyi de comisar imperial" ("The recommendation of Petru Mocsonyi as imperial commissary"), Vienna, August 18, 1849, in: N. POPEA, Memorialul, 353-355.

*by the advance and by the defeat and dispersion of the insurgents might led to the emergence of bands of robbers and groups of desperate honveds behind the winners - just as it is in Upper Hungary the case - which could worry the areas emptied by the imperial military and endanger the life and property of the common sensed subjects*<sup>172</sup> he suggested the setting up of a body of volunteers, among the bravest Romanians led by Avram Iancu, meant to protect the inner peace and order.

Not in the least, Bishop Andrei thought of the crisis his faithful should go through after the civil war, and began to collect funds to help them. He had launched to his own faithful appeals, even in the autumn of 1848, to help those affected by the horrors of the revolution.<sup>173</sup> On July 18, 1849, he addressed from Olmütz a letter to the Orthodox Romanian-Greek community of Vienna “by which, describing the terrible sufferance and calamities of his Transylvanian faithful in bright colours, he asked for help for the widows and orphans, whose husbands and parents perished in the civil war. He made the same demand to Baron Sina and Zenobie Constantin Pop [both of them bankers] in Vienna.”<sup>174</sup> To cure so many open wounds as the revolution caused, the bishop “appeals to the riches to obtain bigger or smaller help. The communities from Braşov gave 4,000 florins. Archimandrite Neonil of the Monastery of Neamţ sent him in the autumn of 1849 several church books, the religious community from Vienna offers an important number of sacerdotal attires for the Romanian churches in Transylvania; the same will be made by Boyar Gheorghe Sturza from Moldavia, at the beginning of the following year. The most important gift was the emperor’s one - 60,000 florins - designated to be divided equally to the consistories of Sibiu and Blaj in order to restore the Romanian churches burnt or damaged during the revolution.”<sup>175</sup>

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<sup>172</sup> “Petiţiunea lui Şaguna pentru un corp de voluntari români” (“Şaguna’s petition for a body of Romanian volunteers”), dated Vienna, July 3, 1849, in: N. POPEA, Memorialul, 352-353: “Durch das Vorrücken der kaiserlichen Armee in Siebenbürgen und durch die Besiegung und Sprengung der Insurgenten dürften sich, eben so wie es in Ober-Ungarn der Fall ist, im Rücken der vorwärts schreitenden Sieger Räuberbanden und verzweifelnde Honvedgruppen bilden, welche die vom kaiserlichen Militär entlösten Gegenden beunruhigen, und der gutgesinnten Unterthanen Leben und Vermögen gefährden könnten.”

<sup>173</sup> See Andrei Şaguna’s circular letter dated Sibiu, November 11/23, 1848, in: Gh. TULBURE, Mitropolitul Şaguna, 398-400.

<sup>174</sup> N. POPEA, Archiepiscopul şi Metropolitul, 253-254.

<sup>175</sup> I. LUPAŞ, Vieaţa, 109.

The church organization was not left aside either, during his political missions at Court. *“Staying at Vienna, I wrote in German the ‘Pro-Memory’ (‘Promemorie’)<sup>176</sup> about the historical autonomy right of the national Church of the Romanians of Greek-Eastern rite, which was printed in Romanian, at Sibiu. I distributed this ‘Pro-Memory’ to the metropolitan of Karlowitz, also, showing him the necessity to re-establish our old Romanian Metropolitanate. [...] but Karlowitz appeared uninterested in it.”<sup>177</sup>*

In fact, the church organization was for Bishop Andrei a priority that could not be solved as simple as it appeared, without solving the Romanians’ political problems, which in his opinion sounded like this: *“According to my humble opinion, although it is easier to get the church meeting than the political one, yet the working and organization of the church national hierarchy is more difficult than that of the political administration.”<sup>178</sup>* Actually, in “Pro-Memory” he showed that the political and legal causes were the very source of the religious disturbances: *“[...] we can wonder how comes that the Romanians’ church autonomy which lasted several hundreds years was lost and all together died? However, if we look the Magyar constitution and that of Transylvania until March 1848: if we examine in detail the Magyar constitution of the past centuries and of the closer time (i.e., 1791 Art. 26 and 27; 1792 Art. 10) and then the laws passed for the benefit of the Eastern Church in the Approbatae and Compilatae of Transylvania (1792, Art. 20), if we compare they all to the procedure used in the Magyar courts, we can cry out of pain, because as far as the Church is concerned, only those laws were approved which favoured the decay of the Eastern religion; and the laws which stipulated a resemblance or similarity of the Eastern religion with the other Christian religions as well as an equality with the Magyars, those remained forgotten and not taken into consideration ...”<sup>179</sup>*

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<sup>176</sup> At length on “Pro-Memory” see the chapter V.1.1 herein.

<sup>177</sup> A. ȘAGUNA, *Memoriile*, 28.

<sup>178</sup> “Adresa episcopului Andreiu Șaguna către episcopul Bucovinei, Eugenie Hacman, prin care cere părerea acestuia și a clerului din Bucovina asupra unor puncte privitoare la independența ierarhică a Românilor” (“Bishop Andrei Șaguna’s letter to Bishop Eugenie Hacman of Bukovina, by which he and the clergy of Bukovina were asked for their opinion on some points concerning the church independence of the Romanians”), dated Olmütz, April 18, 1849, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 40-41 here 40.

<sup>179</sup> A. ȘAGUNA, *Promemorie*, 12-13.

Simultaneously with the claim concerning the Transylvanian Church's autonomy from the Serbian hierarchy addressed to the Serbian patriarch<sup>180</sup>, Bishop Andrei wrote to Bishop Gherasim Raț of Arad<sup>181</sup> and Bishop Eugeniu Hacman of Bukovina<sup>182</sup>, asking their opinion on this matter, whose solution Andrei Șaguna wished to be unitary for all the Orthodox Romanians of the monarchy. At the beginning of his official approaches concerning the church autonomy, the bishop of Sibiu was sustained both by the bishop of Bukovina<sup>183</sup> and by the one of Arad<sup>184</sup>. Bishop Eugeniu Hacman was in favour of a partial autonomy - the administrative one - as far as the dogmatic matters were concerned the patriarch of Karlowitz having to rule over the Romanian hierarchy; Bishop Gherasim Raț of Arad was likewise Andrei Șaguna a trenchant promoter of the synodality, against the supremacy of a sole hierarch, even if he calls patriarch: “[...] the unity of our Church does not lie in having a patriarch disposing of authority in dogmatic matters, like in the Latin Church, where the form of church leadership is monarchic, but it lies in cooperation, dialogue and persuading all the faithful; and all this can be obtained in synods - universal or local - to which the patriarchs must be submitted to ...”<sup>185</sup>

In July 1849, Bishop Andrei together with the deputies of Banat made and drew a petition to the Ministry of Public Worship with two claims: the filling of the vacant episcopal see of Werschetz in Banat “which used to be called the Eparchy of

<sup>180</sup> See “Adresa primă a episcopului Andreiu Șaguna către patriarhul sârbesc Iosif Raiacics în cauza independenței ierarhice a românilor de sârbi” (“Andrei Șaguna’s first letter addressed to the Serbian Patriarch Josip Rajačić concerning the independence of the Romanian hierarchy from the Serbian one”), Vienna, March 16/28, 1849, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 38-39. Cf. also A. ȘAGUNA, *Corespondența I/2*, 86-87.

<sup>181</sup> See “Andrei Șaguna către Gherasim Raț” (“Andrei Șaguna to Gherasim Raț”), dated Sibiu 2/15 October 1849, in: A. ȘAGUNA, *Corespondența I/1*, 114.

<sup>182</sup> See “Adresa episcopului Andreiu Șaguna către episcopul Bucovinei, Eugenie Hacman, prin care cere părerea acestuia și a clerului din Bucovina asupra unor puncte privitoare la independența ierarhică a Românilor” (“Bishop Andrei Șaguna’s letter to Bishop Eugenie Hacman of Bukovina, by which he and the clergy of Bukovina were asked for their opinion on some points concerning the church independence of the Romanians”), dated Olmütz, April 18, 1849, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 40-41.

<sup>183</sup> See “Cuprinsul principal al răspunsului, ce Preasfinția Sa Eugenie Hacman, Episcopul Bucovinei l’a îndreptat către Patriarhul sârbilor” (“The main contents of the answer that His Excellency Eugenie Hacman, the bishop of Bukovina sent to the Serbian patriarch”), dated Czernowitz, July 6, 1849, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 41-43. Cf. also I. SBIERA, *Mișcarea bisericească a Românilor din Bucovina*, 101.

<sup>184</sup> See “Răspunsul episcopului dela Arad, Gerasim Rațiu către patriarhul sârbesc, în cauza independenței ierarhice a românilor” (“The answer addressed by Bishop Gerasim Rațiu of Arad to the Serbian patriarch, concerning the church independence of the Romanians”), dated Cubin, November 5, 1849, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 43-45.

<sup>185</sup> *Ibid.*, 45.

Caransebeș” with a Romanian bishop, Archimandrite Patriciu Popescu being recommended in this respect; the separation of the Orthodox Romanians from the Serbian hierarchy.<sup>186</sup>

On August 14, 1848, the bishop wrote a petition to Baron József Eötvös<sup>187</sup>, the Magyar minister of public worship and instruction, by which he asked permission that a synod made up of forty-four protopopes and fifty-six laymen meets at Sibiu, by the end of September. Related to this, on July 27, 1848, Bishop Andrei had held a meeting at Pest with the protopopes Iosif Inghian and Nicolae Popovici and the lawyers Ioan Onițiu, Petru Dobra and Dimitrie Moldovan, in order to prepare the synod, setting the date September 19/31, at Rășinari, later changed for Sibiu.<sup>188</sup> The rushing delay of the political events prevented him from carrying out his plan. However, “Șaguna’s attempt to meet the synod in 1848 has a great historical importance, because it proves that he was from the very beginning a fervent adherent of the synodality in our Church.”<sup>189</sup>

A last document which the bishop had presented the emperor before his coming home in the autumn of 1849 was the protest against ignoring the Romanians’ contribution to the defeating of the Magyar rebels, in the proclamation of the general commander of the imperial army in Transylvania, Count Eduard Clam-Gallas, Anton von Puchner’s successor. In a proclamation by the return of the imperial army from Romania, Count Clam-Gallas addressed thanks only to the Saxons, assuring them of his protection for their loyalty to the monarchy; he ignored the Romanians altogether. Andrei Șaguna received a copy of the proclamation in Vienna and he went to the emperor and Prime Minister Felix Schwarzenberg and demanded satisfaction in the name of the Romanian

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<sup>186</sup> “Suplica pentru instituirea unui episcop român în scaunul vacant din Versetz. Viena, 20 Iuliu 1849” (“Complaint concerning the appointment of a Romanian bishop for the vacant episcopal see of Werschetz. Vienna, July 20, 1849”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 24-25 here 24. Cf. also the petition to the ministry, for the filling of the vacant Episcopal see of Werschetz, dated Vienna, July 20, 1849, in: N. POPEA, *Memorialul*, 355-357.

<sup>187</sup> Baron József Eötvös (1813-1871) was a Hungarian writer and statesman, the son of Baron Ignac Eötvös. After an excellent education (he was Andrei Șaguna’s colleague in Pest), entered the civil service as a vice-notary, and was early introduced to political life by his father. He also spent many years in Western Europe, assimilating the new ideas both literary and political, and making the acquaintance of the leaders of the Romantic school. Eötvös was generally regarded as one of the leading writers and politicians of Hungary, a vigorous reformer and a Christian Liberal. He held the portfolio of public worship and instruction in the first responsible Hungarian ministry headed by Lajos Batthyány (1848), and again in the ministry of Gyula Andrassy (1867-1871) but his influence in the ministries extended far beyond his own department. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 232, 234, 352 et seq.

<sup>188</sup> Cf. I. LUPAȘ, Șaguna și Eötvös, 11-12.

<sup>189</sup> *Ibid.*, 11.

persecuted nation. The result was that the general commander withdrew from his position and he was replaced by the Baron Ludwig Wohlgemuth.<sup>190</sup>

In the winter of 1849 Bishop Andrei organized religious ceremonies to thank God for the re-established peace; he also organized a ceremony on the third day of Christmas for those who passed away during the revolution.<sup>191</sup> The new governor himself, together with Eduard Bach, the imperial commissary, and all civil and military high officials took part in the ceremony in the parish church of Sibiu. “For the first time a governor took part in the divine service in a Romanian Orthodox church in Transylvania.”<sup>192</sup> Then, the bishop asked the government’s consent to raise a monument in the Apuseni Mountains, in the memory of those who died for freedom, being convinced that: *“the years 1848 and 1849 will be always in Austria’s history one of the most important ages; of course, because of the horrifying events of this age, the mockery actions taken, the rebellions stained with blood and the shameful things hurting human dignity, some of the pages of history will be black; yet it will shine in the annals, because it was at the same time rich in glorious deeds, in great enterprises, in rare examples of faith and sacrifice for His Highness, the Emperor.”*<sup>193</sup>

With the coming back from his second political delegation at Court, in the autumn of 1849, began the pacifist mission of this “church prince” never forgotten by his faithful, which lasted till his death, a quarter of a century later.<sup>194</sup>

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<sup>190</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 254-255; A. ȘAGUNA, *Memoriile*, 31.

At the end of the revolution of 1848/1849, Emperor Francis Joseph established in Transylvania a military and civil government, under a general, until 1860/1861, when the Transylvanian civil government was restored. Baron Ludwig Wohlgemuth was the first military and civil governor of Transylvania, between 11 July 1849 and 18 April 1851. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 295 et seqq., 312.

<sup>191</sup> Cf. A. ȘAGUNA, *Memoriile*, 39-40.

<sup>192</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 44.

<sup>193</sup> “Sr. Excellenz dem Herrn Civil- und Militär-Gouverneur in Siebenbürgen Ludwig Freiherr von Wohlgemuth. Hermannstadt, den 24. December 1849”, in: N. POPEA, *Memorialul*, 381-382: “Die Jahre 1848 und 1849 werden in der Geschichte Österreichs stets eine der merkwürdigsten Epochen bilden, welche zwar ob der vielen schaudervollen Ereignissen, schmachvollen Unternehmungen blutbefleckten Empörungen, und der im Verlaufe derselben begangenen, die menschliche Würde entehrenden Handlungen, so manches schwarze Blatt in der Geschichte füllen, dennoch aber in den Jahrbüchern glänzen wird, da sie zugleich an glorreichen Thaten, ruhmvollen Unternehmungen, und seltenen Beispielen von Treue und Aufopferung für den angestammten Monarchen reich war.”

<sup>194</sup> C. von WURZBACH, *Biographisches Lexikon*, 88: “Und nun beginnt die Friedensmission dieses den Seinigen unvergeßlichen Kirchenfürsten, welche bis zu seinem Ableben durch ein volles Vierteljahrhundert währte.”

### III.2 The Neoabsolutist era (1849/1851-1860)<sup>195</sup>

The revolutionary wave of 1848-1849 placed the empire before some new and complicated matters, which set its life in danger. Special measures were requested to save the current situation.

First of these measures was the Stadion Constitution of 4 March 1849, which aimed at tempering the revolutionary claims by granting rights, a pacifying act which has never been turned into practice, being even denounced by the emperor, by the New Year Eve Patent of 1851.<sup>196</sup> “The equal justice for all peoples, a foundation of this Constitution, will be soon an equal lack of rights for those who fought against the emperor and for those who sacrificed for him.”<sup>197</sup> The Ministry of Vienna finally considered that the Constitution worked out in haste would not suit the circumstances in which the monarchy was, and so it was revoked with the purpose to give the emperor the absolute monarchic power.

The second measure taken was the military terror. From the point of view of Vienna, Hungary had lost its character as a distinct state and its former self-government, by the abrogation of the April Laws, on October 3, 1848, and by the “decreed” Constitution of 4 March 1849. Consequently, in Hungary was instituted the military dictatorship until the fall of 1850, when the new civil administration emerged. By a proclamation of July 1849, Count Julius Jakob Haynau, the Austrian military and civil commander of Hungary and Transylvania<sup>198</sup> strengthened the validity of the state of siege, which had been proclaimed in September 1848 and was fully annulled only in December 1854. The proclamation stipulated the judgment of those involved in revolutionary actions by the state courts. The state of siege materialized by a lot of executions, sentences to prison or forced labour, being characterized by an atmosphere of confusion and terror

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<sup>195</sup> There is a different way of dating the Neoabsolutist era by different historians. We preferred to mention both the factual date of the beginning of this era (March 1849, when the Reichstag was dissolved) and the legal date (December 1851, when the Constitution of 4 March 1849 was annulled).

<sup>196</sup> Cf. F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 178-183.

<sup>197</sup> I. LUPAȘ, *Vieața*, 98.

<sup>198</sup> Julius Haynau was the “particularly brutal commander” of the imperial troops which defended the Magyar revolutionary troops on August 13, 1849 at Șiria, and later he was the “foul henchman” of Prince Felix Schwarzenberg, whose government ordered the massacre of the Hungarian revolutionaries. Haynau’s hatred of revolutionary principles was fanatical. His murderous cruelty towards the subjugate people became a European scandal. A violent temper, which he made no attempt to control or conceal, led him into quarrels with the minister of war and he resigned his command in 1850. Then he travelled abroad and died in 1853. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 346.

among the people. On September 1849, Haynau ordered all the participants in the revolution to come voluntarily before the military courts, so that trials against them start. They might have ended by acquittal, but also by capital sentence; all in all, 2,000 people were monitored. The first executions began in the autumn of 1849, with Prime Minister Lajos Batthyány in Pest and thirteen generals in Arad.<sup>199</sup>

Third, the military terror - ended by Count Haynau's resigning and vanish from the political stage in 1850 - was replaced by a repressive administrative system coordinated, after the death of the Prime Minister Felix Schwarzenberg, on April 1852, by Baron Alexander von Bach - the minister of the interior from 1849 to 1859 - whose name was used to define the entire period.<sup>200</sup>

### III.2.1 Consequences of the revolution in Transylvania

The new Neoabsolutist régime had all the features of an occupation régime, by the authoritative measures taken and by the maintenance, at the beginning, of the state of siege enacted during the conflicts. Based on a policy of administrative division, of implementation of some new administrative and legal structures, Transylvania had in a way a statute of conquered (or re-conquered) territory, where the Austrian Monarchy, using the influence obtained on the battlefield, inaugurated its rule. Although the revolution and its consequences led to the destruction of the feudal supremacy of the estates (Magyars, Szeklers and Saxons), the situation of the Romanians as compared to the privileged nations did not improve too much. Transylvania was divided into ten administrative districts, sub-divided into seventy-nine "circles" and six urban municipalities. A great number of Romanians were included into regions with a

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<sup>199</sup> Ibid., 346.

<sup>200</sup> The Neoabsolutism was instituted in fact in 1849, but in name only at the end of 1851, by the Patent of 31 December. Despite its reputation as a repressive instrument, Bach's government was not without positive accomplishments. It established a unified customs territory for the whole monarchy (including Hungary), composed a code for trades and crafts, completed the task of serf emancipation, and introduced improvements in universities and secondary schools.

The régime's policies on other matters were more typically reactionary. Freedom of the press as well as jury and public trials were abandoned, corporal punishment by police orders restored, and internal surveillance increased. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 292-438; F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 183-185.



Magyar, Szekler or Saxon majority, or within the borders of Serbian Vojvodina<sup>201</sup>. In southern Transylvania, Romanian communities which had never been under Saxon jurisdiction were incorporated in Sibiu region, preponderantly Saxon. The nucleus of the administrative system was “the circle”, in which the highest degree of centralization was achieved. It was led by a prefect, to whom the other officials submitted: political administrators, judges, the civil servants who picked up the taxes, even lawyers and doctors. The legal system ignored the principle often proclaimed of equality of nationalities. On August 1849, senates or high courts of justice were set up for Magyars and Saxons, but not for Romanians. The majority of the positions in the administration were held by the Austrians or civil servants brought from Bohemia, Moravia, Bukovina and Galicia, resulting that in many regions the officials could not speak the language of the population they were supposed to govern. In the central administration of Transylvania three Romanians were working only: two school inspectors, one for the Greek Catholics and one for the Orthodox, and a translator for the Official Gazette. There was no Romanian holding an important position at the State Treasury, which dealt with the financial issues in the principality. All the official documents and the correspondence had to be made in German.<sup>202</sup>

Until 1860 the government of the principality had a temporary character. In the summer of 1849, Baron Ludwig Wohlgemuth was appointed the new military and civil governor of Transylvania, who did not show signs to have learnt anything from the conflicts of the revolution. Moreover, the state of siege gave him unlimited powers. “The Rumanians (and the Slavs, too) counted for little in the minds of Viennese policy-makers, and in the hurriedness of restoring the old régime their interests were largely

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<sup>201</sup> After the defeat of the revolution, the “decreed” Stadion Constitution of 4 March 1849 had proclaimed the establishment of the new crown land of the “Serbian Vojvodina and the Banat of Timișoara” which consisted of Bačka county, the Banat and two districts of Syrmia regions, but not the strongly Serbian military borders. The crown land was ethnically very mixed, the Romanian majority were followed by Serbians, Germans and Magyars. An Austrian governor seated in Timișoara ruled the area, and the title of voivode (duke) belonged to the emperor himself. The two official languages became German and “Illyrian” (what would become Serbo-Croatian), but in practice it was mainly German. The creation of this curious entity was designed less to reward the Serbians for their loyalty in 1848 than to punish the Magyars by detaching a sizable territory from the Crown of Saint Stephen. After a decade, the moves to reintroduce constitutional government in 1860, marked by Vienna’s efforts to conciliate the Magyar nobility, spelled an end to the crown land of Vojvodina. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 425 et seqq.

<sup>202</sup> Cf. K. HITCHINS, *Andrei Șaguna și românii din Transilvania în timpul decadei absolutiste*, 17-22.

ignored. [...] The hallmarks of the system that came into being in the fall of 1849 and the spring of 1850 were centralism, absolutism and Germanization.”<sup>203</sup>

The layers of Transylvanian society reacted differently to the new situation. A common feature, as a matter of fact, was the state of general discontent. Each nation of Transylvania feeling besieged by the new circumstances closed in its own social “shell”, trying, if possible, to reorganize its internal life. “The bureaucratic absolutism did not allow - it is true - any national movement, but it was fond of culture and order of the people.”<sup>204</sup>

At the Orthodox Church level, the only change was the nomination of the metropolitan of Karlowitz as Serbian patriarch and voivode, by the imperial decision of December 15, 1848.<sup>205</sup> After that, the patriarch fought for recognition of the Serbian language as an official language in the political affairs of the Austrian state.<sup>206</sup>

As far as the Transylvanian bishop was concerned, for him “the revolution had been nothing less than a catastrophe; it had swept away the modest reforms he had introduced as vicar and obliged him now to begin all over again with greater handicaps than before.”<sup>207</sup> Although he gave up the hopes to achieve the political goals the Romanians had followed during the revolution - especially the national and church autonomy -, the bishop waited from the Court and particularly from the new government of Transylvania to treat the Romanian nation and the Orthodox Church as full partners in the Transylvanian society. But the Saxons as well as the Magyars, in spite of their lack of loyalty to the House of Habsburg, were treated preferentially under the new régime, while the Romanians were treated as rebels.<sup>208</sup>

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<sup>203</sup> K. HITCHINS, *Orthodoxy and Nationality*, 79-80.

<sup>204</sup> I. PUȘCARIU, *Notițe*, 42.

<sup>205</sup> Cf. V. POCITAN, *Geneza demnității patriarhale*, 84.

“Seit dem 15.12.1848 tragen die Metropoliten von Sremski Karlovci den Patriarchentitel ständig ‘ad personam’.” Th. BREMER, *Ekklesiale Struktur*, 17.

<sup>206</sup> See “Metropolitul sârbesc Iosif Raiacsics investit cu titlul de patriarh sârbesc și cu dignitate de voivod sârbesc esmite ordinațiune pentru introducerea limbei sârbesci în administrațiunea diregătoriilor mai înalte” (“Serbian Metropolitan Josip Rajačić, entitled as Serbian patriarch and voivode gives order that the Serbian language be introduced in the administration of high offices”), dated Semlin, January 1, 1849, in: I. PUȘCARIU, *Metropolia*, colecția de acte, 31-32.

<sup>207</sup> K. HITCHINS, *Orthodoxy and Nationality*, 78.

<sup>208</sup> Cf. K. HITCHINS, *Andrei Șaguna și românii din Transilvania în timpul decadei absolutiste*, 18.

His realistic spirit convinced Bishop Andrei that new delegations and petitions would not change the course of events. On the revolutionary intellectuals' question concerning the advisability to continue the protest movements Andrei Şaguna gave a negative answer. The time of revolution was gone for him. He had understood this before many who still made illusions: *"The news on my coming back from Vienna spread and I got congratulating letters from honourable national men; among others, I got a letter from the vicar of Sălaj, then from Archbishop Sterca Şuluţiu<sup>209</sup>, under No. 150 of October 28, 1849, in which it is saying, among others: 'Thank you for the genuine endeavour, trouble and sacrifices you take for the happiness of our nation; I pray God, the Almighty to give you spiritual and material strength until the end, so like a tireless, undefeated athlete to run in the arena of our nation, crowned.' These letters provoked a lot of pain to my heart; because I saw in them some aspirations which would never fulfill and because I felt a strong storm coming over our national cause and over our worthy men.*"<sup>210</sup>

In Andrei Şaguna's opinion, now, that the civil war and the revolution were over *"it is out of question to reintroduce the old system in Transylvania"*<sup>211</sup>; but he still had a doubt: *"I wonder if at the performance of the new edifice could not be taken some of the old, worn out material?"*<sup>212</sup> So he presented a memorandum to the Ministry, on July 22, 1850. By showing the feudal system and the old constitution - *Diploma Leopoldinum of 1691* - of the three nations and four accredited confessions, on which the legal system was founded, he asked for the right assessment of the Romanians in the new division system of the country (the Saxons had already been privileged) and he made reference

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<sup>209</sup> Alexandru Sterca Şuluţiu was the new Greek Catholic bishop since 1851, replacing Ioan Lemeni, who had been dismissed by General Puchner. "Dizzy" with the first military victories of the Magyar armies in the autumn of 1848 or maybe by conviction, Bishop Ioan Lemeni changed the policy of loyalty toward the Court, sending a circular letter, asking the faithful to join the Hungarian armies. It was a fatal thing for his position, because at the end of 1848 Puchner dismissed him from the episcopal see, sending him into "exile" to the Franciscan monastery in Vienna, where he died in 1861. Cf. I. LUPAŞ, *Istoria bisericească a românilor ardeleni*, 152.

<sup>210</sup> A. ŞAGUNA, *Memoriile*, 32-33.

<sup>211</sup> "Memorand aşternut de episcopul Andreiu Şaguna ministeriului şi în copieă guvernatorului civil şi militar Baron de Wohlgemuth despre dorinţele şi lipsele naţiunii române şi a bisericii răsăritene cu ocasiunea organizării nouă a Ardélului" ("Memorandum written by Bishop Andrei Şaguna to the Ministry and in copy to the civil and military governor, Baron of Wohlgemuth about the wishes and needs of the Romanian nation and the Eastern Church, by the new organization of Transylvania"), in: II. PUŞCARIU, *Metropolia*, colecţia de acte, 46-55 here 46: "Von der Wiedereinführung also des alten Systems in Siebenbürgen kann nicht mehr die Rede sein..."

<sup>212</sup> *Ibid.*, 46: "Ob aber bei der Aufführung des neuen Gebäudes nicht auch Material aus dem eingestürzten genommen werden könnte?"

to all the political issues of the country: the official language, the public high officials, the military border, the Church, equal respect for the confessions.<sup>213</sup>

The Neoabsolutist era was the harder for the bishop the lonelier he was fighting, abandoned by the ardent revolutionaries of 1848, and “sometimes by his own collaborators. [...] His only help came from God, followed by the moral and intellectual weapons, being armed with the shield of truth and justice.”<sup>214</sup> Moreover, the inertia coming from the inside was added to the conflicts outside the Church, because “the people were raised and drawn to humility and they appeared not to think of a better condition, being contented with their fate like the slave with the slavery.”<sup>215</sup>

Yet, Bishop Andrei remained faithful to his own principles and goals: “*Under such fatal circumstances, inner and outer ones, I decided to remain consequent in order to win both the confessional rights and national rights, and I carried along patiently the insults of selfish people, the insults of Blaj and of the government.*”<sup>216</sup>

The conflicts and sufferings Bishop Andrei Şaguna had gone through, during this régime, became proverbial. He was attacked from three directions simultaneously: the absolutist ultramontanist régime; the Greek Catholic Church headed by Bishop Alexandru Sterca Şuluţiu; the Serbian hierarchy headed by Patriarch Josip Rajačić.<sup>217</sup>

### III.2.2 Bishop Andrei Şaguna’s polemics with the governor of Transylvania

The political administrative newly created context brought about meetings of protest of the Romanians, both in towns and villages. In some regions near Arad, for example, rebellions broke out because the peasants refused to obey the new civil servants. As a matter of fact, during the last military operations against the Magyars in the summer of

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<sup>213</sup> Ibid., 47-55.

<sup>214</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 110.

<sup>215</sup> Ibid., 161.

<sup>216</sup> A. ŞAGUNA, *Memoriile*, 66.

<sup>217</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 86.

1849, the Austrian authority began to treat the Romanian army made up of peasants, as well as the officers, as potential enemies.<sup>218</sup>

In October 1849, Bishop Andrei Şaguna received from the military and civil Governor Ludwig Wohlgemuth a threatening letter, addressed both to the clergy and to the bishop, under the pretext that he would incite the people. Like in the previous years, the political power treated the bishop as a civil servant, whom it might hold responsible for the real or imaginary confusions provoked by the people: “I found out by means of a way worth considering that the Romanian priests hold secret meetings, participate in political intrigues and not only take part in the drawing of such petitions, but also organize trips all over the country and deliver such petitions among people, collecting signatures for them. To my astonishment, I was informed that Your Excellency - which I cannot believe - exercise such an influence and takes part actively in these agreements and secret movements ...”<sup>219</sup>

The bishop answered these groundless accusations - which were perhaps the fruit of slander - with dignity: “*I, myself cannot put together as an omniscient person all the actions of my priests, to guarantee with apodictic sureness for what does not come to my ears; yet, I take the liberty and guarantee for the behaviour of many of my brave priests, of whom many have died a martyr death for His Highness the Monarch and I solemnly declare that lest I am convinced by the contrary, I hope that my priests who have always excelled in obedience and submissive behaviour, are not only good*

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<sup>218</sup> Cf. K. HITCHINS, Andrei Şaguna și românii din Transilvania în timpul decadei absolutiste, 15.

<sup>219</sup> “Seiner Hochwürdigem dem Herrn g. n. u. Bischof von Schaguna. Hermannstadt, am 9. Oktober 1849”, in: N. POPEA, Memorialul, 364-366: “Ich habe auf eine volle Berücksichtigung verdienende Weise, in Erfahrung gebracht, dass die romanische Geistlichkeit sich damit befasse, geheime Versammlungen zu halten, an politischen Machinationen sich zu betheiligen, in diesem Sinne auch bei Verfassung von Petitionen solcher Art nicht nur mitzuwirken, sondern zu diesem Zwecke im Lande herum zu reisen, derlei Petitionen sogar unter der Bevölkerung zu verbreiten, und für dieselben Unterschriften zu sammeln.

Zu meinem Befremden wurde auch die Nachricht beigefügt, dass selbst Euer Hochwürden, was ich wohl nicht glauben kann, einen ähnlichen Einfluss ausüben, und an diesen geheimen Verabredungen und Schritten einen thätigen Antheil nehmen sollen.

Ich halte es für meine Pflicht Euer Hochwürden bezüglich eines solchen Verhaltens der romanischen Geistlichkeit ohne alle Rückhalt zu bemerken, dass ich die Geistlichkeit nicht als Organe ansehen kann, welche berufen sind, in die politischen Angelegenheiten des Staates wie wenn es ihr Amte wäre einzugreifen.

Dabei bleibt es Pflicht in Ihrer Eigenschaft als Seelsorger auf das Volk, besonders nach den Stürmen und Aufwühlungen der jüngst vergangenen Ereignissen, versöhnend zu wirken, dasselbe über die wahrhaft wohlgemeinten Absichten der a. h. Regierung aufzuklären, das Volk im Vertrauen zur letztern zu bestärken, und auf solchem Wege zur Beruhigung der aufgeregten Gemüther, ihrem geistlichen Standpunkte angemessen, beizutragen.”

*examples, on the contrary, they promote the intentions of the high régime, as well as they can. If Your Excellency, out of this declaration of mine are not fully persuaded [...] then I would like to ask you to be so kind, as to indicate if not the denouncing persons, at least the place and objects meant to show my guilt ...*<sup>220</sup>

In February 1850 the same governor called the Orthodox bishop to account for use the title “Romanian eparchial bishop of the Eastern Church of Transylvania”, since his predecessor was called “Greek not-Uniate bishop”.<sup>221</sup> Andrei Şaguna’s firm answer did not let itself waited: “*The word ‘not-Uniate’ as a negative concept, cannot be attached to my confession which is a positive institution.*”<sup>222</sup> More than a decade will pass until the Austrian authorities will have officially eliminated the discriminating denomination “not-Uniate”<sup>223</sup> used for the Orthodox.

The restrictive political régime reached ridiculous dimensions: “The women from Braşov, having founded a charitable society, were denounced to the town captain and summoned twice to obey, which put out Şaguna and made him protest.”<sup>224</sup> The denunciations, the mal-treatings and oppressions suffered by the Romanians from the part of the military government and its bodies were hard to imagine: a commissary from Deva beat a Romanian peasant with a bull’s puzzle until the poor man,

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<sup>220</sup> “Dem Herrn Civil- und Militär-Gouverneur Baron Ludwig von Wohlgemuth, Excellenz. Hermannstadt den 13. November 1849”, in: N. POPEA, Memorialul, 366-367: “Ich umfasse zwar nicht in der Gestalt eines Allwissenden die Thaten meiner Geistlichkeit, um geradezu, und mit apodiktischer Gewissheit für jenes einzustehen, was zu meiner Kenntnis nicht gelangt, dennoch aber erlaube ich mir die gehorsamste Freiheit des Betragens meiner braven Geistlichen, deren mehrere des Märtyrer-Todes für den angestammten Monarchen gestorben sind, mich dahin feierlich zu erklären, dass ich so lange man mich von dem Gegentheile nicht überzeugt, der Hoffnung lebe, dass meine in der Folgsamkeit und dem Gehorsam zu jeder Zeit ausgezeichnete Geistlichkeit mit ihrem Betragen dem Volke nicht nur kein schlechtes Beispiel gibt, und keine Aufregung in dem Volke verbreitet, sondern die väterliche Absicht der hohen Regierung aufs möglichste befördert.

Wenn aber Euer Excellenz aus meiner gegenwärtigen Äusserung nicht die genügende Überzeugung erlangen sollten, [...] so bin ich so frei wo nicht Personen der Angaben, doch Ort und Objecte, welche auf die gegen mich ausgesprochene Beschuldigung zeugen, mir hochgefälligst anzudeuten ...”

<sup>221</sup> See “Guvernatorul Wohlgemuth cere dela episcopul Şaguna a justifica, pentru ce folosese titlul de ‘episcop diecesan român al bisericeii orientale în Transilvania’” (“Governor Wohlgemuth asks Bishop Şaguna to justify why he uses the title ‘Romanian eparchial bishop of the Eastern Church of Transylvania’”), dated Sibiu, February 21, 1850, in: II. PUŞCARIU, Metropolia, colecţia de acte, 55.

<sup>222</sup> “Răspunsul lui Şaguna către Wohlgemuth în privinţa titlului de ‘episcop diecesan român al bisericeii orientale în Transilvania’” (“Şaguna’s answer to Wohlgemuth concerning the title ‘Romanian eparchial bishop of the Eastern Church of Transylvania’”), dated Sibiu, March 3, 1850, in: II. PUŞCARIU, Metropolia, colecţia de acte, 55-57 here 56: “Das Wort ‘nicht uniert’ als ein negativer Begriff kann meiner Religion als einer positiven Institution nicht beigelegt werden.”

<sup>223</sup> See the chapter III.3.5 herein.

<sup>224</sup> I. LUPAŞ, Vieaţa, 102.

frightened threw himself into the river Mureș; another one, from Baia de Criș, tied a peasant to his cart and dragged him just like that. “Here in Deva I found the county prisons full of Romanians, sentenced after the revolution of 1848/9.”<sup>225</sup> The bishop was not indifferent to these cruelties, but he protested before the governor, threatening that he will let higher instances know about the abuses committed. Finally, unsatisfied with the solution pronounced by the governor in one of these cases, namely the transfer of the commissary from Baia de Criș to Alba-Iulia, Andrei Șaguna addressed to the government of Vienna, during his stay at the conference of the Orthodox bishops of the monarchy, from 1850-1851.<sup>226</sup> The consequence came: Governor Wohlgemuth was called to Vienna, but he died on the way, in Pest.<sup>227</sup>

His successor was Prince Karl Schwarzenberg<sup>228</sup>, an admirer of the Orthodox bishop in whose company he often spent his spare free time<sup>229</sup>, who “*demonstrated for all, high and low, a human and noble treatment*”<sup>230</sup>.

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<sup>225</sup> I. PUȘCARIU, *Notițe*, 28.

<sup>226</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 258; N. POPEA, *Memorialul*, 367-369.

<sup>227</sup> See A. ȘAGUNA, *Memoriile*, 54-55; R. KUTSCHERA, *Landtag und Gubernium*, 298.

<sup>228</sup> “[...] Governor Karl Schwarzenberg (1851-1858), Wohlgemuth’s successor, [was] a man who shared his [Șaguna’s] views on church-state relations and accepted the principle of national equality. Schwarzenberg had no special sympathy for the Orthodox, although he and Șaguna became friends, nor was he a liberal. He was in fact a staunch Roman Catholic and was as devoted to centralization and dynastic rights as his aristocratic friends in Vienna. Unlike most of them, he recognized the practical necessity of coming to terms with the nearly 650,000 Orthodox, if there was to be order and prosperity in Transylvania. He thoroughly disapproved of Thun’s policy of supporting the Uniates at the expense of the Orthodox, which he thought displayed a total lack of understanding of the religious problem there.” K. HITCHINS, *Orthodoxy and Nationality*, 234.

See “Guvernatorul Schwarzenberg scrie ministrului luând în apărare biserica ortodoxă română din Transilvania” (“Governor Schwarzenberg writes to the minister defending the Romanian Orthodox Church of Transylvania”), in: II. PUȘCARIU, *Metropolia*, colecția de acte, 155-160 here 160: “Siebenbürgen kann nur ruhig bleiben, wenn die Regierung von dem Grundsatz nicht weicht, jeder Kirche Recht und Schutz zu gewähren.”

Andrei Șaguna wrote about this governor to Metropolitan Josip Rajačić, as of “our governor, who is a great friend of mine and ours, because he loves justice ...” “A.B.M. 2578, Scrisoare a episcopului Andrei Șaguna către mitropolitul Iosif Raiacić” (“A.B.M. 2578, Bishop Andrei Șaguna’s letter to Metropolitan Josip Rajačić”), dated Sibiu, March 26, 1857), in: T. BODOGAE, *Un capitol din istoria relațiilor culturale sârbo-române*, 538-539 here 539.

See also R. KUTSCHERA, *Landtag und Gubernium*, 298 et seqq.

<sup>229</sup> Josef Ritter von GRIMM, *Carl Fürst zu Schwarzenberg, Gouverneur von Siebenbürgen. Ein Gedenkblatt*, Wien 1861, 34: “Der Fürst verehrte ihn [Șaguna] und liebte seine Gesellschaft, sei es weil er ein gemässigt-freimütiges Urteil gern anhörte, sei es, weil die nicht undiplomatischen Ansichten des Bischofs über Nationalitätspolitik den Fürsten interessierten.”

<sup>230</sup> A. ȘAGUNA, *Memoriile*, 55.

The years of the revolution and the pro-monarchy military-political actions had brought the Romanian leaders of Transylvania to bankruptcy, and in order to solve the situation they appealed the Orthodox bishop, who in 1852 obtained with Governor Schwarzenberg's help 24,000 florins from the emperor, that was to cover the debts of three of the revolutionaries, among whom Avram Iancu.<sup>231</sup>

### III.2.3 The appeal of December 1, 1855, against the Minister Leo Thun

The point of spear of the anti-Orthodox policy during the Neoabsolutist era was the minister of religions and education Count Leo Thun-Hohenstein<sup>232</sup>. "Within five years Şaguna had drawn eleven petitions. [...] His petitions were answered vaguely or not at all."<sup>233</sup> The minister ignored these petitions and persisted in treating the Orthodox in accordance with the humiliating conditions imposed the Bishop Vasile Moga, in 1810<sup>234</sup>. Bishop Andrei showed his dissatisfaction for this situation to Governor Karl Schwarzenberg, who "while His Majesty's guest on a hunting, having been asked how was Şaguna had the occasion to reveal his and the Orthodox Romanians' discontentment, caused by Thun's hateful and awful procedures. The emperor sent word to Şaguna by Governor Schwarzenberg to write all his petitions gathered in an imperial appeal."<sup>235</sup>

Thus was born the appeal against the Minister Thun, of December 1, 1855<sup>236</sup>, addressed

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<sup>231</sup> See A. ŞAGUNA, *Memoriile*, 59-60.

<sup>232</sup> "[...] Count Leo Thun [was] the minister of religions and education from 1849 to 1860. He was a staunch Roman Catholic who championed the autonomy of his Church and its paramountcy over the other Churches of the monarchy. He regarded the Orthodox as schismatics and their Church as a danger to security of the state. In his view, it could not provide adequate guarantees against the willful behaviour of its priests because of their ignorance and its own lack of strong centralized authority. [...] he used his powers to the fullest to promote the church Union with Rome among the Rumanians and, in so doing, to thwart Şaguna's reform of the Orthodox Church. [...] Şaguna respected Thun as a man of considerable learning and ability, but he found him woefully ignorant of Orthodox history and institutions." K. HITCHINS, *Orthodoxy and Nationality*, 231-233.

<sup>233</sup> I. LUPAŞ, *Vieaţa*, 119.

<sup>234</sup> About the imperial instruction with restrictive measures which accompanied the appointment of Bishop Vasile Moga, of December 21, 1810, see the chapter I.2.4 herein.

<sup>235</sup> I. LUPAŞ, *Vieaţa*, 120. Cf. also A. ŞAGUNA, *Memoriile*, 84-85.

<sup>236</sup> See "Gravamenul episcopului Şaguna la Împăratul contra ministrului, cerând între alte şi reînfiinţarea metropoliei românilor ortodocşi" ("Bishop Şaguna's complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians"), in: Il. PUŞCARIU, *Metropolia, colecţia de acte*, 122-151. On this issue see also N. CHIFĂR, *Apărarea dreptului istoric privind restaurarea Mitropoliei Transilvaniei*, 144-150.



to the emperor. Although in full swing of the absolutist time, the bishop did not lose his temper, but has tried to obtain by all the legal means the implementation *de facto* of the rights and liberties of his Church that he has considered already recognized *de jure*<sup>237</sup>.

The complaint, a summary of all the dissatisfactions gathered for centuries, is a self-evident sample of Şaguna's spirit: precision, clarity, logic, depth, erudite argument. Although quite long (thirty printed pages), it is well structured along nine chapters which treat distinct issues, the main stumbling stones of the Neoabsolutist years: the position of the Orthodox Church of Transylvania toward the state and the other confessions; the depreciating name "not-Uniate" used to call this Church and its faithful<sup>238</sup>; the issue of mixed marriages<sup>239</sup>; the changing of the confession<sup>240</sup>; the

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<sup>237</sup> "Die alte, auf historischen Privilegien beruhende Landesverfassung ist gefallen; gefallen der Unterschied zwischen mehr oder minder berechtigten Religionen; im einheitlichen Oesterreich, unserm grossen gemeinsamen Vaterlande, sind Personen, wie Körperschaften, vor dem Gesetze gleich." ("Gravamenul episcopului Şaguna" ("Bishop Şaguna's complaint"), 131)

As a matter of fact, the imperial patent of December 31, 1851, conferred on all Churches legally acknowledged free and public practice of their worship together with the independent administration of their own affairs. The independence of the Orthodox Church of Transylvania was explicitly recognized by the imperial patent of May 29, 1853. Cf. "Guvernatorul Schwarzenberg scrie ministrului luând în apărare biserica ortodoxă română din Transilvania" ("Governor Schwarzenberg writes to the minister defending the Romanian Orthodox Church of Transylvania"), in: II. PUŞCARIU, Metropolia, colecția de acte, 155-160 here 157.

<sup>238</sup> Implemented by the Article of Law No. 60 of Transylvania's Diet of 1791, the denomination "Religio orientalis graeci Ritus non unita" was long and insistently used. A ministerial Decree of June 12, 1854, legislated that in all the official documents the denomination "not-Uniate Greeks" should be used. The negative and offensive connotation of this name brought along Neoabsolutist era even written insults addressed to the Orthodox by the Greek Catholics. Cf. "Gravamenul episcopului Şaguna" ("Bishop Şaguna's complaint"), 127-129.

<sup>239</sup> By virtue of a rescript of August 29, 1792, in the case of the marriages between Orthodox and Roman or Greek Catholics both the religious service and the possible misunderstandings or court trials were exclusively under the jurisdiction of the Roman or Greek Catholic Churches and their ecclesiastical courts.

<sup>240</sup> The emperor's decision of December 26, 1848, which simplified and levelled the conversion/reversion's formalities irrespective of confession had been adopted as a norm in Transylvania too, by the Decree of February 24, 1850. Yet, as it made easy the coming back to the Orthodoxy of the church communities which had accepted the Union with Rome, was not received favourably; on the other hand raised the problem of the church properties in the case of massive conversion/reversion, under the circumstances in which the former pro-Unionist legislation stipulated that if a fourth of the Orthodox community passed to the Uniate Church, that ultimately meant the handing over of the Orthodox church building to the embraced confession.

"Es wäre nur zu wünschen, dass der betreffende Erlass auch in das Landes-Regierungsblatt aufgenommen und auf diesem, für alle wichtigeren Verordnungen vorgeschriebenen Wege, zur allgemeinen Kenntnis gebracht werde. [...] Nur ein Wunsch bleibt noch übrig. Er betrifft die wichtige Frage, wie es mit dem Kirchen- und Pfarrgrund bei dem Uebertreten einer grösseren Anzahl von Gemeindegliedern gehalten werden soll? Hier werden noch immer die alten Vorschriften in Anwendung gebracht; dass diese Vorschriften aber nur zum Nachtheile unserer Kirche sprechen, kann bei dem Zustande, in welchem sie sich vor dem Jahre 1848 befand, einem Zweifel gewiss nicht unterliegen." "Gravamenul episcopului Şaguna" ("Bishop Şaguna's complaint"), 133-134.

eparchial seminary; the parishes and their organization and the use of the Orthodox Church's funds; the problem of the metropolitanate; the eparchial consistory<sup>241</sup>.

The bishop's steady character<sup>242</sup> accompanied by the courageous yet refined irony are transparent even in this text of a historical time and a context not favourable to him: *"It appears that the high Ministry treats our Church as a tolerated one and this should touch all of us. Among this one should look for the main source from which all the matters that oppress us flow naturally. This might be the reason why - at least we cannot think of another one - our many demands and suggestions, which in the last six years were presented to the high Ministry, directly or indirectly, coming from this eparchy were either not solved, or a resolution came too late and often inauspicious. Even in small matters nobody took the pains to answer the bishop, even by a short answer."*<sup>243</sup> Next: *"The plan to organize, together with the suggestions to appoint and provide teachers were put on paper, beginning with December 14, 1853, and addressed to the high Ministry, under No. 1075, by means of the civil and military government, but they remained unsolved for such a long time; therefore, finally, fourteen months later when by the ministerial Decree of May 10, the current year, a resolution came,*

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<sup>241</sup> During the Neoabsolutist era, the political power insisted a lot that the Orthodox bishop proposes a project of reorganization of the consistory, "an offspring" of politics not of the Church, as Andrei Șaguna has described it. See the government documents and the bishop's incisive answers on this topic, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 115-122, 161-162.

Bishop Andrei asked the emperor that: "die Regelung des Diöcesankonsistoriums, wenn eine solche nothwendig ist, nur im Einklange mit den kirchlichen Vorschriften über Auftrag des Bischofs vorgenommen werde." "Gravamenul episcopului Șaguna" ("Bishop Șaguna's complaint"), 139.

<sup>242</sup> Cf. "Gravamenul episcopului Șaguna" ("Bishop Șaguna's complaint"), 130, respectively 142: "Euer Majestät! Wir bitten um eine Benennung für unsere Kirche, welche ihr gebührt, um eine Benennung, welche sie selbst seit langen Jahrhunderten gebraucht; wir glauben, dass nie ein Verlangen billiger, nie eine Bitte gerechter gewesen, als die: dass unsere Kirche, wie sie wirklich heisst, die griechisch-orientalische auch in den Staaten Euer Majestät genannt werde." "Unsere Verhältnisse sind sehr ärmlich, unsere Bildungsmittel noch äusserst gering. Dass es leider so und nicht besser ist, ist aber wieder nur eine Folge des gedrückten Zustandes, in welchem sich die bloß geduldete Kirche seit Jahrhunderten befand. So langer Zeiten schweres Versäumnis lässt sich nur langsam nachholen. Darum sollte man billig Geduld mit uns haben, unser Bestreben, uns empor zu ringen, aufmunternd unterstützen, besonders wenn es mit den eigenen Kräften geschieht, und nicht Schwierigkeiten, deren wir ohnehin genug zu überwältigen haben, machen."

<sup>243</sup> *Ibid.*, 127: "Dies, dass das hohe Ministerium unsere Kirche wie eine bloß geduldete zu behandelt scheint, muss am tiefsten uns schmerzen. Hierin dürfte auch die Hauptquelle zu suchen sein, aus welcher alles Andere, was ferner uns drückt, in ganz natürlichem Zusammenhange fliesst. Daher mag es kommen, wenigstens ist nicht leicht ein anderer Beweggrund denkbar, dass auf die vielen Bitten, Eingaben und Anträge, die im Laufe von sechs Jahren von Seiten dieser Diöcese mittelbar und unmittelbar an das hohe Ministerium gerichtet worden sind, entweder gar keine, oder sehr spät, eine meist ungünstige Erledigung herablangt. Selbst in ganz einfachen Angelegenheiten hat man es der Mühe nicht Werth finden wollen, den Bischof einer, wenn auch noch so kurzen Antwort würdigen zu lassen."

*under No. 5158, by which Prof. Ph. D. Pantazi was confirmed - the professor was employed by me and paid by a salary of 300 florins out of the Eastern Greek sydoxial fund - the latter had already passed away for six months and lay in the cemetery.”*<sup>244</sup>

The argument displays successively in a growing order, so that the key matter - the old Metropolitanate of Alba-Iulia - is treated in the last chapter, bearing protesting accents. The fact that after the revolution, despite that they had fought together to maintain the monarchy, the Romanians had been divided according to the religious criterion<sup>245</sup> by the monarchy itself, by the setting up of a Greek Catholic Metropolitanate which had never existed, yet constantly refusing the reestablishment of the former Orthodox Metropolitanate of Alba-Iulia, created to Bishop Andrei great bitterness. He was seized with the highest indignation because the new Greek Catholic archbishop “*had entitled himself metropolitan of Alba-Iulia and let the Romanian nation know (because he likes to speak to the nation, not to his faithful), that the old Metropolitanate the Romanians once had was restored.*”<sup>246</sup> He did not hesitate to express his indignation directly to the emperor. After having exposed the outspoken proselytism by involving the emperor’s name itself: “*and the issue is presented in such a way as if the emperor’s wish and will is that the Romanians should proceed to the Union*”<sup>247</sup>, Bishop Andrei concluded: “*I would break the permanent rights of our Church, if as a bishop I would not speak my mind freely and openly. Our Orthodox Church was the oldest in the country; the tradition and history, monuments and documents which cannot be wiped out give testimony about the fact that in Transylvania there have been Orthodox episcopal sees, united by the church hierarchy under the Metropolitanate of Alba Iulia. [...] The*

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<sup>244</sup> Ibid., 140-141: “Der Plan der Einrichtung mit den Anträgen für die Bestellung und Dotation der Lehrer wurde noch unterm 14. Dezember 1853 Z. 1075 im Wege des Militär- und Civilgouvernements dem h. Ministerium unterbreitet, blieb aber so lange liegen, dass, als endlich nach 14 Monaten mit Ministerialdekret vom 10. Mai d. J. Z. 5158 eine Erledigung erfolgte und die Verwendung des von mir angestellten Lehrers Dr. Pantasy mit einer Remuneration von 300 fl. aus dem gr. orientalischen Sidoxialfonde genehmigt wurde, dieser schon seit sechs Monaten im Frieden auf dem Leichenhofe ruhte.”

<sup>245</sup> All the Romanians’ efforts, who were asking at the second point of the national programme of Blaj “the returning of the Romanian Metropolitanate according to the ancient right” were materialized, in 1850, by the setting up of a Greek Catholic Metropolitanate. On November 26, 1853, by the bulla *Ecclesiam Christi*, Pope Pius the IX set up the Greek Catholic Metropolitanate of Alba-Iulia and Făgăraș, followed by the founding of two new dioceses (of Gherla and Lugoj).

<sup>246</sup> “Gravamenul episcopului Șaguna” (“Bishop Șaguna’s complaint”), 148-149: “[...] nennt sich der Herr Erzbischof den Metropolit von Karlsburg und verkündigt dem romanischen Volke (denn zu diesem, nicht zu seinem Kirchenbefohlenen, beliebt es ihm zu reden), dass die alte Metropole, welche die Romanen einst zu Karlsburg besaßen, wieder hergestellt sei.”

<sup>247</sup> Ibid., 149: “[...] und die Sache so hingestellt wird, als ob es Keisers Wunsch und Wille sei, dass die Romanen zur Union hinübertreten ...”

*Archbishop [Atanasie Anghel] and all of those passed with him have personally passed [to the Uniate Church], not because they were assigned or empowered by the Church to do so [...]. As a bishop of the Roman Catholic Church who would deny his faith, he could not officially carry along with him to the other Church the service, dignity and rights of his diocese, likewise we must think and consider this matter within the Orthodox Church, as long as any divine and human right rules over the earth. Pervaded down to my heart by the difficult responsibility which I owe God, before Whom I will have to answer about all the steps I have or have not taken, as a bishop I solemnly protest against any supposition, in any way, that the new set up Greek Catholic Metropolitanate of Făgăraș could be considered as a re-establishment of the old Orthodox Archbishopric and of the old Metropolitanate of Alba-Iulia, in Transylvania.”<sup>248</sup>*

Although Bishop Andrei Șaguna’s claims were justified and thoroughly argued, they have never been solved in the Neoabsolutist era, in spite of his insistences<sup>249</sup>.

On Minister Thun’s suggestion, on December 14, 1856, the State Council (Reichsrat) analyzing the whole controversy with the Court’s authorities concerning the discriminated denomination “not-Uniate” given to the Orthodox, decided to put off taking a decision, a fact which lasted up to the years which followed the Neoabsolutism.<sup>250</sup>

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<sup>248</sup> Ibid., 149-150: “Ich würde die unverjährenen Rechte unserer Kirche vergeben, wenn ich, als Bischof, nicht frei und unumwunden meine Stimme erheben sollte. Unsere Kirche, die gr. orientalische, war die älteste im Lande; Tradition und Geschichte, unvertilgbare Urkunden und Denkmäler sprechen davon, dass in Siebenbürgen griechische Bischofssitze standen, welche unter der Metropole von Karlsburg zu einer kirchlichen Hierarchie vereinigt waren. [...] Der Erzbischof und jeder, der mit ihm ging, handelte für seine eigene Person, nicht im Auftrage, nicht mit der Beglaubigung, nicht mit der Billigung der Kirche [...]. So wenig in der römisch-katholischen Kirche ein Bischof, wenn er abfiele, Amt, Würde und Rechte des Bistums zu einer andern Kirche hinüber nehmen kann, so wenig ist dies in der gr. orientalischen Kirche denkbar, solange noch göttliches und menschliches Recht auf Erden waltet!

Erfüllt und bis ins Innerste ergriffen von der schweren Verantwortung, die ich dem Herrn schulde, vor dem ich einst Rechenschaft geben muss über jeden gethanen, wie jeden unterlassenen Schritt, erhebe ich als Bischof feierliche Einsprache gegen jede, wie immer geartete, Annahme, als könne die Errichtung der neuen gr. katholischen Metropole von Fogarasch als eine Wiederherstellung des alten gr. orientalischen Erzbisthums und der Metropole von Alba-Julia in Siebenbürgen betrachtet werden.”

<sup>249</sup> See “Episcopul Șaguna rógă de nou pre Împăratul a considera cererea sa din 1 Decembre 1855” (“Bishop Șaguna asked the emperor once more to consider his complaint of December 1, 1855”), dated Vienna, September 9, 1857, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 163-165.

<sup>250</sup> Cf. K. HITCHINS, *Andrei Șaguna și românii din Transilvania în timpul decadei absolutiste*, 36.

The efforts to obtain the control over the church properties were in vain, also. There had been four settlements all in all, assessed an income of about 130,000 florins<sup>251</sup>, out of which Bishop Andrei wanted to use a part for his educational projects. The Orthodox was never been allowed to handle these funds. Before 1849 Transylvania's Treasury, later the Ministry of Public Worship decided every year the way this money should be spent.<sup>252</sup>

### III.2.4 Political manipulation of the confessional pluralism in Transylvania

Another consequence of the failure of the revolution - when the Romanians united under the banner of nationality had forgotten about confessional misunderstandings - was the political manipulation of the peaceful religious climate, namely the disturbing of it, in order to maintain intact the authority of the Court: the Romanian Greek Catholics were favoured once more, in prejudice of the Romanian Orthodox. By an imperial rescript of December 12, 1850<sup>253</sup>, the Greek Catholics "were built" a metropolitanate which had never existed in history, "while the reestablishment of the Orthodox Metropolitanate was cancelled for other times and régimes"<sup>254</sup>.

Concerning the tense relationships between the Orthodox and Greek Catholics, these were cultivated at the beginning of Neoabsolutism by the Viennese politicians especially by continuing the policy of propaganda for church Union.

The post-revolutionary proselytist offensive began with the Orthodox bishop himself. According to the contemporaries<sup>255</sup> and Andrei Şaguna's<sup>256</sup> accounts, the Uniate Alexandru Sterca Şuluţiu proposed the Orthodox bishop to accept the church Union and so he would become a Greek Catholic metropolitan. There is a letter in this respect,

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<sup>251</sup> Cf. "Gravamenul episcopului Şaguna" ("Bishop Şaguna's complaint"), 145.

<sup>252</sup> Cf. K. HITCHINS, Andrei Şaguna și românii din Transilvania în timpul decadelor absolutiste, 37.

<sup>253</sup> Cf. Metropolitan Alexandru Sterca Şuluţiu's circular letter, dated Blasiu [Blaj], April 21/9 1855, in: N. POPEA, Vechi'a Metropolia, 167-169 here 167.

<sup>254</sup> I. PUŞCARIU, Notițe, 26.

<sup>255</sup> Cf. N. POPEA, Arhiepiscopul și Metropolitul, 109; G. BARITIU, Parti alese din istoria Transilvaniei, 560.

<sup>256</sup> See A. ŞAGUNA, Memoriile, 45, 53; Nr. pres. 63 in: A. Bar. de SIAGUN'A, Scrisori apologetice, 11-63 here 18-19; "Andrei Şaguna către Alexandru Sterca Şuluţiu" ("Andrei Şaguna to Alexandru Sterca Şuluţiu"), dated Sibiu, 1867, February 1, in: A. ŞAGUNA, Corespondența I/1, 466-497 here 470.

dated July 14, 1850<sup>257</sup>, sent to Andrei Şaguna by Alexandru Sterca Şuluţiu: “*I could not believe my eyes while reading this letter - the more attentively I was reading it, the more I was convinced that the ultramontanists planned to win me for their goals.*”<sup>258</sup> After a short time, they met at Vienna, where Bishop Andrei Şaguna participated in the conference of the Orthodox bishops of the monarchy, of 1850-1851; Alexandru Şulutiu was at Vienna as a candidate for the vacant Greek Catholic episcopal see of Blaj, after Baron Puchner had dismissed the Bishop Ioan Lemeni, at the end of 1848. Şulutiu “translated” his letter of 14 July 1850 personally: “*he began to comment his letter and he said: that the happiness of our nation would be attained only when we all unite with Rome and **all the ministers told him so** [our reference]<sup>259</sup>, and because he knows I am a good nationalist and a man capable of great actions, he asks me to pass to the Union with Rome and then I will become the metropolitan of Alba-Iulia, etc. I listened to this ultramontanist till the end and I answered him disdainfully and told him I was not selling my soul for nothing, etc.*”<sup>260</sup> In Keith Hitchins’ interpretation “Şaguna was now presented with a most tempting opportunity to achieve national-political ambitions. But he was not primarily concerned with politics and political goals; rather, as he had made abundantly clear, the strengthening of Orthodox spirituality was the task to which he had dedicated himself.”<sup>261</sup>

The next proof of Greek Catholic propaganda for church Union is Alexandru Sterca Şuluţiu’s first pastoral letter, issued when he became bishop of Blaj, in 1851; he addressed the entire Romanian nation in proselytist terms: “Listen and understand all of you, Romanians, all living from Thessaly and the Black Sea, beyond the Carpathians and Tisza, listen and see that there is no redemption for us, except the holy Union with the Holy See of Rome, which all the Holy Fathers gathered within the Holy ecumenical Synods and the Code of canons recognize as the head of the Church ...”<sup>262</sup> Bishop Andrei “*being convinced that Bishop Şulutiu had in mind to bring all the Romanians -*

<sup>257</sup> See “Alexandru Sterca Şuluţiu către Andrei Şaguna” (“Alexandru Sterca Şuluţiu to Andrei Şaguna”), dated Şimleu, July 14, 1850, in: A. ŞAGUNA, *Corespondenţa I/1*, 323-325.

<sup>258</sup> A. ŞAGUNA, *Memoriile*, 45.

<sup>259</sup> It is a proof that the church Union was again promoted by the political power.

<sup>260</sup> A. ŞAGUNA, *Memoriile*, 53.

<sup>261</sup> K. HITCHINS, *Orthodoxy and Nationality*, 196.

<sup>262</sup> A fragment of Greek Catholic Bishop Alexandru Sterca Şuluţiu’s pastoral letter on the occasion of his appointment, in: N. POPEA, *Archiepiscopul şi Metropolitul*, 108.

*from Tisza to the Pindus Mountains - to the Union with Rome*<sup>263</sup> drew his protopopes' attention, by the circular letter of March 12, 1852, and advised them "do not let themselves carried out in conversations or disputes on that speech"<sup>264</sup>; on the other hand he protested before the authorities: "seeing the unforgiving excesses Bishop Şulutiū started his ministry with, I wrote to the governmental leadership of Transylvania, on April 1, 1852, a retort against that encyclical letter of Blaj in order to show the régime from Vienna and Esztergom that we have the moral courage, but also the science necessary to fight back so bad habits of proselytism ..."<sup>265</sup> The result of this protest was a concrete one: the Ministry of Vienna addressed a report to the imperial Chancellery, and after that "an imperial gift - 30,000 florins - was sent for our poor churches; then I was raised to the rank of Baron. [...] In the summer of this year [1852], at Sighişoara, His Majesty appointed me as a privy counsellor, while he was visiting Transylvania."<sup>266</sup> When he received the title of baron, Bishop Andrei Şaguna explained in a letter to the Minister Bach his famous emblem:<sup>267</sup> "the seven hills mean the seven Christian virtues which he followed all through his life, and the heron standing on one foot and holding an egg in the other symbolizes his endless care by which he watched over the fate of the Romanian people during the stormy years 1848-1849."<sup>268</sup>

After on November 26, 1853, by the bulla *Ecclesiam Christi* Pope Pius the IX set up the Greek Catholic Metropolitanate of Alba-Iulia and Făgăraş, and Bishop Alexandru Sterca Şuluţiu was confirmed as a metropolitan, the latter published another circular letter, written in the same proselytist terms: "His Majesty, by this great act [the establishment of a Greek Catholic Metropolitanate in Transylvania] honoured our nation and clergy before the whole world; he wishes its development, the prosperity and consolidation of the holy Union with the apostolic Holy See of Rome, that in all ways is our real mother in body and soul ..."<sup>269</sup> Against this challenge Bishop Andrei

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<sup>263</sup> A. ŞAGUNA, *Memoriile*, 57.

<sup>264</sup> *Ibid.*, 57.

<sup>265</sup> *Ibid.*, 58.

<sup>266</sup> *Ibid.*, 58.

<sup>267</sup> See "the big emblem" of Bishop Andrei Şaguna in the annex V herein.

<sup>268</sup> I. LUPAŞ, *Vieaţa*, 104.

<sup>269</sup> Metropolitan Alexandru Sterca Şuluţiu's circular letter, dated Blasiu [Blaj], April 9/21, 1855, in: N. POPE`A, *Vechi`a Metropolia*, 167-169 here 167.

Şaguna answered again “logically and resolutely”<sup>270</sup>. He protested before the régime: *“This circular letter [of the Greek Catholic metropolitan], as you can see by the enclosed copy - an authentic translation -, contains some suspicious lines for the Church of Christ that I am honoured to represent; these lines influence the peace of my mind and spirit and of my clergy and faithful in a confusing way [...]. Against these suspicious and prejudicious excerpts for the Church I do represent in this country, I feel obliged to protest solemnly, both on the part of my eparchy, [...] and of the Eastern Ecumenical Church.”*<sup>271</sup>

In spite of his official protests against the Greek Catholic offensive, Bishop Andrei urged the faithful to keep the peace, to be patient, by his decisions related to inter-confessional aspects wanting that “neither brotherhood, nor justice be harmed. [...] He did not attack anybody if he was not provoked and many times he remained passive, when necessary for the common good. One might say, on the contrary, that nobody respected more the foreign confessions than Şaguna himself. There were Greek Catholics or men belonging to other confessions, whom his Romanian, noble heart respected a lot.”<sup>272</sup> But “when compelled by circumstances, when he considered to defend the prestige, the honour or any other common imperious interest of the Church, he answered either by pastoral letters addressed to his faithful, or by brochures and the press.”<sup>273</sup> Such an incisive pastoral letter, “more than severely criticized”<sup>274</sup>, was the one delivered on December 5, 1855.<sup>275</sup>

In the same spirit of the supported confessional “war”, the Orthodox bishop was accused at the Ministry, in 1855, that he published church books infringing the privilege of the printing house of the Greek Catholic Seminary of Blaj; this, under the circumstances when the absolutist government had wiped a great number of feudal privileges, among which the one of printing, strictly limited until 1848.<sup>276</sup> In 1857 the

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<sup>270</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 110.

<sup>271</sup> Andrei Şaguna’s protest against Alexandru Sterca Şuluţiu’s circular letter of April 9/21, 1855, dated May 24, 1855, in: N. POPEA, *Archiepiscopul și Metropolitul*, 110-111.

<sup>272</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 116, 119.

<sup>273</sup> *Ibid.*, 117.

<sup>274</sup> *Ibid.*, 117.

<sup>275</sup> See Andrei Şaguna’s pastoral letter No. 1090/1855, in: Gh. TULBURE, *Mitropolitul Şaguna*, 195-201.

<sup>276</sup> Cf. G. BARITIU, *Parti alese din istoria Transilvaniei*, 560-561.



Greek Catholic metropolitan claimed the government the monopoly of printing and censorship of the Orthodox Church's books.<sup>277</sup>

Of course, the new Concordat of 1855 between the Viennese Court and Vatican had something in common with such attitudes of supremacy of the Greek Catholics.<sup>278</sup>

During Neoabsolutism even "The Transylvania's Gazette" from Braşov - for which the Orthodox bishop had insisted before the government of Transylvania, in 1850, so that it could be issued again<sup>279</sup> - was seized by the spirit of proselytism, and "from time to time it did not miss the opportunity to give to Şaguna a blow, rapped into snoring words and phrases"<sup>280</sup>. As a result of the journalistic space offered to several of Greek Catholic Metropolitan Şuluţiu's writings with a proselytist, even a provocative tint, as well as owing to other blunders of this magazine, Bishop Andrei felt obliged to clear things up, and after the verbal intervention before the governor he received the latter's consent to write a clarifying circular letter addressed to his clergy and parishioners.<sup>281</sup> He recommended by a pastoral letter to Orthodox do not buy these magazines any more, nor read them, because "*they spoil and harm and destroy our souls*"<sup>282</sup>. Later, he addressed to the Metropolitanate of Karlowitz and Eparchy of Werschetz in order to stop the delivery of "The Transylvania's Gazette" among the Orthodox Romanian in Banat, sustaining instead it the spreading of "The Romanian Telegraph".<sup>283</sup>

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<sup>277</sup> Cf. "A.B.M. 2583, Scrisoare a episcopului Andrei Şaguna către mitropolitul Iosif Raiacić" ("A.B.M. 2583, Bishop Andrei Şaguna's letter to Metropolitan Josip Rajačić"), dated Sibiu, July 30, 1857, in T. BODOGAE, *Un capitol din istoria relațiilor culturale sârbo-române*, 542-543 here 542. Cf also A. ŞAGUNA, *Corespondența I/2*, 136-137.

<sup>278</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 184.

One of the more backward developments of Bach's government was the concordat with the papacy of 1855, by which the Roman Catholic Church gained wide powers. It gave the Catholic Church extensive power as the state religion. Jurisdiction on matrimonial questions of all those baptized as Catholics was moved from secular to ecclesiastical courts. In education, the Church also had the right to ensure that courses other than religion classes did not conflict with Church doctrine and could censor any publication it believed to be dangerous to Catholics. Cf. *The New Encyclopædia Britannica*, vol. 14 *Macropædia*, 525. More on the concordate of 1855 see Friedrich HOCHSTETTER, *Die Geschichte eines Konkordats. Das österreichische Konkordat von 1855*, Berlin [1928]; Erika WEINZIERL-FISCHER, *Die österreichischen Konkordate von 1855 und 1933*, Wien 1960.

<sup>279</sup> Cf. A. ŞAGUNA, *Memoriile*, 48.

<sup>280</sup> I. LUPAŞ, *Vieața*, 136. Cf. also A. ŞAGUNA, *Memoriile*, 85-86.

<sup>281</sup> Cf. A. ŞAGUNA, *Memoriile*, 85-86.

<sup>282</sup> Andrei Şaguna's pastoral letter No. 1090/1855, in: Gh. TULBURE, *Mitropolitul Şaguna*, 195-201 here 201.

<sup>283</sup> See "A.B.M. 2578", "A.B.M. 2579", "A.B.M. 2583", "A.B.M. 2586", "A.B.M. 2589", "A.B.M. 2591", in: T. BODOGAE, *Un capitol din istoria relațiilor culturale sârbo-române*, 538-547.

Not only was the Greek Catholic metropolitan possessed by a proselytist and scornful spirit toward the Orthodox confession and bishop, but also some “*Greek Catholic fanatic priests*”<sup>284</sup>. When the limits of decency were surpassed over, Bishop Andrei Şaguna did not hesitate to go to justice “*for damage brought to my confession and honour*”<sup>285</sup>. But the justice was controlled by the political system, therefore partly objective and so the bishop lost the cause. “Apart from these oppressive signs over the Orthodox Romanian Church, coming from the régime which was not impartial, Şaguna was angry with the many reports which came endlessly from priests and protopopes, about the misunderstandings they had with the Greek Catholic priests, caused by mixed marriages, by conversions or reversions, or by different religious services.”<sup>286</sup>

Bishop Andrei knew very well that the political factor was the one which orchestrated and manipulated the confessional diversity in post-revolutionary Transylvania: “*the tendencies of supremacy of Blaj - which Blaj would not have dared provoke to our Church, had they not be encouraged by Esztergom and Vienna ...*”<sup>287</sup> Out of this conviction that the Greek Catholics were tools in the hands of absolutist policy, which by different measures exercised pressure among the Orthodox in order to accept the church Union, cumulated with the tragic reality that the Orthodoxy was not recognized as a confession having equal rights with the other confessions, resulted his firm attitudes concerning the interdiction of the confessional interference, especially in the space of church services<sup>288</sup>; but when confessional village schools were set up, he admitted exceptions concerning the common schools with the Greek Catholics, only if there was no way out<sup>289</sup>.

Finally, “*this miserable policy of the Viennese régime culminated in entitling of Bishop Şuluţiu as a member of the society ‘de propaganda uniune’ to the East, namely a member of the ultramontanist society which aimed at drawing all the Romanians from the Romanian Principalities and from the Turkish provinces to unite with Rome.*”<sup>290</sup>

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<sup>284</sup> Cf. A. ŞAGUNA, *Memoriile*, 80-83.

<sup>285</sup> *Ibid.*, 83.

<sup>286</sup> I. LUPAŞ, *Vieaţa*, 135.

<sup>287</sup> A. ŞAGUNA, *Memoriile*, 53-54.

<sup>288</sup> See Andrei Şaguna’s circular letter No. 892/1858, in: Gh. TULBURE, *Mitropolitul Şaguna*, 434-435.

<sup>289</sup> See Andrei Şaguna’s circular letter No. 858/1853, in: Gh. TULBURE, *Mitropolitul Şaguna*, 263-266.

<sup>290</sup> A. ŞAGUNA, *Memoriile*, 65. See also “Andrei Şaguna către Alexandru Sterca Şuluţiu, Sibiu, 1867 februarie 1” (“Andrei Şaguna to Alexandru Sterca Şuluţiu, Sibiu, 1867, February 1”), in: A. ŞAGUNA, *Correspondenţa I/1*, 466-497 here 472.

### III.2.5 The first mixed eparchial synod of March 1850; the conference of the Orthodox bishops of the monarchy of 1850-1851

Bishop Andrei proposed himself from the very beginning to accomplish his main purposes - to eliminate all the ambiguities concerning the statute of his Church within state, and also related to the Metropolitanate of Karlowitz - together with and supported by the entire body of Church. Thus, he planned still in 1848 to start the organization of his eparchy on synodal foundations, wishing to summon, in September 1848, a synod made up of priests and lay people, at Sibiu. But the revolution and the civil war in Transylvania prevented the accomplishing of this project.<sup>291</sup>

The first mixed eparchial synod could be held only in March 1850, after a break of a century and a half of the mixed synodality in the Romanian Orthodox Church of Transylvania: *“Think and let yourselves touched by the greatness and holiness of a right and duty, whose working starts today, March 12[/24], at the episcopal residence from Sibiu, by the eparchial synod revived and gathered after a sad and painful break of hundred and fifty-two years; this was the more harmful, the more we were deprived of the last guardian and defender of our human and divine right.”*<sup>292</sup>

The bishop wanted to gather in the synod elected members, voted by the people, enjoying their trust. But the governor, under the pretext that on the occasion of such an electing meeting troubles might come up, announced Bishop Andrei on March 3/15, to decide the participants himself and to communicate the list to the government.<sup>293</sup> Three days before the beginning of the synod, on March 9/21, 1850, the bishop was

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<sup>291</sup> See the chapter III.1.5 herein. Cf. also M. PĂCURARIU, 100 de ani de la reînființarea Mitropoliei Ardealului, 819-820.

<sup>292</sup> “A.B.M. 3272 Predică în Duminica întâia a Postului Mare, rostită în Brașov, la 1850, întru suvenirea reînvierii Sinodului bisericesc al Episcopiei românești din Sibiu” (“A.B.M. 3722 Sermon on the first Sunday of Lent, uttered at Brașov, in 1850, in the context of the revival of the church synod of the Romanian Eparchy of Sibiu”), in: D. MAN, Un nou manuscris, 124-132 here 124.

Cf. also A. ȘAGUNA, Memoriile, 42; P. BRUSANOWSKI, Reforma constituțională, 91-93.

<sup>293</sup> See “Guvernatorul provocă pre episcopul Șaguna a designa însuși pre membrii sinodului interzicând alegerea lor prin aclamări” (“The governor asked Bishop Șaguna to appoint the members of the synod himself, forbidding their election by acclamation”), in: II. PUȘCARIU, Metropolia, colecția de acte, 62.

announced that an imperial commissary had to be present at the synod.<sup>294</sup> Even under these restrictive circumstances, the synod was a great success, due to the bishop: “Owing to Şaguna’s recognized influence and loyalty, the works of the synod went on well, and even representatives of lay people took part in. We cannot say the same thing about the synod of the Greek Catholics, which many restrictions were laid upon. The participation of the laymen was excluded, and severe instruction underlined that the synod had to be limited to ecclesiastical matters.”<sup>295</sup>

Following the disposition of the governor concerning the nomination of the participants, Bishop Andrei convoked twenty-five protopopes, two theology teachers and thirty laymen; there were present forty-four deputies - twenty-four clergymen and twenty laymen. “The circumstance that Şaguna tried in 1848, and achieved successfully in 1850, to summon and hold a synod made up of clergy and laymen shows plainly that he was not in favour of ‘the despotic Serbian form’, but he was fighting for the introduction of the synodal constitution in our Church.”<sup>296</sup> In the opening speech of the synod the bishop motivated his deeds theological and canonical: “*Penetrated by the holiness of our Church on the one hand, and wanted to prove my tight keeping of the Church canons on the other hand, I found necessary to call this [mixed] synod, so that the endeavour of my ministry be much more safe and well made ...*”<sup>297</sup> The Serbian clericalism he had known for almost two decades did not impress him positively, on the contrary.

During the meetings of the synod different topics were approached: the freedom and equal rights for the Romanian Church and nation, including the replacement of the negative denomination “not-Uniate Greeks” with “Eastern Greeks”; the restoration and autonomy of the old Orthodox Metropolitanate; the legal position of the Church within state; the improvement of the material condition of the priests and teachers; the access of the young Romanians to education and study; the administration of the eparchial

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<sup>294</sup> See “Guvernatorul notifică episcopului Şaguna denumirea lui Ioan de Karabetz de comisariu al regimului pentru sinod” (“The governor announced Bishop Şaguna about Ioan of Karabetz’s appointment as commissary of the government for the synod”), in: II. PUŞCARIU, *Metropolia, colecția de acte*, 64-65.

<sup>295</sup> D. SUCIU, *Lupta naționalităților din Imperiul Habsburgic*, 196.

<sup>296</sup> I. LUPAŞ, *Şaguna și Eötvös*, 12.

<sup>297</sup> *Actele Soboarelor...1850 și 1860*, 25.

funds by the eparchial committee, not by the state. At the end of the synod's sessions all the discussed issues were conveyed to the emperor, by a petition.<sup>298</sup>

It seems that Avram Iancu, the former revolutionary of 1848 and a member of the synod “insisted that political issues be also debated within this synod, a frail thing in those hard times.”<sup>299</sup> As a matter of fact, the bishop himself did not want the interference of politics in ecclesiastical matters. The agenda of the synod presented to the faithful of Braşov by Bishop Andrei proves his pure ecclesiastical comprehension of the tasks of the synod: *“because, after the ardent call of the Holy Spirit upon their minds and hearts, everybody should understand and agree with our numerous ecclesiastical and educational needs, and ask His Highness, the Monarch, through the bishop, the healing and comfort of so many wounds of the soul, the end of so many needs and privations, and the assurance that in the future we will be not forgotten, that our Church and School will be not at the hands of the others, that our holy confession will be not mocked by fanatics and foreign interests [...]. The same synod has a holy duty to stop the so many evils, which depends just on our strong and brave will. Removing the bad habits in families and outside, the frantic passions within marriage, blaming the dirty selfishness, a better saving and keeping of the church and school's revenues which we have in our hands, a more noble and decent education for our children, a tighter control of our priests, and others like those will be debated in our holy synod and they will be turned into practice. My beloved Christians, think that for hundred and fifty-two years not only the laymen, but also many of our priests forgot the canons and Church laws, that a great number of families have fallen into a so self-oblivion and savagery that not even the parents can remember the daily prayers, some cannot make decent even the sign of holy Cross [...]. And believe me, that about some of terrible evils which lade our confession and people, we are to be blamed: the clergy as well as the people.”*<sup>300</sup>

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<sup>298</sup> See Actele Soboarelor Bisericii greco-răsăritene din Ardeal din anii 1850 și 1860, Sibiu 1864; “Petițiunea sinodului eparchial din anul 1850 către Maiestatea Sa Preaînălțatul nostru Monarch aşternută pe calea guvernului țării” (“The petition of the eparchial synod of 1850 to His Highness, our Monarch, sent through the country government”), dated Sibiu, April 10, 1850, in II. PUȘCARIU, Metropolia, colecția de acte, 65-68.

<sup>299</sup> I. LUPAȘ, Vieța, 113.

<sup>300</sup> “A.B.M. 3272 Predică în Duminica întâia a Postului Mare, rostită în Braşov, la 1850, întru suvenirea reînvierii Sinodului bisericesc al Episcopiei româneşti din Sibiu” (“A.B.M. 3722 Sermon on the first Sunday of Lent, uttered at Braşov, in 1850, in the context of the revival of the church synod of the Romanian Eparchy of Sibiu”), in: D. MAN, Un nou manuscris, 124-132 here 127.

This synod is one of the events of major importance for the Transylvanian Eparchy, which opened the path to Andrei Șaguna's future church organization. The steps taken to establish the canonicity, the conformity with "the law" and Tradition of the Orthodox Church, out of which the call of laymen to co-operate with the clergy for the development of Church life derived, represents the essential achievement of the mixed eparchial synod of Transylvania, of March 1850. Bishop Andrei Șaguna himself did not hesitate to point out to this. In the circular letter for the convocation of the synod he exclaimed enthusiastically: "*Oh me, three times lucky, worthy to convoke the lively Church of Christ, me, worthy to see myself surrounded by my brothers and sons in faith, and to deliberate with them on the condition of the Church of Christ!*"<sup>301</sup>

A success of the synod was the decision of taking over by the Orthodox protopopes of the leadership and the inspectorate of the Romanian Orthodox schools of Transylvania, because since 1838 the government overrode the Bishop Vasile Moga the right to inspect those schools<sup>302</sup>, granting it to the Roman Catholic Magyar bishop of Alba-Iulia. It was also established the foundation of the Theological-Pedagogical Institute of Sibiu, a thing which allowed the graduates in theology to work as teachers before the consecration as priests, a thing respected in the entire Orthodox Church of Transylvania until 1918.<sup>303</sup>

The synod was followed by concrete steps taken by the bishop to organize the eparchy and its main institutions - the consistory and the seminary -, to assure the financial support for these institutions and for the clergy from the state budget. There were also interventions before the government meant to clear up the situation of the priests arrested during the revolution, the slanders and denouncements cast upon them and upon the Orthodox Church, as well as the inter-confessional conversions and reversions.<sup>304</sup>

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<sup>301</sup> Andrei Șaguna's circular letter No. 110/1850, in: Gh. TULBURE, *Mitropolitul Șaguna*, 402-404 here 403.

<sup>302</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 69; Al. GĂINĂ, *Activitatea culturală a Mitropolitului Andrei Șaguna*, 198.

<sup>303</sup> Cf. § 17 of the synod in: *Actele Soboarelor...1850 și 1860*, 45. See also M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 100.

<sup>304</sup> Cf. the chapters III.2.2, III.2.3, III.2.7 and III.2.8 herein.

Some months later, in July 1850, a similar mixed eparchial synod, made up of nineteen priests and seven laymen, was organized by Bishop Gherasim Raț of Arad. The synod sent a petition to the emperor, applying for the reestablishment of the old Romanian Orthodox Metropolitanate.<sup>305</sup>

It is important to point out the skilful way in which Bishop Andrei Șaguna “tore” from the Governor Ludwig Wohlgemuth, who was hostile to bishop<sup>306</sup>, the permission to organize this synod, when the country was under the state of siege, under military régime, all forms of public meetings being forbidden. Within a context in which the governor expressed his dissatisfaction with the unjustified prolongation of the Saxon University session<sup>307</sup>, the bishop suggested him that an efficient way of “paralyzing” the Saxons would be the convocation of an Orthodox eparchial synod.<sup>308</sup> The bishop’s wisdom to use the proper moment led to the revival of synodality - as an irony - even at the beginning of the Neoabsolutist era.

The issue of the rights of the Transylvanian Eparchy and of the Orthodox Romanians of the monarchy, in general, made the subject of many of Andrei Șaguna’s interventions during the conference of the Orthodox bishops of the Austrian Monarchy, which took place at Vienna, between October 15, 1850, and July 2, 1851.

At the true date the conference was displaying, on November 18, 1850, at the Ministry of the Interior of Vienna took place a meeting, between the Primate of Hungary, the Greek Catholic bishop of Transylvania, the minister of the interior Baron Alexander von Bach and the minister of religions and education Count Leo Thun; there “*it was decided the establishment of new Greek Catholic dioceses at Lugoj and Gherla and the establishment of the Greek Catholic Metropolitanate of Alba-Iulia*”<sup>309</sup>. Realizing that the Orthodox Church of Banat was mainly in danger in such a favourable context for the Uniates, “*because there our brothers in faith and nationality were very dissatisfied*

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<sup>305</sup> Cf. M. PĂCURARIU, 100 de ani de la reînființarea Mitropoliei Ardealului, 820.

<sup>306</sup> See the chapter III.2.2 herein.

<sup>307</sup> At length on the autonomy and privileges of the Saxons in Transylvania see the chapter I.1.1 herein. The University (Universitas Saxonum/Sachsische Nationsuniversität) had legal, administrative, economical and political competences. The representative body was made up of the University assembly, which met twice a year, on St. George Feast Day (April 23) and on St. Catherine Feast Day (November 25). Cf. S. VOGEL, *Autonomia săsească în Transilvania*, 11.

<sup>308</sup> Cf. A. ȘAGUNA, *Memoriile*, 42; N. POPEA, *Archiepiscopul și Metropolitul*, 70.

<sup>309</sup> A. ȘAGUNA, *Memoriile*, 51-52.

with their Serbian bishops”<sup>310</sup>, Bishop Andrei Şaguna drew attention of the conference on the new Greek Catholic bishopric of Lugoj, “*but the brothers belonging to the same confession, but not to the same nationality [the Serbian bishops] remained insensitive at the voice of the Church, and stoned on their material interests*”<sup>311</sup>.

All in all, the session of the conference of the Orthodox bishops did not have any remarkable result<sup>312</sup>, because “*it displayed unluckily, especially due to Rajačić, the metropolitan of the Serbians and patriarch.*”<sup>313</sup> The irresponsible attitude of the Serbian hierarchy toward the Church and its severe problems strengthened the Transylvanian bishop’s conviction “*about the necessity to restore our Romanian national Metropolitanate, if we want to keep in the future, in these parts of Hungary and Transylvania, our Eastern Church.*”<sup>314</sup>

Moreover, as it comes out of a private letter of 1856, Bishop Andrei understood, on the occasion of this conference, that the canon law was unknown or at least not respected by the Orthodox bishops of the monarchy: “*The news that all the bishops will meet at Karlowitz to talk about the [church] organization bothers me, because when we met in 1850/1, I realized that there were few who knew the canons of our Church, that many took into consideration their private interest rather than the public one, that out of pride many wished to show off that they were wise, but then they became blind because of their evil goal. Believe me, the hierarchy does not lack new things, neither Platon’s awkward ideas, but the Church, the hierarchs, priests and faithful lack a sense of duty, because the Holy Fathers gave the laws in everything, what is left to us is to know and to carry them out.*”<sup>315</sup> This was another reason to fight for setting his eparchy on clear canonical foundations.

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<sup>310</sup> Ibid., 52.

<sup>311</sup> Ibid., 52.

<sup>312</sup> At length on the works of the conference at M. SĂSĂUJAN, Note de jurnal ale episcopului Andrei Şaguna, 98-119.

<sup>313</sup> A. ŞAGUNA, Memoriile, 55.

<sup>314</sup> Ibid., 56.

<sup>315</sup> Andrei Şaguna’s letter to Protopope Meletie Drăghici from Timişoara, dated Sibiu, October 7, 1856, in: T. BODOGAE, Dintr-o corespondență timișoreană, 32; Cf. also A. ŞAGUNA, Corespondența I/1, 196.



At the beginning of 1857, the bishop fell seriously ill<sup>316</sup>, he lay in bed more than two months and this prevented him from going personally to Oradea Mare, to bless the emperor and the empress, who visited Hungary in that year.

### III.2.6 The church-internal conflicts on the reestablishment of the Orthodox Metropolitanate of Transylvania

The greatest and most painful struggles of Bishop Andrei Şaguna during the Neoabsolutist era were those against the Serbian hierarchy of Karlowitz, on the topic of the reestablishment of the Orthodox Metropolitanate of Transylvania.

Bishop Andrei made the first steps in this respect immediately after the revolution.

So in 1849, while he was the leader of the second Romanian delegation to Olmütz, where the Court had taken refuge, he was writing to Metropolitan Josip Rajačić, his former protector about his wish *“to be recognized the ecclesiastical and political independence of the Romanian nation”*<sup>317</sup>. First he reassured the metropolitan that *“in this enterprise of mine, the main goal of my work is the future harmony among Christians and bishops who speak different languages, but who belong to the same Orthodox Eastern Church of the Austrian territories”*<sup>318</sup>. Then he expressed his sureness that *“the independence of the Romanian hierarchy from the Serbian one is the only means which could bring Christian love and brotherly understanding, instead of the old hatred and mutual conflict between these two nations”*<sup>319</sup>.

In spite of these, the letter irritated Rajačić and instead to be the start of the reestablishment of the Metropolitanate of Transylvania, it was the beginning of a disaster in the relationships between the Romanian bishop and the Serbian metropolitan.

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<sup>316</sup> See “A.B.M. 2578”, Bishop Andrei Şaguna’s letter to Metropolitan Josip Rajačić, dated Sibiu, March 26, 1857, in: T. BODOGAE, *Un capitol din istoria relațiilor culturale sîrbo-române*, 538-539. Cf. also A. ŞAGUNA, *Corespondența I/2*, 130-131.

<sup>317</sup> Bishop Andrei Şaguna’s letter to Metropolitan Josip Rajačić, dated Olmütz, March 16/28, 1849, in: N. POPEA, *Archiepiscopul și Metropolitul*, 126-128. Cf. also A. ŞAGUNA, *Corespondența I/2*, 86-87.

<sup>318</sup> *Ibid.*, 127.

<sup>319</sup> *Ibid.*, 128.

In the spring of 1849, Bishop Andrei Țaguna was printing at Vienna the brochure “Pro-Memory” (“Promemorie”)<sup>320</sup>, arguing the historical right of the Romanians in Transylvania to have a metropolitanate independent from the Serbian one. In 1850, “Pro-Memory” was completed with the “Addendum to Pro-Memory” (“Adaosu la Promemoria”)<sup>321</sup>, and on April 20, 1851, during the conference of the Orthodox bishops, a “Memorial” (“Memorialu”)<sup>322</sup> on the same topic was addressed to the Ministry of Public Worship.<sup>323</sup>

The Serbian metropolitan responded hard: during the conference of 1850-1851, which would have to establish the principles of organization of the Orthodox Church in the entire monarchy, he did his best to delay the debate on the Metropolitanate of Transylvania<sup>324</sup>; he also printed an anonymous brochure<sup>325</sup> against “Pro-Memory”, declaring Bishop Andrei Țaguna an ambitious man. The bishop had not come to find out about the brochure, only through the Minister Alexander Bach, who had confiscated it, asking Bishop Andrei about the answer he was going to give. *“After I have read the pamphlet, I went to the Minister Bach and told him frankly that the Serbian patriarch was the author and I will not take other steps but go to Rajačić and take myself revenge for my stained honour. This is what I have done, defying Rajačić as a person unworthy of his position in our Church.”*<sup>326</sup>

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<sup>320</sup> The German version: Andreas SCHAGUNA, Promemoria über das historische Recht der nationalen Kirchen-Autonomie der Romanen morgendländ. Kirche in den k. k. Kronländern der österreich. Monarchie, Wien 1849; The Romanian version: Andreiu ȚAGUNA, Promemorie despre dreptul istoric al autonomiei bisericesti naționale a românilor de relegea răsăriteană în ces. reg. provinciile ale Monarhiei Austriace, Sibiiu 1849.

<sup>321</sup> The Romanian version: Andreiu ȚAGUNA, Adaosu la Promemoria despre dreptul istoric al autonomiei bisericesti naționale a românilor de relegea răsăriteană în ces. reg. provinciile ale Monarhiei Austriace, Sibiiu 1850.

<sup>322</sup> The Romanian version: “Memorial, prin care se lămuresce cererea românilor de religiunea răsăritenă în Austria pentru restaurarea metropoliei lor din punct de vedere a ss. canone, - așternut c. r. ministeriu pentru cult și instrucțiune în 1851, de Andreiu Bar. de Țaguna, episcopul bisericeii răsăritene în Ardeal” (“Memorial which clarifies the petition of the Romanians of the Eastern confession of Austria meant to restore their metropolitanate from the point of view of the holy canons, submitted to the Ministry of Public Worship and Instruction in 1851, by Andreiu Baron of Țaguna, the bishop of the Eastern Church in Transylvania”), in: II. PUȘCARIU, Metropolia, colecția de acte, 88-97.

<sup>323</sup> A length on these works see the chapter V.1.1 herein.

<sup>324</sup> See M. SĂSĂUJAN, Note de jurnal ale episcopului Andrei Țaguna, 98-119.

<sup>325</sup> See Antwort auf die Angriffe einiger Romanen und der Presse gegen die Einheit der Hierarchie der morgenländischen catholischen orthodoxen Kirche und die serbische Nation in den k. k. österreichischen Staaten, Wien 1851.

<sup>326</sup> A. ȚAGUNA, Memoriile, 56.

Another conflict with the Serbian patriarch was the one of 1852, at the synod of bishops in Karlowitz, summoned for the filling of the vacant episcopal sees of Timișoara, Arad, Buda and Werschetz. Although Andrei Șaguna joined the synod by a special imperial order<sup>327</sup>, he was rejected by the Serbian hierarchy: “*My presence in the synod was for the Serbian bishops a bone in their throat and they turned me out of the synod saying that I was not elected by a synod, but by representatives of our clergy of Transylvania, and they could approve my presence there only when His Majesty would guarantee that my successors will be elected by the synod [of bishops], not by the clergy.*”<sup>328</sup> Thus, he had to come back to his country and protest before the emperor.<sup>329</sup>

At this synod, the patriarch made reproaches to Bishop Andrei Șaguna for his former personally insistences near the Archduke Ludwig, Prince Metternich and Count Kollovrat and also near the chancellor of Transylvania, related to Șaguna’s appointment as a vicar, then as a bishop. The bishop answered with intelligence and honesty: “*You know that I have always been a friend of Your Excellency, but here the rights of the Church are debated and I cannot and I dare not sacrifice them.*”<sup>330</sup> Actually, in spite of the fiery controversies concerning the Orthodox Church’s organization within the monarchy, Bishop Andrei kept as civilized and respectful relationship as possible with the Patriarch Josep Rajačić, such as their correspondence proves.<sup>331</sup>

On his way to the synod of Karlowitz, Bishop Șaguna stopped for one day in his former eparchy, that of Novi Sad (Neoplanta), visiting Bishop Platon. Although the bishop and the priests of the eparchy were acquainted with the slandering character of the “anonymous” brochure written by their patriarch and addressed to Bishop Andrei, they met the former Archimandrite of Kovil Monastery with respect.<sup>332</sup> “[...] *ashamed of my resolute character, they admitted they knew about that pamphlet and they came to meet*

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<sup>327</sup> See “Guvernul invită pre episcopul Șaguna a participa la sinodul episcopesc în Carloviț pentru alegerea de episcop la Arad, Timișoara, Verșeț și Buda” (“The government invites Bishop Șaguna to participate in the synod of the bishops in Karlowitz for the election of bishop of Arad, Timișoara, Werschetz and Buda”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 100-101.

<sup>328</sup> A. ȘAGUNA, *Memoriile*, 60.

<sup>329</sup> See “Episcopul Șaguna face gravamen la Împăratul față de procederea patriarhului sârbesc la sinodul electoral din Carloviț” (“Bishop Șaguna presents a complaint to the emperor, regarding the Serbian patriarch’s dealing at the electoral synod of Karlowitz”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 102-107.

<sup>330</sup> S. DRAGOMIR, *André Șaguna et Joseph Rajačić*, 265.

<sup>331</sup> See “A.B.M. 2566”, “A.B.M. 2567”, “A.B.M. 2568”, “A.B.M. 2578”, “A.B.M. 2579”, “A.B.M. 2583”, “A.B.M. 2585”, “A.B.M. 2586”, “A.B.M. 2591”, “A.B.M. 2608”, “A.B.M. 2620”, “A.B.M. 2682”, “A.B.M. 2623”, in: T. BODOGAE, *Un capitol din istoria relațiilor culturale sârbo-române*, 534-551. Cf. also A. ȘAGUNA, *Coroșdența I/2*, 65-156.

<sup>332</sup> Cf. II. PUȘCARIU, *Metropolia*, 123.

*me, to show me in fact that they blame its content and that they - my former clergy of Karlowitz - knew me as a faithful and zealous man in Church's matters. Bishop Platon [...] was surprised and ashamed [...] of the Serbian patriarch's weak character.*"<sup>333</sup>

The culmination of the conflict with Patriarch Rajačić was in 1860, in the Enlarged Imperial Senate of Vienna<sup>334</sup>, when the organizational issues of the Orthodox Church in the monarchy were also debated. The patriarch insisted, of course, on maintaining the Serbian control and total subordination of the three autonomous eparchies: Bukovina, Dalmatia and Transylvania. He petitioned the emperor on this matter; on August 21, 1860, it followed a contra-petition in the name of Romanians led by Andrei Şaguna, personally presented to the emperor.<sup>335</sup> Out of these, a long series of polemics came out in the Viennese<sup>336</sup>, Serbian<sup>337</sup> and even the Hungarian press<sup>338</sup>, which did not stop until the reestablishment of the Romanian Metropolitanate.

Disappointed by the Serbian patriarch's refractory attitude, Bishop Andrei was declaring, in 1860: *"I wish and do my best to be made everything according to the canons of our Holy Mother, the Church, and because of this sacred cause, those who wish to organize the Church according to their personal use and plan hate me and gossip at my back, and do not wish to follow those established by the Holy Fathers, but would like to get privileges for their nation, as if they, compared to Romanian nation and its confession, were above the Holy Canons of the Apostles and of the Ecumenical Councils.*"<sup>339</sup>

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<sup>333</sup> A. ŞAGUNA, *Memoriile*, 61.

<sup>334</sup> See the chapter III.3.1 herein.

<sup>335</sup> Cf. N. POPE`A, *Vechi`a Metropolia*, 180-187.

<sup>336</sup> The Viennese newspaper "Wanderer", in the issues 178/1860, 184/1860, 201/1860, 202/1860, 210/1860 hosted the first controversies, giving right to the Romanians' arguments. The same did "Ost und West", in the issues 371/1862, 374/1862, 387/1862, 388/1862. Cf. N. POPE`A, *Vechi`a Metropolia*, 183-241.

<sup>337</sup> See "Serbski Dnevnik", No. 379/1862.

<sup>338</sup> See "Pesti Hirnök", No. 67/1862 and "Pesti Napló", No. 66/1862 and 68/1862. Cf. also "Andrei Şaguna către Procopie Ivacicovici" ("Andrei Şaguna to Procopie Ivacicovici"), in: A. ŞAGUNA, *Correspondența I/1*, 138-139.

As one could expect, the Magyar point of view in these newspapers was similar to the Serbian one, namely the rejection of the idea to re-establish the Orthodox Metropolitanate of Transylvania.

<sup>339</sup> "Episcopul Şaguna către Hacman, episcopul Bucovinei, din sinodul diecesan ținut în Sibiu în Oct. 1860" ("Bishop Şaguna to Bishop Hacman of Bukovina from the diocesan synod held at Sibiu, in October, 1860"), in: II. PUŞCARIU, *Metropolia, colecția de acte*, 177-180 here 179.

The reestablishment of the Metropolitanate of Transylvania represented in Andrei Şaguna's view a canonical solution for the jurisdiction of all the Orthodox Romanians all over the monarchy, including those of Bukovina, which before being added to the Habsburg Empire, in 1775, was a part of the Metropolitanate of Moldavia, having its residence at Iaşi. Because only the canonical territory of the Eparchy of Rădăuţi was incorporated in the Habsburg Empire, this eparchy - which moved its residence at Czernowitz - was subordinated, by the same political decisions like in the case of Transylvania, to the jurisdiction of the Metropolitanate of Karlowitz.<sup>340</sup> Although Bishop Andrei was accused that he followed his own personal interest by this organizational formula, he was in fact aware of the responsibility of the Church, of its mission to lead spiritual values in history and implicitly, of the damaging effects of the misinterpretation and wrong use of the Church's institutions: “[...] *the Church's hierarchy of the Romanian nation in the Austrian provinces blew out as a result of lay orders, to the biggest grief and sorrow and to the spiritual pity of the same Romanian nation; and it was subordinated to another heterogeneous hierarchy, which does not know its duty toward the Romanian hierarchy - impeded in its life and function by the political rule -; [the Serbian hierarchy] did not support the old Romanian hierarchy, according to the canons, but dominated it under the shield of the political power and it will do further so, on and on ...*”<sup>341</sup>

If in the beginning Bishop Eugeniu Hacman of Bukovina agreed with the organizational formula proposed by Bishop Andrei Şaguna<sup>342</sup>, later, taken away by the idea to be a metropolitan himself and taking advantage of the not very clean

<sup>340</sup> On the history of Bukovina and its Church see Nicolae CIACHIR, *Din istoria Bucovinei (1775-1944)*, Bucureşti 1993; Raimund Friedrich KAINDL, *Das Ansiedlungswesen in der Bukowina seit der Besitzergreifung durch Österreich*, Innsbruck 1902; Ion NISTOR, *Istoria bisericii din Bucovina*, Bucureşti 1991; Peter PLANK, *Orthodoxe Kirche und Theologie in der Bukowina zur Zeit der Habsburgerherrschaft (1774-1918)*, in: *Blicke gen Osten. Festschrift für Friedrich Heyer zum 95. Geburtstag*, hrsg. von Martin Tamcke, Münster 2004, 169-184; Emanuel TURCZYNSKI, *Geschichte der Bukowina in der Neuzeit. Zur Sozial- und Kulturgeschichte einer mitteleuropäisch geprägten Landschaft*, Wiesbaden 1993.

See also “Resoluţiune împărătească din 8 Decembre 1786, prin care eparchiile din Transilvania şi Bucovina se pun cu cele disciplinare sub metropolia sârbescă din Carloviţ” (“The imperial resolution from December 8, 1786, by which the Eparchies of Transylvania and Bukovina are under the Serbian Metropolitanate of Karlowitz, together with the disciplinary matters”), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 1-2.

<sup>341</sup> “Episcopul Şaguna cătră Hacman, episcopul Bucovinei, din sinodul diecesan ținut în Sibiu în Oct. 1860” (“Bishop Şaguna to Bishop Hacman of Bukovina from the diocesan synod held at Sibiu, in October, 1860”), in: II. PUŞCARIU, *Metropolia, colecţia de acte, 177-180* here 178.

<sup>342</sup> See the chapter III.1.5 herein.

relationship he used to have with the Court, he neglected the desire expressed by the lay representatives of Bukovina and opposed to the incorporation of the Eparchy of Bukovina in the Metropolitanate of Transylvania; in 1873 he will obtain the political consent to establish a new metropolitanate, that of Bukovina and Dalmatia, for himself. Out of this change of attitude of the bishop of Bukovina followed a new series of accusations against Andrei Şaguna.<sup>343</sup>

Besides all these conflicts derived from his legitimate desire to re-establish the old metropolitanate, Bishop Andrei had to carry a smouldering controversy, from 1856 to his death, with the Greek parishioners of the so called “Greek church” from Braşov, the church of the Holy Trinity.<sup>344</sup> Claiming that the church belongs them, the Greeks refused canonical hierarchical subordination to the Romanian bishop of Sibiu, forbidding the Orthodox Romanian to use this church. Apart from many articles written on this topic, coming from both “litigious parties”, “the so-called Greeks did not stop only here, but they ran to Romania and to the all Orient, slandering the bishop who wished to bring them to order, namely to respect of the canons.”<sup>345</sup>

### III.2.7 Concerns to consolidate the ecclesiastical infrastructure

Vicar Andrei Şaguna’s ministry in Transylvania had begun with a clear programme of moral and intellectual regeneration of the clergy<sup>346</sup>: “he was a providential prelate at the time, special meant for to straighten, organize and discipline the Romanian clergy ...”<sup>347</sup>

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<sup>343</sup> At length on the canonical problems of the Eparchy of Bukovina see the chapters VI.1.2 and VI.2.3.2 herein.

<sup>344</sup> At length on the litigation from the Holy Trinity Church of Braşov, which started in 1788, in: I. PUŞCARIU, *Notiţe*, 139-149.

The Greeks’ fury was so strong, that it hastened the death of the Minister József Eötvös of public worship, a friend of Andrei Şaguna. In the last part of his mandate, after he was first inclined to give to the Greeks the church and its properties, the minister, examining the issues in detail decided on July 30, 1869, to keep the parity between Romanians and Greeks concerning the language of prayers and priests, a decision which the Greeks turned into a weapon used to fight the minister himself, attacking him even in the Diet of Pest. Promising to solve the litigation in the Diet, the minister asked all the documents of the case from the archives, but he died with them under his pillow.

<sup>345</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 133.

<sup>346</sup> See the chapter II.4.3 herein.

<sup>347</sup> C. ERBICEANU, *Jubileul centenar*, 727.

Another priority in order to sustain the progress of the clergy was to consolidate the ecclesiastical infrastructure. The main obstacle of this programme was the lack of material resources, which were almost non-existent. Moreover, the post-revolutionary picture was worse than the one he had found on his arrival in Transylvania: “*within the last two bloody years, forty churches were burnt, three hundred and fifteen were robbed and one pulled down to the ground.*”<sup>348</sup> The properties of the Orthodox Church were missing, the funds available for the eparchy too and Transylvania’s Treasury did not feel obligated to account for the few assets of the Church, the bishop’s salary could hardly cover the bare necessities, there were not benefactors toward his Church, among the authorities.

Above all, “the endowment of his clergy was a great trouble for Şaguna.”<sup>349</sup>

The bishop acted in two directions to partly solve the critical lack of financial resources: petitions to the régime and appeals to the faithful.

The state funding was necessary, but as long as the government of Cluj and the Court of Vienna remained indifferent or even hostile toward the Orthodox Church in Transylvania, the progress was impossible. “The un-dissimulated pragmatism of the hierarch, fed by his quality as an observer of his time, made him to give importance to the role of the state in accomplishing the desiderata he had as a church leader.”<sup>350</sup> In the decade of the Neoabsolutism he was greatly concerned with this aspect.

In 1849 he asked the Ministry of Public Worship an annual subsidy of 200,000 florins for ten years, which should make a Fund in order to support the priests.<sup>351</sup>

Then the official documents on this topic multiplied. An intervention concerning the endowment of the priests was occurred on January 1/13, 1850, to the imperial Commissary Eduard Bach of Transylvania, whom he asked, based on the principle of equality of all confessions in the state: financial support for endowment of the bishop, of the consistorial staff, of the seminary, of the cathedral, of the bishop’s residence, of the priests and teachers of the eparchy, even of the cantors; the returning of the

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<sup>348</sup> Bishop Andrei Şaguna’s letter to Archimandrite Neoni, the abbot of Neamţ Monastery, dated Sibiu, July 12, 1850, in: N. BĂNESCU, *Stareţul Neoni*, 84-86 here 85.

<sup>349</sup> I. LUPAŞ, *Vieţa*, 125.

<sup>350</sup> P. TEODOR, Preface at K. HITCHINS, *Ortodoxie şi naţionalitate*, 16.

<sup>351</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 108.

eparchial funds which were administrated by the state, in the administration of the eparchy.<sup>352</sup>

In 1850, on Bishop Andrei's demand the governor of Transylvania exonerated the priests, the confessional teachers and the cantors from public and communal burdens.<sup>353</sup>

In November 1850 the bishop presented in detail the issue of endowment of the priests to the Minister Alexander Bach.<sup>354</sup>

In 1854 the government decided canonical portions for the Orthodox priests, but "from this decision on principle to turning it into practice there was a long way"<sup>355</sup>.

In April 1854 the bishop travelled to Vienna to take part in the Emperor Francis Joseph's wedding ceremony.<sup>356</sup> There, he did not miss the opportunity and tried an intervention for "*to exempt the priests and our people from contributing to the compensation of the tenth for the Saxon priests; but this and many other demands were buried by the Minister Bach.*"<sup>357</sup>

In 1857, Bishop Andrei together with the Uniate metropolitan of Blaj asked the exemption of the Orthodox and Uniate priests from taxes toward the state, as the priests of other confessions were exempted, but this petition was not answered.<sup>358</sup>

In spite of many unanswered petitions, "his numerous and warm interventions were fruitful, because in 1857 the government gave him once 73,000 florins to pay the clergy, and approved 54,000 florins for each year."<sup>359</sup>

In 1861 the emperor approved a plan of state subsidies: an annual amount of 24,000 florins, out of which 50-100 florins should be given the priests every year, and 1000 florins the Theological-Pedagogical Institute.<sup>360</sup> In a circular letter of September 2,

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<sup>352</sup> See Andrei Şaguna's "Representation" to the imperial commissary of Transylvania, dated Sibiu, January 13, 1850, No. 2, in: N. POPEA, *Archiepiscopul și Metropolitul*, 165-168.

<sup>353</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 108.

<sup>354</sup> Cf. "Propunerile episcopului Şaguna prezentate ministrului pentru conferințele episcopesci dela Viena" ("Bishop Şaguna's suggestions presented to the minister for the bishops' conferences of Vienna"), November 16, 1850, in: II. PUŞCARIU, *Metropolia, colecția de acte*, 73-87 here 79-82.

<sup>355</sup> I. LUPAŞ, *Vieața*, 126.

<sup>356</sup> "When the Roman Catholic dean from Sibiu, Schlauf, who had participated in the solemn event with his Bishop Hainald, coming back at Sibiu spread through the town the fame about the special grace Şaguna enjoyed from the emperor, saying 'Now I saw with my eyes the grace Şaguna enjoys on the part of the emperor!'" N. POPEA, *Archiepiscopul și Metropolitul*, 47.

<sup>357</sup> A. ŞAGUNA, *Memoriile*, 73.

<sup>358</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 108-109.

<sup>359</sup> I. MIHĂLCESCU, *Activitatea lui Şaguna pe tărâmul bisericesc*, 758.

<sup>360</sup> See Andrei Şaguna's circular letter No. 480/1861, in: Gh.TULBURE, *Mitropolitul Şaguna*, 442-443.



1861, the bishop, declaring that “*it is my duty to defend the righteousness*”<sup>361</sup>, restricted this amount of money only for the priests who “*are worthy limbs of our clergy, in word and good acts, and - according to my circular letters - are conscious, learned and pious, and do not leave their houses without being dressed in their habit ...*”<sup>362</sup>

Of course, the amount of money coming from state - when, after many insistences, eventually came - could not cover by far the demands of the eparchy. So it was necessary to appeal to the faithful too.

In the opening speech of the mixed eparchial synod of March 1850, the bishop nominated by reviewing the priorities of this synod the precarious material condition of the Orthodox Church of Transylvania, as an ardent issue. Thus, the synod decided to ask the permission of the government for to organize a collect of money all over the eparchy in order to support the burnt and robbed churches. Moreover, the bishop asked for help the other Romanian provinces: Moldavia, Wallachia and Bukovina.<sup>363</sup>

A realistic and enterprising spirit, Bishop Andrei set up different Foundations and Funds with the money collected on different occasions<sup>364</sup>, or he bought buildings for the eparchy, sometimes from his own private fortune<sup>365</sup>. The prosperity of the eparchy could be achieved also because: “his relatives were not seen to ask something, either in

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<sup>361</sup> Andrei Șaguna’s circular letter No. 780/1861, in: Gh.TULBURE, Mitropolitul Șaguna, 444-445 here 444.

<sup>362</sup> Ibid., 444.

<sup>363</sup> See N. BĂNESCU, Starețul Neonil. Corespondența sa cu C. Hurmuzachi și Andreiu Șaguna, 62-99; A. ȘAGUNA, Corespondența I/1, 210-233; C. ERBICEANU, Corespondențe privitoare la relațiile lui Șaguna cu arhieriei din Țara Românească și Moldova, 731-745; Gh. MOISESCU, O scrisoare a lui Andreiu Șaguna către Barbu D. Știrbei, 594-600.

<sup>364</sup> The main Foundations and Funds created by Andrei Șaguna are: “Francis Joseph” Foundation meant to help the Romanian Orthodox students, created in 1853, after the assassination attempt on the Emperor Francis Joseph I; the Fund of the cathedral, initiated in 1857; the Fund of the Archbishopric, created in 1850, out of the rest left from the collect which was meant to buy the bishop’s residence, plus the taxes resulted from the new-married, divorces, or those applied on different punishments; the Fund of Andrew Seminary, created in his first years at Sibiu; the Fund of the eparchial clergy; the Fund of the personnel of the cathedral, created in 1864, with the state financial help; the Fund of the personnel of the eparchial chancellery, created in 1864 also; the Fund of the eparchial synod, created in 1870; the Eparchial Printing House and its Fund, created with bishop’s personal money, in 1850; Pantazi Foundation, created in 1854, on the premature death of his secretary and disciple, Grigorie Pantazi; the Fund of the poor churches, created in 1857; the Fund of the poor teachers, created in 1857 also; the Foundation for poor churches and schools of the Archbishopric, denominated since 1874 Șaguna Foundation, because the metropolitan had destined his entire fortune to it. Cf. N. POPEA, Arhiepiscopul și Mitropolitul, 169-171.

<sup>365</sup> See M. PĂCURARIU, Istoria Bisericii Ortodoxe Române, vol. 3, 100, 105.

his life nor at his death, he did not mention anyone of them in his testament. [...] he behaved toward his relatives in the strict sense of the canons.”<sup>366</sup>

In the autumn of 1857, while at Vienna in a private audience at the Court, Bishop Andrei Şaguna wrote more petitions, among others one by which he asked the permission to organize a collect of money in all the provinces of the monarchy, in order to build an Orthodox cathedral at Sibiu<sup>367</sup> “because in the town there is only a chapel, without a tower or bells, so I feel obliged to go to the holy church as to a Jewish synagogue!”<sup>368</sup> The petition was approved “and he was lucky to have among the first donors the emperor himself, with 1,000 ducats and the Governor Schwarzenberg of Transylvania, with 500 ducats; along them followed as the third great donor ‘the Lord’s servant Andreiu, with 2,000 florins’.”<sup>369</sup> But he did not live to see this point of his programme of activity achieved, namely the construction of a grandiose cathedral.<sup>370</sup>

The material resources Bishop Andrei Şaguna at the beginning of his ministry had for the regeneration of the precarious condition of his eparchy were limited, not in the least because of the hostility of the authorities toward his Church. But he won benefactors by his diligence and personal virtues, by his merits and charm: “All the good they [Baron Jósika Sámuel - aulic chancellor of Transylvania, Prince Felix Schwarzenberg - Prime Minister, Prince Karl Schwarzenberg - governor of Transylvania, General Bordolo, the Ministers Schmerling, Rechberg, Nádasdy, Eötvös, etc.] did - and those high positioned men did a lot of good to him - they did to the person of Şaguna, out of respect for him, not for the Church he represented. [...] Şaguna was well seen at the Court, the monarch himself showed him his willingness.”<sup>371</sup>

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<sup>366</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 178.

<sup>367</sup> Cf. A. ŞAGUNA, *Memoriile*, 88.

<sup>368</sup> Bishop Andrei Şaguna’s letter to Metropolitan Nifon of Wallachia, dated Sibiu, October 28, 1861, in: C. ERBICEANU, *Corespondențe privitoare la relațiile lui Şaguna cu arhierii din Țara Românească și Moldova*, 741-742 here 741.

<sup>369</sup> I. LUPAȘ, *Vieța*, 130.

<sup>370</sup> The Orthodox cathedral of Sibiu was erected quite late, in the years 1902-1906, during the ministry of the Metropolitan Ioan Meşianu (1899-1916).

<sup>371</sup> N. POPEA, *Archiepiscopul*, *Discurs*, 23.

### III.2.8 Educational and cultural achievements

Generally speaking, the decade of Neoabsolutism was a prolific one in cultural and educational terms.<sup>372</sup>

In 1846, when the Vicar Andrei Şaguna came in Transylvania he found a real decay of the cultural and educational life. This is why the educational system in the villages, the education of the people in general were, since the beginning of his ministry, cardinal points in his programme of activity, issues “for which he worked and sacrificed more than one can say.”<sup>373</sup> He was convinced that the state of material and moral decay of the Romanian people of Transylvania could be improved, along with social reforms - among which the abolition of serfdom was a priority -, by instruction and culture: “*Lie good books and newspapers in our people’s hands and then you can turn them from dangerous people to our Orthodox faith.*”<sup>374</sup>

The Viennese government had decided in 1850 that the school matters were in the competence of both state and Church.<sup>375</sup>

The entire responsibility for the Orthodox elementary schools belonged to the Orthodox Church itself according to the decision of the eparchial synod of March 1850, by which the priests became the school principals, the protopopes were school inspectors, and the Orthodox bishop was their “supreme inspector”.<sup>376</sup> If at the beginning the political intelligence accepted this solution as a good one in those political circumstances, later some wanted national schools with lay leadership, instead of confessional schools, an idea not alien their interests.

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<sup>372</sup> The Neoabsolutist era was favourable to the cultural development of the nations of Transylvania. See V. RĂŞINĂREANU, Andrei Şaguna și școala, 59-60; M. PĂCURARIU, Andrei Şaguna îndrumător al învățământului teologic sibian, 55-58; I. CHIRILĂ, Elementele structurale ale proiectului educațional al mitropolitului Andrei Şaguna, 163-169.

<sup>373</sup> Gh. TULBURE, Activitatea literară, 21.

<sup>374</sup> “A.B.M. 2576” Andrei Şaguna’s letter to Protopope Filip Trandafilovici from Werschetz, dated Sibiu, January 28, 1857, in: T. BODOGAE, Un capitol din istoria relațiilor culturale sârbo-române, 537-538 here 538; A. ŞAGUNA, Corespondența I/2, 224-225 here 225.

See also V. BEL, Misiunea socială a Bisericii în concepția Mitropolitului Andrei Şaguna, 230-235; M. PĂCURARIU, Mitropolitul Şaguna și satul românesc, 77-79; I. VICOVAN, Activitatea filantropică a mitropolitului Andrei Şaguna, 171.

<sup>375</sup> Cf. Andrei Şaguna’s circular letter No. 530/1852, in: Gh. TULBURE, Mitropolitul Şaguna, 253-255 here 253: “The high Ministry of Education referring to the principles of organization of the education in Transylvania, by gubernial order of April 19, 1850, No. 3306, published at point 5, declared that the elementary schools are in the competence of both the state and Church.”

<sup>376</sup> Cf. M. PĂCURARIU, Istoria Bisericii Ortodoxe Române, vol. 3, 97-98; the chapter III.2.5 herein.

In 1852 Bishop Andrei Şaguna settled the confessional principle as basis for the organization of elementary schools “*because nothing can disturb us or keep us at back than the [confessional] comradeship*”<sup>377</sup>. Proving that he had proclaimed the “non-comradeship” not because he was a fanatic, but to avoid confessional misunderstandings, he appealed personally the government to approve an exception from the confessional principle “*because in some areas our Christians are mixed up with Christians of another confession in such small number that neither of the two groups are able to have their own confessional school. [...] this exception from the confessional principle should be accepted only if there is a need for it ...*”<sup>378</sup>

The necessary textbooks for the confessional schools were also part of the bishop’s concerns. We know twenty-five such textbooks written by different collaborators, on his call.<sup>379</sup> The first stenography textbook in Romanian language came out from his initiative too.<sup>380</sup>

The efforts to revive the elementary schools<sup>381</sup> were clear in the middle of the Neoabsolutist era: “I see you print school and church books, you have inspectors and principals of the elementary schools, you nominate teachers and we do nothing here ...”<sup>382</sup>

In spite of the many failures in the school system - the lack of professionalism of the teachers, the lack of books, and the lack of the care supervision of the church authorities charged in this respect, the weak attendance of the children owing to poverty, the lack of funds or the bad use of the existing ones -<sup>383</sup>, in 1858 Transylvania registered 2,398 elementary confessional schools with more than 90,000 pupils. Out of them 460 were German schools, 957 Magyar schools, and 981 Romanian schools out of

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<sup>377</sup> Andrei Şaguna’s circular letter No. 530/1852, in: Gh. TULBURE, *Mitropolitul Şaguna*, 253-255 here 254.

<sup>378</sup> Andrei Şaguna’s circular letter No. 858/1853, in: Gh. TULBURE, *Mitropolitul Şaguna*, 263-266 here 265.

<sup>379</sup> See this topic treated at length at E. MACAVEI, *Creatori de manuale în şcoala generaţiei Mitropolitului Andrei Baron de Şaguna*, 259-279.

<sup>380</sup> See M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 98.

<sup>381</sup> See this topic treated at length at Al. GĂINĂ, *Activitatea culturală a Mitropolitului Andrei Şaguna*, 196-200. Cf. also Paul BRUSANOWSKI, *Învăţământul confesional ortodox din Transilvania între anii 1848-1918*, Cluj-Napoca 2005, 83-162; IDEM, *Mitropolitul Andrei baron de Şaguna, organizator al învăţământului ortodox din Transilvania*, 234-256.

<sup>382</sup> “A.B.M. 2556” Bishop Samuil Maşirevici’s letter to Andrei Şaguna, dated Timişoara, January 24, 1855, in: T. BODOGAE, *Un capitol din istoria relaţiilor culturale sârbo-române*, 529-531 here 529. Cf. also A. ŞAGUNA, *Correspondenţa I/2*, 179-182 here 180.

<sup>383</sup> See the school councillor Pavel Vasici’s report published under the title “*Împărtaşiri pedagogice*” in: *Telegraful Român*, No. 1, 2, 12, 13, 14, 18, 19, 22, 23 and 34, year V, Sibiu 1857.

which 693 of Orthodox confession, with 688 teachers and 33,286 schoolchildren (22,459 boys and 10,827 girls).<sup>384</sup>

One of the main concerns of the learned bishop was to organize the theological seminary.<sup>385</sup> The very year he was appointed as a vicar, he changed the training period of the future priests from six months to twelve months, introducing new subjects of study and establishing the admission only of the graduates of gymnasium. The synod of March 1850 decided to create the Theological-Pedagogical Institute, and on October 1, 1852, Bishop Andrei announced the teachers that in the future the clerical course will display two years. In the first year pedagogical subjects were studied, so that the priests could also work as teachers. Since the school year 1853/1854 the pedagogical course bases proper were laid, displaying one year.<sup>386</sup>

Since 1861 the theology courses lasted three years, and this was so until 1921. As compared to the theological seminaries of Wallachia and Moldavia and later to the theological faculties of Bucharest and Czernowitz, which were assigned to the state, in the Romanian Orthodox Metropolitanate of Transylvania the priests and confessional teachers' formation was exclusively in the competence of Church.<sup>387</sup>

In 1852 Bishop Andrei Șaguna organized a collect of money in the eparchy in order to buy a residence building for the Theological-Pedagogical Institute, and in 1853 he bought a new building, the present day residence of the Metropolitanate of Sibiu.<sup>388</sup>

But the bishop's concerns for the institute did not limit to organization only, "but it focused on the entire internal life of the seminary, contributing substantially - by the many textbooks written by himself or on his call - to the progress of instruction, and going in many inspections himself."<sup>389</sup> He worked out the curricula, chose the teachers

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<sup>384</sup> Cf. *Telegraful Român*, No. 17, year VI, Sibiu, April 24, 1858, 66; P. CHERESCU, *Eparhia Ardealului în lumina conștiințelor șaguniene din anul 1858*, 368-386.

<sup>385</sup> The financial matters as well as the curricula of the seminary were objects of his petitions to Commissary Eduard Bach, respectively the Ministry of the Interior, of January, respectively November 1850. See Andrei Șaguna's "Representation" to the imperial commissary of Transylvania, dated Sibiu, January 13, 1850, No. 2, in: N. POPEA, *Archiepiscopul și Metropolitul*, 165-168; "Propunerile episcopului Șaguna prezentate ministrului pentru conferințele episcopesci dela Viena" ("Bishop Șaguna's suggestions presented to the minister for the bishops' conferences of Vienna"), November 16, 1850, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 73-87.

<sup>386</sup> Cf. M. PĂCURARIU, *150 de ani de la înființarea primei școli teologice ortodoxe din Ardeal*, 355.

<sup>387</sup> Cf. M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 100.

<sup>388</sup> See M. PĂCURARIU, *Andrei Șaguna îndrumător al învățământului teologic sibian*, 55-57.

<sup>389</sup> I. LUPAȘ, *Vieța*, 149.

and supervised the teaching manner<sup>390</sup>; until 1865 the theological and pedagogical courses were under the bishop's direct leadership<sup>391</sup>.

Granting scholarships to the poor students "partly from his private revenues, partly from the Funds especially created with this aim"<sup>392</sup> was a priority too. The purpose to train a good teaching staff was materialized by sending every year the best graduates of the institute to a Western university.

But above all, Bishop Andrei wanted and worked to have moral priests and theology professors, out of his conviction that "*it is good and useful for Christians, for the state altogether if priests are cultivated, but I say it is better and more useful, when the priests are moral, pious, fearing God.*"<sup>393</sup>

Although the elementary schools and the seminary were the priorities, the eparchial synod insisted in 1850, that academic institutions should be taken into consideration, asking for the creation of an academy or university for the Romanians. Regarding this decision, the bishop petitioned the Ministry of Public Worship to set up in Cluj a Faculty of Law and Philosophy for the Romanians, he asked also the emperor.

Still in 1850 Andrei Șaguna had planned also the foundation of six high (of eight years) and of six low gymnasiums (of four years). Finally, he had to content himself with the foundation of the high gymnasium of Brașov<sup>394</sup>, in 1850/1851; it was only in 1868 that the low gymnasium of Brad was founded. Out of the six schools with technical-trading profile he had designed in 1850, only one - a trading school - was set up at Brașov, in 1869.<sup>395</sup>

Concerning the education, Bishop Andrei proved again to be a realist in terms of projects and suggestions, contradicting many politicians who succeeded in creating a ridiculous situation when they urged the poor, starving peasants from Apuseni Mountains to ask the monarch, while he was visiting Transylvania, not only for to

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<sup>390</sup> Cf. I. MIHĂLCESCU, *Activitatea lui Șaguna pe tărâmul bisericesc*, 758.

<sup>391</sup> Cf. M. PĂCURARIU, *150 de ani de la înființarea primei școli teologice ortodoxe din Ardeal*, 359.

<sup>392</sup> I. LUPAȘ, *Vieța*, 150.

<sup>393</sup> "Întâlnirea mea cu Excelența Sa dl ministru de culte la Viena în 7/19 Septembrie 1857" ("My meeting with His Excellency the minister of public worship, at Vienna, on September 7/19, 1857"), in: A. ȘAGUNA, *Memoriile*, 105-110 here 107.

<sup>394</sup> See N. CHIFĂR, *Contribuția mitropolitului Andrei Șaguna la dezvoltarea învățământului românesc din Transilvania - Gimnaziul din Brașov*, 218-227.

<sup>395</sup> See M. PĂCURARIU, *Istoria Bisericii Ortodoxe Române*, vol. 3, 99.

improve their living standard, but also to create “a Romanian Academy of Law”.<sup>396</sup> “Șaguna knew very well what could be done and what could not. And he thought that those who drew the people’s attention from what constituted the bare necessities, spending their time in unattainable combinations, were not wise men.”<sup>397</sup>

An outstanding event for the Orthodox Church of Transylvania and for the bishop himself was the inauguration of the Eparchial Printing House, on August 27, 1850, “obtaining on August 31, 1850, the consent of the government to start the printing activity.”<sup>398</sup> It was the first Romanian printing house of Sibiu, bought by the bishop with his own money and given by him to the Orthodox Church of Transylvania.<sup>399</sup> According to the founder’s will “*the principal purpose of me by the establishment of the Arch-eparchial Printing House was and remain: to edit church books, text books or scientific ones on an as possible as moderate price; to facilitate the writers to print their works, or to reprint classical church books; then, under a certain reserve I wished that along time, from the extra yearly revenues of the Printing House the poor clergymen’s widows of our eparchy should get some help*”<sup>400</sup>.

The printing house constituted also one of the important premises of the foundation, in 1853, of “The Romanian Telegraph”, a work “that preoccupied him very much”<sup>401</sup>. This newspaper became in time the public tribune to express and spread the bishop’s ideas, because “Metropolitan Șaguna, when compelled by circumstances, when he considered to defend the prestige, the honour, or any other common imperious interest of the Church, he answered either by pastoral letters addressed to his faithful, or by

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<sup>396</sup> See “Telegraful Român”, year I, Sibiu 1853, 106-107.

<sup>397</sup> I. LUPAȘ, Vieța, 166.

<sup>398</sup> A. ȘAGUNA, Memoriile, 49.

<sup>399</sup> “It is fantastic what this printing house has made. [...] It spread hundreds of thousands of catechisms, ABCs, biblical stories, popular text books for a few money a copy in the all villages; then, tens of thousands church books from breviaries to liturgical books, up to the beautiful illustrated Bible, which we find today even in the farthest villages in the mountains.” V. BRANISCE, Andrei, Baron de Șaguna, 14.

See also V. BUNEA, Mitropolitul Șaguna - ctitor al bibliotecii și al tipografiei arhidiecezane, 107-114.

<sup>400</sup> Andrei Șaguna’s Testament, in: N. POPEA, Archiepiscopul și Mitropolitul, 178-187 here 182.

<sup>401</sup> A. GRAMA, Andrei Șaguna - file dintr-un album documentar, 62.

Founded by the Orthodox bishop, the moral author of the most important articles, the newspaper approached economic, social, political and spiritual issues of the time, at the level of the majority of the faithful, out of his personal perspective and his understanding of the pacifying and progressive role of the Church, in a society so divided politically, socially and from a confessional point of view. The Romanian poet Mihai Eminescu stated about this newspaper, after Andrei Șaguna’s death: “A paper from Transylvania, of His Excellency, the metropolitan of Sibiu, the most modern beyond the Carpathians, which follows perseveringly the unforgettable Șaguna’s modest and certain policy.” M. EMINESCU, Scrieri politice și literare, 158.

brochures and press.”<sup>402</sup> As a matter of fact, the necessity of the press for the Romanians was expressed by him since 1849, when he suggested Bishop Gherasim Raț of Arad to create at Arad or Timișoara an informative newspaper for the Romanians of that area of the country.<sup>403</sup>

About the importance of the Eparchial Printing House of Sibiu and Andrei Șaguna’s editing activities wrote his friend Jakob Rannicher<sup>404</sup>: “He struck the stone and opened his people the spring of spiritual culture. We can say that this prelate did in 1850 for the Romanians and the faithful of Greek Eastern Church of Transylvania, what Honterus had done for the Reform and the Saxons three hundred years before.”<sup>405</sup>

Under Andrei Șaguna’s care and supervision more than thirty-five titles of religious books were reprinted in the first decade of its functioning, among which all twelve monthly church books (minee)<sup>406</sup> and the illustrated Bible<sup>407</sup>, the latter revised by the bishop himself. In a short time, all the religious books, school and church questionnaires and books for entire Transylvania and Banat were printed there; any calendar and school schematism for Romanian and German schools of Sibiu were

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<sup>402</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 117.

<sup>403</sup> Cf. “Andrei Șaguna către Gherasim Raț, Sibiu, 26 noiembrie 1849” (“Andrei Șaguna to Gherasim Raț, Sibiu, November 26, 1849”), in: A. ȘAGUNA, *Corespondența I/1*, 117-118.

<sup>404</sup> Between Andrei Șaguna and the Evangelic lawyer from Sibiu, of Austrian origin, “the allhappy ministry councillor” Jakob Rannicher, there was a quite rich correspondence. In 1908 Ilarion Pușcariu made reference to “thirty-two letters which are kept”, sent by Andrei Șaguna, which he had examined by Iuliu Bielz’s kidness, Rannicher’s son-in-law. (Il. PUȘCARIU, *Chestiunea instalării lui Andreiu Baron de Șaguna în scaunul mitropolitan*, 146) Twelve of these letters were later published in: *Spicuri și fragmente din corespondența lui Șaguna*, in: *Mitropolitul Andreiu baron de Șaguna. Scriere comemorativă la serbarea centenară a nașterii lui, Sibiu 1909*, 467-539. Today are kept in the State Archives of Sibiu, in Fund Bielz: Nr. 310 (twenty-seven original letters and two copies of Șaguna’s letters to Rannicher) and No. 387 (a letter written by Rannicher to Șaguna, dated Cluj, August 12, 1866). Cf. J. SCHNEIDER, *Der Hermannstädter Metropolit*, 101-107; M. VLAICU, *Andrei Șaguna și anturajul său german de la Sibiu*, 105-106.

<sup>405</sup> *Telegraful Român*, No. 17, year III, Sibiu, February 26, 1855, 65. See also M. PĂCURARIU, *Andrei Șaguna: activitatea editorială*, 49-62.

Johannes Honterus (1498-1549) was the greatest propagandist of the Lutheran doctrine among the Saxons in Transylvania, owner of a printing house where Luther’s works were published. See Harald ZIMMERMANN, *Johannes Honterus. Der siebenbürgische Humanist und Reformator*, Bonn 1998.

<sup>406</sup> See C. STREZA, *Importanța cărților de cult tipărite în timpul păstoririi lui Andrei Șaguna*, 332-338.

<sup>407</sup> See *Biblia, adecă Dumnezeiasca Scriptură a Legii cei Vechi și a cei Noao, după originalul celor șaptezeci și doi de tâlcuitori din Alexandria, tipărită în zilele Prea Înălțatului nostru Împărat al Austriei Frantisc Iosif I, supt priveghierea și cu binecuvântarea Ecseleței Sale, Prea Sfințitului Domn Andreiu Baron de Șaguna, Sibiu 1856-1858*, 1081 pages (Cyrillic letter).

Cf. also D. ABRUDAN, *Valori patrimoniale din timpul mitropolitului Andrei Șaguna. „Biblia...”*. 150 de ani de la apariție, 60-64; M. BASARAB, *Biblia lui Șaguna*, 212-225; O. MOCEANU, *Biblia lui Andrei Șaguna și limba vie a poporului*, 226-231; I. POPESCU MĂLĂEȘTI, *Biblia tipărită de Șaguna*, 746-750; J. SCHNEIDER, *Der Hermannstädter Metropolit*, 115-156; S. TOFANĂ, *Biblia lui Șaguna sau fenomenul șagunian între actualitate și uitare*, 145-151.



printed for free.<sup>408</sup> Among the most important fifty-one books printed during Andrei Șaguna's lifetime in the newly founded printing house, twenty-five are his works and twenty-six belong to other writers.<sup>409</sup> His works, especially those of canon law and history, reflect the bishop's viewpoints on church, school, national and cultural matters. Conscious of the necessity of books - first of all of Bible and Orthodox religious books - for the Transylvanian priests, the bishop worked hard to cover the deficiencies and mistakes<sup>410</sup> in this field. He did not hesitate to point out the real guilty persons for the decay of the Orthodox priests and faithful: *“Our hierarchs lived in apathy and did not take care of anything. [...] let's not make illusions and let's confess that the hierarchs are to be blamed because the priests and the people became immoral, and the punishment for their sins will fall upon us, if we do not take measures for our life.”*<sup>411</sup>

By the end of the Neoabsolutist era, although Bishop Andrei Șaguna's main goal - the reestablishment of the Metropolitanate - had not been reached, and the successes concerning the corporate rights of the Romanian nation and Orthodox Church were low, “by the beginnings of school and ecclesiastical organization, by Șaguna's ardent activity in the cultural and literary field, big steps of progress had been taken”<sup>412</sup>, and the Orthodox of Transylvania had “a church and political leader loved by his people, respected and dreaded by the foreigners, appreciated and noticed by the leading circles of the monarchy, and honoured with a special trust by the emperor; all these were things without a precedent among the Church's hierarchs before him.”<sup>413</sup>

During the entire Neoabsolutist era, in spite of the restrictions of communication among the inhabitants of the Romanian provinces, Bishop Șaguna had an intense correspondence on cultural-church issues with the Romanians in Wallachia and Moldavia (especially with ecclesiastical leaders: Metropolitans Nifon of Wallachia and Sofronie of Moldavia, Bishops Calinic of Râmnic and Filotei of Buzău, brothers Filaret

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<sup>408</sup> Cf. T. BODOGAE, *Un capitol din istoria relațiilor culturale sârbo-române*, 525 -526.

<sup>409</sup> Cf. I. MIHĂLCESCU, *Activitatea lui Șaguna pe tărâmul bisericesc*, 759.

<sup>410</sup> See Andrei Șaguna's letter to Protopope Meletie Drăghici from Timișoara, dated Sibiu, October 23, 1856, in: T. BODOGAE, *Dintr-o corespondență timișoreană*, 32-33; A. ȘAGUNA, *Corespondența I/1*, 197-198.

<sup>411</sup> *Ibid.*, 33.

<sup>412</sup> I. LUPAȘ, *Vieța*, 217.

<sup>413</sup> *Ibid.*, 217.

and Neofit Scriban)<sup>414</sup>, and with some of Bukovina (Bishop Eugeniu Hacman, Hurmuzachi brothers)<sup>415</sup>. He was interested especially in “the development of the Church in the Principalities. When the bishops beyond the [Carpathian] Mountains lacked the courage to take attitude against the biblical and linguistic absurdities of such a writer as Eliade-Radulescu, Şaguna dared struggle skilfully against the wrong direction that Eliade wanted to inaugurate.”<sup>416</sup> The proofs of Andrei Şaguna’s interest and involvement in the ecclesiastical matters of the Romanians are the articles of “The Romanian Telegraph”<sup>417</sup>, and his standpoints concerning the ecclesiastical reforms in Romania, after 1859<sup>418</sup> - the stavropegic monasteries<sup>419</sup>, the dedicated monasteries<sup>420</sup>,

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<sup>414</sup> His relationships with the Romanians beyond the Carpathians were born at the beginning of the year 1849, during his second political mission at Court, and consolidated immediately after the revolution, when the Eparchy of Transylvania received substantial aids, especially from Moldavia. See N. BĂNESCU, *Stareţul Neofil*, 62-99.

Later, after the opening of the Eparchial Printing House in Sibiu, exchanges of printed works developed and also exchanges of opinions on church books. See C. ERBICEANU, *Corespondenţe privitoare la relaţiile lui Şaguna cu arhiepiscopii din Țara Românească și Moldova*, 731-745; N. BOCȘAN, I.-V. LEB, *Corespondența lui Andrei Şaguna cu arhiepiscopii din Moldova și Țara Românească*, 71-93; I. LUPAȘ, *Din corespondența lui Şaguna cu Filaret Scriban*, 337-342; A. ŞAGUNA, *Corespondența I/1*, 207-237, 244-245, 254-276, 284-288.

<sup>415</sup> See A. ŞAGUNA, *Corespondența I/1*, 291-311.

<sup>416</sup> I. LUPAȘ, *Sufletul lui Şaguna*, 285. Here it is about the famous controversy between Andrei Şaguna and Ion Heliade Rădulescu, on “the Latin” translation of the Bible, initiated by the latter. More on this issue see at D. ABRUDAN, *Controversa dintre mitropolitul Andrei Şaguna și Ion Heliade Rădulescu privind traducerea Bibliei*, 96-115; O. MOCEANU, *Teologie și filologie. Andrei Şaguna vs. Ion Heliade Rădulescu*, Pitești 2003; Gh. TULBURE, *Şaguna și Heliade*, 3-8.

<sup>417</sup> See *Telegraful Român*: 114/1863; 21/1864; 53/1865.

<sup>418</sup> The Romanian Provinces Moldavia and Wallachia, which during the Middle Age were under the Ottoman Empire, were united politically first in 1859, as Romanian United Principalities, by Alexandru Ioan Cuza (1859-1866), who on December 24, 1861, proclaimed them as state Romania, under the Ottoman suzerainty. In 1877 Romania won his independence and in 1881 proclaimed itself Kingdom, under the reign of Charles-Luis I of Hohenzollern-Sigmaringen (1866-1914). Cuza started changes in the entire Romanian political, social, economical and religious life and managed to create the constitutional and economic foundations of modern Romania. Cf. *History of Romania. Compendium*, 498 et seq., 501-510.

<sup>419</sup> Stavropegic were those monasteries or churches which according to a Byzantine tradition from the Middle Age were not under the jurisdiction of the local bishops, but of the patriarch of Constantinople. The distinctive sign of such subordination was a cross given by patriarch to that establishment, *stauropegion* (Σταυροπήζιον) meaning “fixture of a cross”. Stavropegic monasteries acknowledged the jurisdiction of the patriarch, commemorated him in the diptychs and paid him taxes (the *kanonikon*). They provided an important source of revenue for the patriarchate. Cf. *Stauropegion*, in: *The Oxford Dictionary of Byzantium*, vol. 3, 1946-1947.

<sup>420</sup> The dedicated monasteries designated those monasteries in Moldavia and Wallachia, which beginning with the end of the fifteenth century had been subordinated together with their properties to the Holy Sepulchre, the monasteries on the Holy Mount Athos, the Monastery St. Catherine of Sinai, etc. This subordination determined “the unlimited interference of the patriarch of Constantinople in leading the two canonical units under his jurisdiction [the Metropolitanates of Moldavia and Wallachia]. The patriarch used the canonical power not just for the dogmatic guidance of the Metropolitanates, but to maintain and consolidate the Greek clergy in the country, the abbots and monks of the dedicated monasteries, through which the entire Orthodox Christian East accumulated huge material revenues.” C. DRĂGUȘIN, *Legile bisericești ale lui Cuza Vodă*, 88.

the secularization of monastic properties<sup>421</sup>. Even in his essential canonical work - “Compendium” - published in 1868, an important space was given to such “hot” topics of the Church of Romania.<sup>422</sup> The Orthodox Church of Bukovina was the subject of some articles<sup>423</sup> and correspondence, especially after 1860, when Bishop Eugeniu Hacman’s attitude toward the incorporation of the Eparchy of Bukovina in the Metropolitanate of Transylvania changed from a favourable one, in 1849<sup>424</sup>, into an unfavourable, even an incisive one.<sup>425</sup>

### III.3 The period 1860-1864

In 1859 the Sardinian War started. Faithful to his principle of loyalty toward the monarchy Bishop Andrei Şaguna addressed a letter to the emperor<sup>426</sup> expressing the adhesion “of the entire clergy of the Greek Eastern Eparchy of Transylvania”. It was a new reason for speculations and criticism on the part of the intellectuals.<sup>427</sup>

After on November 10, 1859, the peace of Zürich was concluded<sup>428</sup> and the Kingdom of Lombardy-Venetia was lost, in the early 1860s the Neoabsolutist era came to an end, followed by the attempt to establish the monarchy on constitutional bases, the parliamentarianism being reintroduced. The policy of the Austrian government toward the Romanians changed radically. From 1860 to 1864, during the constitutional experimentation in Transylvania, Andrei Şaguna’s attachment to the monarchy seemed

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<sup>421</sup> The secularization of monastic properties, one of Alexandru Ioan Cuza’s radical measures, was promulgated on December 13/25, 1863 (The Law of December 1863). This reform placed 25% of the Romania’s territory (at the time Romania meant Moldavia and Wallachia) under state ownership. Most of these properties belonged to stavropegic and dedicated monasteries. Cf. History of Romania. Compendium, 503.

<sup>422</sup> See A. Baronu de SIAGUN`A, Compendiu, 203-224.

<sup>423</sup> See Telegraful Român: 82/1862; 83/1862; 100/1862; 101/1862; 102/1862.

<sup>424</sup> See the chapter III.1.5 herein.

<sup>425</sup> At length on this topic see the chapters VI.1.2, VI.1.3, and VI.2.3.2 herein. About Andrei Şaguna’s relationships with the Romanian Principalities see also I.-M. IELCIU, Relațiile lui Andrei Şaguna cu personalități de dincolo de Carpați, 343-357; Şt. METEŞ, Relațiile lui Andrei Şaguna cu românii din Principatele Române, Arad 1925; J. SCHNEIDER, Der Hermannstädter Metropolit, 93-101.

<sup>426</sup> See Telegraful Român, No. 21, year VII, May 21, 1859, 81.

<sup>427</sup> Cf. I. LUPAŞ, Vieața, 218-220.

<sup>428</sup> The peace of Zürich concluded based on the preliminary peace of Villafranca, of July 11, 1859, among Austria, France and Sardinia, marking the end of war with Sardinia. Cf. F. WALTER, Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955, 185.

justified. His critics became silent when the Romanians obtained the recognition of their equality with the Magyars and the Saxons in the political life.<sup>429</sup>

### III.3.1 Inter-confessional harmony. Andrei Şaguna - deputy of the Enlarged Imperial Senate

The major problem of the Romanians of Transylvania at the end of the Neoabsolutist era had remained the separation according to confessional criteria. The Orthodox bishop was the one who restored the peace, at a dinner party offered by him at his residence, at the end of 1859, in honour of Vasile Pop, a Romanian promoted at the Austrian Ministry of Justice. Bishop Andrei invited “all the Romanian intelligentsia of both confessions of Sibiu”<sup>430</sup>.

It was quickly noticed a sensible improvement of the relationships between the Orthodox and Greek Catholics, contrasting even surprisingly with those of the period 1850-1860. That is another proof that the political factor had always an overwhelming word to say in the religious matters of Transylvania, even within Church, especially when weak or not experienced people fell in the trap of political manipulations.

The atmosphere of confessional reconciliation was cultivated especially in 1860-1862, at the beginning of the “liberal” period, when the Romanian Diet of Transylvania was at work, in Sibiu. On May 20, 1861, Bishop Andrei Şaguna sent a letter to “His Excellency, Greek Catholic Archbishop and Metropolitan Alexandru Sterca Şuluţiu, of Blaj”<sup>431</sup>, by which he praised the confessional harmony newly restored and asked: “*I dare come near to your Excellency, at this moment, as a result of the talk we have had, with a proposal as national, brotherly and sincere as necessary it is for us, and this is: a bishops’ agreement, based on the equal [confessional] rights ...*”<sup>432</sup> Metropolitan Alexandru Şuluţiu’s answer came late, on February 10/22, 1862, and although he did not accomplish the initial request, the answer is a surprising one, if we are to read it

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<sup>429</sup> Cf. K. HITCHINS, Andrei Şaguna și românii din Transilvania în timpul decadei absolutiste, 57.

<sup>430</sup> N. POPEA, Arhiepiscopul și Metropolitul, 268.

<sup>431</sup> See Andrei Şaguna’s letter to Alexandru Sterca Şuluţiu, No. 420/1861, in: N. POPEA, Arhiepiscopul și Metropolitul, 120-122.

<sup>432</sup> Ibid., 120.

correlation with his pastoral letters<sup>433</sup> from the Neoabsolutist era. He wrote: “Your Excellency, the principle ‘Gleichberechtigung aller Nationalitäten und Confessionen’ has no bigger defender than me, and concerning the Romanian confessions, nobody wish more than I do that the word turns into body. [...] as for me, it is nothing I can do, than sincerely recognize in front of you not only the right of perfect equality of the Orthodox confession with my confession, but also with other confessions of Transylvania [...]. I am such a tight defender and claimant of equality of rights of the Orthodox confession - a sister of my confession -, like of my confession.”<sup>434</sup> So from the proselytist and provocative tone of the Neoabsolutist era, the Greek Catholic metropolitan passed to a pacifying, respectful one toward the Orthodox, recognizing the injustice they were submitted to.

Since the constitutional age of the monarchy opened, the Orthodox bishop took over again the role of political leader: “we see Bishop Șaguna from now on, incessantly, heading the Romanians: at conferences, congresses, deputation, Diets, etc. as a leader, fighting everywhere strongly to win the political-national and ecclesiastical rights.”<sup>435</sup>

When the Enlarged Imperial Senate (Verstärkter Reichsrat)<sup>436</sup> was summoned, so that the opinions and wishes of the people of the monarchy concerning the constitutionalism were to be consulted, Bishop Andrei Șaguna was designated by the emperor as a

<sup>433</sup> Cf. the chapter III.2.4 herein.

<sup>434</sup> “Alexandru Sterca Șuluțiu către Andrei Șaguna, Nr. 93/1862” (“Alexandru Sterca Șuluțiu to Andrei Șaguna, No. 93/1862”), in: A. ȘAGUNA, *Corespondența I/1*, 412-414. Cf. also N. POPEA, *Archiepiscopul și Metropolitul*, 123-125.

<sup>435</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 51.

<sup>436</sup> It is about so-called “verstärkter Reichsrat” summoned on March 5, 1860, and opened on March 31, 1860. It is considered “eine Institution, die ein wichtiges Glied im Übergang des Neo-Absolutismus zum Konstitutionalismus der österreich-ungarischen Monarchie bildet...” *Verhandlungen des österreichischen verstärkten Reichsrathes 1860*, Bd. 1, Vorwort des Herausgebers, 1.

The Reichsrat was reglemented in the §§ 96-98 of the Constitution of 4 March 1849, and it was the only institution of that Constitution which “survived” in the Neoabsolutist era too, being not dissolved. It was an empire wide, purely advisory council of state.

In 1860 Emperor Francis Joseph decreed (by the imperial Patent of March 5, 1860 (*Reichsgesetzblatt* 56/1860) and the imperial Decree of the same day (*Reichsgesetzblatt* 576/1860)) the Reichsrat should be enlarged by the addition of members proposed by the provincial Diets and selected by the Crown. “Der nunmehr einberufene verstärkte Reichsrat bestand tatsächlich neben den 12 ständigen Reichsratsmitgliedern aus 10 auf Lebensdauer ernannten außerordentlichen Reichsräten und aus 38 für 6 Jahre ernannte Vertreter der einzelnen Länder. Da aber zum Zeitpunkt der Einberufung noch keine Landtage bestanden, wurden diese zeitlich Mitglieder des Reichsrates vorläufig direkt vom Kaiser ernannt.” *Verhandlungen des österreichischen verstärkten Reichsrathes 1860*, Bd. 1, Vorwort des Herausgebers, 2. See also F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 185-191.

representative of the Romanians of Transylvania.<sup>437</sup> “His energetic stepping in the Enlarged Imperial Senate of 1860 [...] made a great sensation all over, and brought him and his nation honour and general respect, transforming it into a respectable factor by the discussion of the empire’s inner affairs.”<sup>438</sup>

Although a partisan of the movement of emancipation of the peoples of the Austrian Monarchy, the bishop remained a good patriot but not a nationalist, even after the revolution and the dark century of Neoabsolutism. He made a “provocation to patriotism” in one of the meetings of the Imperial Senate of June 21, 1860, during the controversy with the Magyar deputy György Majláth on the exclusiveness of the Magyar language as an official language<sup>439</sup>: “*Pervaded by patriotic feelings I have to express without much ceremony my conviction that each nation of Austria is filled with the necessity to take care in brotherly terms of its nationality, language, political value, without wishing, along that, to injure the other nations.*”<sup>440</sup> The proof that Bishop Andrei Șaguna did not intend to support his nation exclusive, but he respected the freedom and identity of all other nations, is given by “many thank and trusting letters received from all Romanian and Slavic territories of the monarchy”<sup>441</sup>, as a result of his above-mentioned position.

While he was participating in the Enlarged Imperial Senate - between March and September 1860 - the bishop insisted on the one hand for the restoration of the Metropolitanate, and on the other hand for to obtain the political consent to set up “The Transylvanian Society for the Romanian Literature and the Culture of the Romanian People” (“Asociațiunea Transilvană pentru Literatura Română și Cultura Poporului Român”, shortly ASTRA)<sup>442</sup>. The setting up of this society, in October/November 1861, was the result of the post-Neoabsolutism confessional concord; its first president

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<sup>437</sup> See Verhandlungen des österreichischen verstärkten Reichsrathes 1860, Bd. 1, 20.

<sup>438</sup> N. POPEA, Archiepiscopul și Metropolitul, 268.

<sup>439</sup> Cf. Verhandlungen des österreichischen verstärkten Reichsrathes 1860, Bd. 1, 122.

<sup>440</sup> Ibid., 126: “Durchdrungen von patriotischen Gefühlen muß ich meine Ueberzeugung offen dahin aussprechen, daß jede Nation in Oesterreich heute von der Nothwendigkeit erfüllt ist, für ihre Nationalität, ihre Sprache und ihre politische Geltung in brüderlicher Absicht zu sorgen, ohne die anderen Nationen dabei beeinträchtigen zu wollen.”

<sup>441</sup> N. POPEA, Archiepiscopul și Metropolitul, 271. Cf. also A. ȘAGUNA, Memoriile, 91; “Comunitatea ortodoxă română din Arad către Andrei Șaguna” (“Romanian Orthodox community of Arad to Andrei Șaguna”), in: A. ȘAGUNA, Corespondența I/1, 131-132.

<sup>442</sup> More on this topic at D. ACU, Andrei Șaguna și ctitorirea Asociațiunii ASTRA, 14-20; P. MATEI, Mitropolitul Andrei Șaguna și „Asociațiunea”, 207-210; Mihai SOFRONIE, Mitropolitul Andrei Șaguna și Asociațiunea Transilvană (ASTRA), Constanța 2001.

was Bishop Andrei Şaguna, having Timotei Cipariu<sup>443</sup> as a vice-president and George Bariţiu as a secretary, the latter ones being Greek Catholics.

Concerning the organization of the monarchy on constitutional bases, two currents were born among the members of the Enlarged Imperial Senate: the federalist group - which insisted that constitutional rights should be given only those that had them before<sup>444</sup>; and the centralist group - which were asking for a representative constitution, with a central parliament for the entire monarchy.<sup>445</sup> Bishop Andrei Şaguna expressed a personally viewpoint, neutral toward both dominant currents, in a speech at the nineteenth meeting of September 26, 1860, in which he underlined point by point the essential conditions of the prosperity within monarchy. Out of the ten points, five had a religious character.<sup>446</sup>

The emperor sided with the federalists, who persuaded him to accept their position mainly with historical and not ethnic arguments, and he proclaimed by decree a constitution called the October Diploma (Oktoberdiplom)<sup>447</sup> - the main result of the Enlarged Imperial Senate of 1860. By the October Diploma the empire became a federal state with a central parliament as the advisory authority in matters of finance, commerce and industry. It allowed legislative autonomy all the provinces of the monarchy (granted Diets to the Habsburg Lands), without the essential features of sovereignty.

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<sup>443</sup> Timotei Cipariu (1805-1887), a former revolutionary of 1848, was a philologist, journalist, and professor of philosophy and theology. Born into a peasant family, he received a splendid education between 1814 and 1825 at the Greek Catholic schools of Blaj, was ordained a Uniate priest in 1827, and became professor of philosophy at the lyceum in 1828, and of dogmatic theology at the seminary in 1830. In 1847 he founded one of the first Romanian newspapers in Transylvania, "Organul Luminării" ("The Organ of Enlightenment"). Cf. Keith HITCHINS, Cipariu, Timotei, in: *Encyclopedia of 1848 Revolutions* (online).

<sup>444</sup> The federalist-autonomist group prevailed. They represented the high aristocracy and were opposed to drastic constitutional reforms.

<sup>445</sup> Cf. I. LUPAŞ, *Vieaţa*, 223-224.

<sup>446</sup> Cf. *Verhandlungen des österreichischen verstärkten Reichsrathes 1860*, Bd. 2, 284-287.

<sup>447</sup> The Oktoberdiplom was issued by Emperor Francis Joseph on October 20, 1860. Since German liberal groups in Austria and the Hungarian population voiced their resistance (tax strike), the Oktoberdiplom was replaced by the centralistic February Patent in February of 1861. See F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 191-197.

### III.3.2 The second mixed eparchial synod of October 1860; insistences for the reestablishment of the Metropolitanate

Among all the ecclesiastical issues, the most important “which concerned Şaguna every minute of his activity”<sup>448</sup> was the reestablishment of the Romanian Orthodox Metropolitanate of Transylvania.

At the same time with the convocation of the Enlarged Imperial Senate and the increased role the Romanians were to have in the Transylvanian political life, there came up a new responsiveness of the Austrian officials toward Andrei Şaguna’s plans to re-establish the Metropolitanate and to improve the living standard of his clergy.<sup>449</sup>

On May 28, and 30, 1860, the Romanian and Serbian participants in the Imperial Senate at Vienna put their heads together on the issues of Orthodox Church’s organization. Patriarch Josip Rajačić insisted in favour of the Serbian supremacy, of course.<sup>450</sup> He wished the centre of the entire Orthodox Church of the Austrian Monarchy at Karlowitz, all the bishops having to be appointed in the synod from there.<sup>451</sup> Bishop Eugeniu Hacman of Bukovina declared himself against the Serbian plans, although not in conformity with Andrei Şaguna’s idea of the incorporation of all Romanian eparchies in the Metropolitanate of Transylvania; the Bukovinian bishop pointed out that the people of Bukovina wished to have their own church organization according to their local needs, and to be able to administrate alone the Church funds<sup>452</sup>.

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<sup>448</sup> I. LUPAŞ, *Vieața*, 325.

<sup>449</sup> *Ibid.*, 239.

<sup>450</sup> “Der serbische Patriarch Rajacici bat 1860 den Kaiser, nach den Kanones im ganzen Reich eine einheitliche Hierarchie für alle Orthodoxen, gleich welcher Nationalität, unter der Jurisdiktion von Karlovci zu schaffen.” Th. BREMER, *Ekklesiale Struktur*, 35.

<sup>451</sup> Bishop Andrei Şaguna understood this desire of the Serbian patriarch as a desire for a “total and everlasting submission of the Romanian nation under his patriarchate.” Cf. “Andrei Şaguna către Emanuil Gojdu” (“Andrei Şaguna to Emanuil Gojdu”), dated Sibiu, April 29/May 11, 1861, in: A. ŞAGUNA, *Corespondența I/1*, 338-346 here 344.

<sup>452</sup> As a matter of fact, the Eparchy of Bukovina could have a lot of funds to administrate, but after the incorporation of Bukovina in the Habsburg Empire, in 1775, Emperor Joseph II decided to drastically reduce the Orthodox monastery settlements (from twenty-five to three), their consistent fortunes being administrated by the state; the same thing happened in 1789 with the properties of the Orthodox Eparchy of Rădăuți. The Church’s fortunes and their income, known as “The Religious Fund”, were administrated according to the “Spiritual Regulation” (“Geistlicher Regierungsplan”) of April 29, 1787, the emperor himself was called the protector of the fund, its administration, conservation and use, all depending on him and being declared “official affair”, of public interest. Cf. P. CIOBANU, *Fondul Bisericesc Ortodox Român din Bucovina*, 6-8.



The meetings did not have any result, due to the Serbian metropolitan's opposition.<sup>453</sup> The peculiar effect of those discussions was the following: "*The Serbians could convince themselves from Mocsonyi and Petrino's words that they won't be able to subordinate the Romanian Church in the future.*"<sup>454</sup>

The inefficiency of the discussions on Orthodox Church's organization by the end of May 1860, followed by the Serbian petition and the Romanian contra-petition to the emperor, and by the disputes in the newspapers<sup>455</sup>, determined the monarch to pass a resolution on September 27, 1860<sup>456</sup>, in order to summon a synod of all the Orthodox bishops of the monarchy. The synod should present him all the wishes and suggestions for the reorganization of the Orthodox Church. In the resolution sent by the government to Bishop Andrei Şaguna through the Ministry of Public Worship and Instruction it was shown that: "**His Majesty is not against the foundation of a non-Uniate Greek Romanian Metropolitanate ...**"<sup>457</sup> [our reference] This was "the first positive pronouncement that any Austrian government had made on his innumerable petitions and memoranda concerning the metropolis [metropolitanate]." <sup>458</sup>

Using this favourable moment, Bishop Andrei summoned on October 23, 1860, the second mixed eparchial synod<sup>459</sup> composed of forty-six clergymen and fifty-two laymen. In this synod were to be debated and decided the future procedures necessary for the reestablishment of the Transylvanian Metropolitanate. Although the bishop had spoken on the occasion of the first mixed eparchial synod of 1850 about its annual meeting: "*Our synod from today and the one coming next year*"<sup>460</sup>, "next year" was to

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<sup>453</sup> See M. PĂCURARIU, 100 de ani de la reînfiinţarea Mitropoliei Ardealului, 824.

<sup>454</sup> "Ziar despre consiliul imperial înmulţit" ("Diary about the enlarged imperial council"), in: II. PUŞCARIU, Documente pentru limbă şi istorie, vol. I, 321-339 here 332.

<sup>455</sup> See the chapter III.2.6 herein.

<sup>456</sup> See "Resoluţiunea împărătească din 27 Sept. 1860 privitoare la restaurarea mitropoliei" ("The imperial resolution of September 27, 1860, concerning the reestablishment of the Metropolitanate"), in: II. PUŞCARIU, Metropolia, colecţia de acte, 167-168.

<sup>457</sup> Ibid., 168.

<sup>458</sup> K. HITCHINS, Orthodoxy and Nationality, 240.

<sup>459</sup> See Actele Soboarelor Bisericii greco-răsăritene din Ardeal din anii 1850 şi 1860, Sibiu 1864; P. BRUSANOWSKI, Reforma constituţională, 99-101.

<sup>460</sup> "A.B.M. 3272 Predică în Duminica întâia a Postului Mare, rostită în Braşov, la 1850, întru suvenirea reînvierii Sinodului bisericesc al Episcopiei româneşti din Sibiu" ("A.B.M. 3722 Sermon on the first Sunday of Lent, uttered at Braşov, in 1850, in the context of the revival of the church synod of the Romanian Eparchy of Sibiu"), in: D. MAN, Un nou manuscris, 124-132 here 127.

occur only after the decade of Neoabsolutism. As compared to the mixed synod of 1850, no representative of the régime was sent to survey the sessions.

In his opening speech of the synod, Bishop Andrei was declaring: *“I assure you, gentlemen, that in my ministry I keep tight the rudder of the Church<sup>461</sup> on the one hand because it is the word of God; and on the other hand because I swore that I would carry the ministry out according to the laws of the Church. I thought that following this path I would not come across difficulties and obstacles; it is not so, because the influences from the outside (the political régime) take themselves the liberty to decide on Church’s issues according to worldly ways. Such circumstances caused me a lot of conflicts and traps, which did not sick me, on the contrary, they enthused me to struggle for the holy truth, which the issue of our Metropolitanate belongs to.”<sup>462</sup>* Like in 1850 he expressed the discontent that he could not gather in the synod elected members, out of conviction that according to the Orthodox Tradition and canons the faithful are the ones who should choose their representatives for the eparchial synod. But he was again impeded to follow this rule: *“I confess that I wished the clergy and faithful of this eparchy would have elected their representatives for the synod, so that I may not impose any synod as I did in 1850! Alas! As in 1850, our Church is not on the normal path even today, and this situation obstructed me to observe the most proper way to elect the members of the synod. But [...] I convoked representatives of both clergy and laymen, based on canon 20 of Antioch ...”<sup>463</sup>*

The bishop informed the participants about all the procedures taken in the last years for the reestablishment of the Metropolitanate. The synod presented on October 26, 1860, a new petition to the emperor in this respect, invoking the historical past of the Orthodox Church of Transylvania, as well as the Orthodox canons.<sup>464</sup> On the same day was sent an address to the bishops’ synod of Karlowitz too, having as object the raising of the

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<sup>461</sup> It is about the book of Canons of the Orthodox Church - Pedalion, Rudder (Πηδάλιον). See *The Rudder of the Orthodox Catholic Church: the Compilation of the Holy Canons by Saints Nicodemus and Agapius*, translated into English by D. Cummings, Reprinted, New York 1983.

<sup>462</sup> *Actele Soboarelor...1850 și 1860*, 71.

<sup>463</sup> *Ibid.*, 73 et seq.

According to c. 20 of Antioch the synods of the bishops of each province should be held twice a year - in regard to ecclesiastical needs, and the settlement of disputes - and shall be attended, in addition, by presbyters and deacons and by all those who deem themselves to have been treated unjustly or to have been wronged in any way, and who wish to have their cases reviewed by the synod. See the text of the canon in the annex XV herein.

<sup>464</sup> See “Petițiunea sinodului diecesan din Sibiu la Împăratul, din 26 Oct. 1860 pentru reînființarea metropoliei” (“The petition of October 26, 1860, of the eparchial synod of Sibiu to the emperor, for the reestablishment of the Metropolitanate”), in: Il. PUȘCARIU, *Metropolia, colecția de acte*, 168-173.

Eparchy of Transylvania at the rank of metropolitanate “so that both Metropolitanates would work, like two good sisters, for the temporary and eternal good of their faithful.”<sup>465</sup>

Bishop Andrei Șaguna consulted once again Bishop Eugeniu Hacman of Bukovina, as he had been guided by the Austrian Ministry of Public Worship<sup>466</sup>, arguing canonical his idea to subordinate all the Romanian Orthodox eparchies in the Austrian Monarchy to one and only Metropolitanate, that of Transylvania.<sup>467</sup>

Although the laymen and a part of the clergy of Bukovina agreed with Bishop Andrei, Bishop Eugeniu Hacman summoned on February 7/19, 1861, a synod of priests at Czernowitz<sup>468</sup>, where he suggested the establishment of a Metropolitanate of Bukovina with two suffragan bishops; the election of the metropolitan should be made in a provincial mixed synod, which has to elect three candidates, one of them being appointed by the emperor. Fearing the bishop, almost all the priests signed the presented proposals.<sup>469</sup>

This was the first concrete step that disturbed Andrei Șaguna’s idea of a metropolitanate for all the Orthodox Romanians in the Austrian Empire. In the spirit of the synod of February in Czernowitz a brochure that sustained a separate metropolitanate for the Orthodox of Bukovina came out.<sup>470</sup> Bishop Andrei counteracted

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<sup>465</sup> “Adresa sinodului diecesan din Sibiiu dela 26 Oct. 1860 către sinodul metropolitan din Carloviț” (“The address of October 26, 1860, of the eparchial synod of Sibiu to the metropolitan synod of Karlowitz”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 173-176 here 176.

<sup>466</sup> See “Rezoluțiunea împărătească din 27 Sept. 1860 privitoare la restaurarea metropoliei” (“The imperial resolution of September 27, 1860, concerning the reestablishment of the Metropolitanate”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 167-168 here 168.

<sup>467</sup> See “Episcopul Șaguna către Hacman, episcopul Bucovinei, din sinodul diecesan ținut în Sibiiu în Oct. 1860” (“Bishop Șaguna to Bishop Hacman of Bukovina, from the diocesan synod held at Sibiu, in October, 1860”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 177-180.

<sup>468</sup> The synod was exclusively made of priests, although “a zealous Romanian professor of theology, the morning star, the favourite of the clergy, a bright man famous for his constant and pure character, for his spirit and erudition, namely Father Calinciuc had explained the necessity to invite Christian laymen in such a synod, where such an important issue is debated. This was in vain!” “Respunsul lui G. Hurmuzachi către Șaguna” (“G. Hurmuzachi’s answer to Șaguna”), dated Cernăuți, February 9/21, 1861, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 182-185 here 182.

<sup>469</sup> Cf. *ibid.*, 182.

<sup>470</sup> The title of the brochure was: “The Wishes of the Orthodox Clergy of Bukovina concerning the Canonical Organization of the Eparchy and its Hierarchical Position within the Orthodox Church in Austria”. See the chapter V.1.2 herein.

it in “one of his most important works”<sup>471</sup>, the polemical “Anthonismos”<sup>472</sup>, then the controversy continued in several articles in “The Romanian Telegraph”.<sup>473</sup>

The author of “Anthonismos” pointed out: “*In this work of mine, one can see clearly my canonical knowledge, as well as my convictions about the state of our Orthodoxy. All our Orthodox clergy and people inhabiting that area agree with me; except brother Eugeniu of Bukovina and ten-twelve priests, the other part of Bukovina agrees with me.*”<sup>474</sup> The Metropolitanate of Transylvania justified itself as a legitimate institution, continuing the old Metropolitanate of Alba-Iulia (the former Bălgrad) and so Bishop Andrei Șaguna planned the incorporation of all the Romanians of the Austrian Monarchy under its canonical jurisdiction: “In the final analysis, his attitude on the inclusion of Bukovina in the projected Rumanian metropolis [metropolitanate] owed less to national sympathies and formal arguments from canon law than to the evangelical sources of his religious and social thought: the unshakable conviction that the Christian faith was, or should be, the guiding force in the lives of individuals and nations, and that the church was the proper, though by no means exclusive, instrument to archive harmony between transcendental spiritual values and human institutions.”<sup>475</sup>

A Metropolitanate of Bukovina was not justified from canonical and historical point of view, as long as the Eparchy of Bukovina was only the successor of the Eparchy of Rădăuți separated, by the addition of North-Moldavia to the Habsburg Empire, in 1775, from its former Metropolitanate, that of Moldavia, with the residence at Iași.

In December 1861 the Serbian Metropolitan Josip Rajačić, the main obstacle against the plan of reestablishment of the Transylvanian Metropolitanate and the emancipation from Serbian hierarchy, passed away. Bishop Samuil Maširević of Timișoara was

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<sup>471</sup> K. HITCHINS, *Orthodoxy and Nationality*, 189.

<sup>472</sup> The Romanian version: Andreiu Baronu de ȘAGUNA, *Anthonismos sau deslușire comparativă asupra broșurei „Dorințele dreptcredinciosului cleru din Bucovina în privința organizării canonice a diecezei, și a ierarhiei sale referințe în organismulu bisericeii ortodoxe din Austria”*, Sibiu 1861.

The German version: Andreas Baron de SCHAGUNA, *Anthonismos oder berichtigende Erörterung über die Broschüre „Die Wünsche des rechtgläubigen Klerus aus der Bukovina in Betreff der kanonischen Organisierung der Diöcese und ihrer hierarchischen Stellung im Organismus der orthodox-orientalischen Kirche in Österreich.”*, Hermannstadt 1863. See the chapter V.1.2 herein.

<sup>473</sup> See the chapters V.1.2, V.1.3, VI.2.3.2 herein. Cf. also *Telegraful Român*: 82/1862, 321-323; 83/1862, 329-330; 100/1862, 395-396; 101/1862, 400-401; 102/1862, 404-405.

<sup>474</sup> Andrei Șaguna’s letter to Bishop Neofit Scriban of Edessa and provisory of Argeș, dated Sibiu, May 13, 1863, in: C. ERBICEANU, *Corespondențe privitoare la relațiile lui Șaguna cu arhierii din Țara Românească și Moldova*, 744-745 here 745. Cf. also A. ȘAGUNA, *Corespondența I/1*, 278-279.

<sup>475</sup> K. HITCHINS, *Orthodoxy and Nationality*, 190.

designated to replace him as an administrator of the vacant episcopal see. The delay of about three years in appointing the new patriarch prevented the serious negotiations between the Serbian Patriarchate of Karlowitz and the representatives of the Romanians of the monarchy, which the Court had stipulated as necessary preliminaries<sup>476</sup> for the reestablishment of the Metropolitanate. The controversy between Serbians and Romanians became violent in the press. Yet, only a part of the Serbian clergy - especially the bishops - insisted to oppose the Romanian Church, while the laymen began to realize the justified demands of the Romanians and even to support them for to realize their goals. The Serbian newspaper "Vidovdan" of Belgrad was writing in No. 90 of February 15, 1862: "The Romanian metropolitan must by no means be subordinated to the Serbian patriarch, although the patriarchal office is higher than the metropolitan one. The Serbian patriarch will be the church leader of the Serbians and the Romanian metropolitan the leader of the Romanians; they can live side by side very well. [...] it would be unworthy for the name of Serbians, to defend the un-justice by privileges. It is unworthy to prevent the Romanians from having their own hierarchy; it is unworthy to keep the Romanians by force in a union concerning the church administration; that is why if the Serbians would have had any rights, they must stay away from what is not right, because to give everyone what belongs to him/her is to be able to look more successfully for what is his/hers indeed."<sup>477</sup>

The year 1862 was an apogee of the insistences meant to re-establish the Metropolitanate of Transylvania.

The Orthodox Romanians of the Eparchies of Banat and Arad held two conferences at Timișoara, on January 21, and February 10, 1862, where they decided to send a mixed delegation - made up of clergy and laymen - to Vienna to sustain their wish to re-establish the Metropolitanate.<sup>478</sup>

Bishop Andrei Șaguna himself led a delegation of representatives of the Orthodox Romanians in Transylvania, Hungary, Banat and Bukovina at Court, "the most

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<sup>476</sup> See "Resoluțiunea împărătească din 27 Sept. 1860 privitoare la restaurarea metropoliei" ("The imperial resolution of September 27, 1860, concerning the reestablishment of the Metropolitanate"), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 167-168.

<sup>477</sup> "Vidovdan și ierarhia românească" ("Vidovdan and the Romanian hierarchy"), in: *Telegraful Român*, No. 17, year X, Sibiu, March 1, 1862, 83.

<sup>478</sup> Cf. M. PĂCURARIU, *100 de ani de la reînființarea Mitropoliei Ardealului*, 828-829.

numerous and respectful from all [Romanian delegations] Vienna had seen before.”<sup>479</sup> The delegation presented a petition<sup>480</sup> which pointed out the Romanians historical right to have a metropolitanate, and asked the permission to gather a church congress of all Orthodox Romanians in Austria, made up of forty priests and sixty laymen, with the purpose to discuss the church organization and to elect the metropolitan; the congress should be led by the bishop of Sibiu, who had to organize the elections of deputies of Banat also, as the Orthodox Romanians who lived there had no bishop. Content with Bishop Andrei’s tactic in order to sustain the cause of the Romanian Orthodox Church in the monarchy, one of the deputies of Bukovina, Eudoxiu Hurmuzachi wished to thank flattering the cunning bishop: “Your Excellency said you are proud of us in the noble sense of the word, and we say we are proud of Your Excellency, in the noble sense of the word too.”<sup>481</sup>

On the other hand, the Greek Catholic Metropolitan Alexandru Sterca Țuluțiu began a resolute campaign against the establishment of a rival metropolitanate.<sup>482</sup> Bishop Andrei Țaguna was perfectly aware of its intensity: “[...] *I condition the solution of our Metropolitanate from the policy of the government; namely if the régime does not obey the Jesuit machinations, then it will be surely a favourable solution for us; His Excellency, the Greek Catholic Archbishop Țuluțiu’s protest plays a major role and belongs to such machinations.*”<sup>483</sup>

It was only on June 29, 1863, that the Aulic Chancellery of Transylvania sent the imperial rescript (of June 25, 1863) by which the emperor declared himself in favour of the separation from the Serbian hierarchy, and the reestablishment of the Romanian Metropolitanate. The Chancellery asked to be answered several questions referring to the new metropolitanate, its canonical territory, residence and suffragan eparchies.<sup>484</sup>

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<sup>479</sup> N. POPE`A, *Vechi`a Metropolia*, 218.

<sup>480</sup> See “Adresa deputațiunii române către împăratul prezentată la 3/15 Martie 1862” (“The Romanian deputies’ address presented to the emperor on March 3/15, 1862”), in: II. PUȘCARIU, *Metropolia*, colecția de acte, 200-205.

<sup>481</sup> N. POPE`A, *Vechi`a Metropolia*, 227.

<sup>482</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 240-241.

<sup>483</sup> “Respunsul lui Țaguna către Mocsonyi” (“Țaguna’s answer to Mocsonyi”), dated Sibiu, March 25/April 6, 1863, in: II. PUȘCARIU, *Metropolia*, colecția de acte, 207.

<sup>484</sup> See “Nadasdy către Țaguna în privința teritoriului metropoliei române și. a.” (“Nádasdy to Țaguna concerning the territory of the Romanian Metropolitanate et al.”), in: II. PUȘCARIU, *Metropolia*, colecția de acte, 208-209.

Bishop Andrei Şaguna's answer did not let it wait: he declared himself once again in favour of a metropolitanate of all Orthodox Romanians in Austria, with the residence at Sibiu, having as suffragan eparchies the existing ones of Sibiu, Arad and Bukovina, plus other three which should be founded at Timișoara, Caransebeș and Cluj, the latter by division of the Eparchy of Arad. He asked to be returned to the Romanian Metropolitanate four monasteries administrated by the Serbian Metropolitanate, but which in the past were Romanian, namely Hodoș-Bodrog, Bezdin, Sângeorgiu and Mesici; also a part from the common church funds administrated by the Serbians should be given the Romanians. The election of the metropolitan was assigned to a church congress made up of clergy and laymen from all over the Metropolitanate, and that of the bishops to the mixed eparchial synods. He also made clear that the Serbian faithful living in Banat will not be done any un-justice, being led in the future by a Serbian bishop having the episcopal see at Werschetz.<sup>485</sup>

Bishop Eugeniu Hacman's relationships with the Court had a word to say<sup>486</sup>, because on March 28, 1864, the Aulic Chancellery of Transylvania disposed that the eparchial synod of Sibiu should be consulted if the new metropolitanate could not extend only over the Orthodox Romanians of Transylvania, excluding Bukovina.<sup>487</sup>

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<sup>485</sup> See "Respunsul lui Şaguna către Nadasdy" ("Şaguna's answer to Nadasdy"), dated Sibiu, July 26, 1863, in: II. PUŞCARIU, *Metropolia*, colecția de acte, 210-216.

It is interesting to notice in this answer, too, Bishop Andrei Şaguna's open mind, his forward-looking. He was not stone-still into the past, but always took a good look into the future, which he was building in the light of the concrete conditions of the present. Although the old Metropolitanate of Transylvania had its centre at Alba-Iulia, it incorporated apart from the Archbishopric of Alba-Iulia other three eparchies, Maramureș, Silvaș and Vad (Cf. A. ŞAGUNA, *Promemorie*, 3), he had a new vision on the metropolitanate, adapted the new historical conditions.

<sup>486</sup> Taking into consideration the very consistent "Religious Fund" of the Eparchy of Bukovina administrated by the state, personally by the emperor, it is very easy to understand why Bishop Eugeniu Hacman had "special relationships" with the Court. At length on "The Religious Fund" see the chapter VII.5 herein.

<sup>487</sup> See "Vice-cancelariul aulic pentru Transilvania Bar. Reichenstein către Şaguna insistând a se pronuncia sinodul diecesan asupra întrebării, dacă metropolia, ce are a se înființa nu ar fi să se estindă numai asupra românilor ortodoksi din Transilvania" ("The aulic vice-chancellor of Transylvania Baron Reichenstein to Şaguna, insisting that the eparchial synod should pronounce on the question if the metropolitanate which was to be established could not extend only over the Orthodox Romanians of Transylvania"), in: II. PUŞCARIU, *Metropolia*, colecția de acte, 216-218.

### III.3.3 The constitutional experimentation in Transylvania; the religious Law of 1863

In October and November 1860, after his coming back from the Enlarged Reichsrat, Bishop Andrei Şaguna initiated meetings with the Greek Catholic Metropolitan Sterca Şuluţiu and representatives of the intellectuals in order to find a common basis concerning the participation of Romanians in the political life of the monarchy. Finally they agreed on the points of a national programme; they also elected a delegation led on Andrei Şaguna's request by the Greek Catholic metropolitan. The programme was delivered by the Romanian delegation to the emperor, on December 10, 1860. Among other things, the approval to hold a national congress of the Romanians was asked, but the emperor did not promise anything.<sup>488</sup> The result of the delegation's activity at Vienna was discouraging.

But at the end of 1860 the new State Minister Anton von Schmerling was appointed and he started to organize the monarchy on constitutional bases<sup>489</sup>. Consequently, "at the beginning of the new year [1861] Romanian leaders had reason to be optimistic. The Court had finally given its consent for their national congress ..."<sup>490</sup> Romanians were also announced to take part in the conference planned for January/February, 1861, at Alba-Iulia, in order to discuss with the Magyars and the Saxons the general principles which will shape the constitution of Transylvania.

The Romanian congress opened on January 1/13, 1861, at Sibiu, under the leadership of the Orthodox Bishop Andrei Şaguna and Greek Catholic Metropolitan Alexandru Sterca Şuluţiu. The city of Sibiu "forgot" the offences from Blaj during the entire Neoabsolutist era "*and so, the national assembly began and ended its session in the most beautiful harmony*"<sup>491</sup>. At the final session, on January 4/16, a permanent

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<sup>488</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 106; M. DRĂGOI, *Rolul lui Andrei Şaguna*, 10.

<sup>489</sup> "Schmerlings System beruhte letztlich darauf, daß er hier die Deutschen, dort die Magyaren gleichsam als Teilhaber an der bisher von der Dynastie allein getragener Macht angenommen hatte, die dafür den österreichischen Gesamtstaat mittragen und gegen die Ansprüche andere Völker der Monarchie wie gegen die Angriffe von außen verteidigen sollten." F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 205.

<sup>490</sup> K. HITCHINS, *Orthodoxy and Nationality*, 108.

<sup>491</sup> A. ŞAGUNA, *Memoriile*, 92.



National Committee meant to coordinate the future political activity was appointed, with both bishops as co-presidents.<sup>492</sup>

The planned conference of the nationalities of Transylvania took place at Alba-Iulia, on January 30-31/February 11-12, 1861, under the chair of the aulic chancellor of Transylvania, Baron Kemeny Ferencz. Bishop Andrei Şaguna participated along with only eight representatives of the Romanian nation in.<sup>493</sup> Because of the great Magyar majority of participants in the conference the purpose of it became “to urge the Transylvanian people to send deputies in the Diet of Pest and to recognize the union of the two countries [Hungary and Transylvania].”<sup>494</sup>

In one of his speeches Bishop Andrei pointed out the Romanian perspective on the future constitution of Transylvania, returning to the main themes of the Romanians’ claims, namely corporate rights for the Romanian people and its confessions: “*the Romanian nation understands by liberty the normal state of its constitutional country, able to provide its life, honour and property; under illumination it understands to use the gift of the constitutional life based on equal rights concerning its religion, nationality, culture and use of its national language.*”<sup>495</sup> Romanian representatives have also clearly expressed the principles of national equality and constitutional government in the spirit of respect for law.

The main legislative objective of the Romanians at that conference was a project of a new electoral law which had in view the universal vote, because the laws of the Diet of 1791<sup>496</sup> made on feudal bases by excluding the Romanians from the political life could no longer be taken into consideration, and the one shaped in 1848 was considered made in a hurry. Thus “*we gave our vote for that new electoral law.*”<sup>497</sup>

After the post-revolutionary period of mistrust, the conference of Alba-Iulia of January/February 1861 was the first official meeting of the Romanians, Magyars and Saxons of Transylvania. Bishop Andrei Şaguna accommodated at the residence of the Roman

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<sup>492</sup> Cf. A. ŞAGUNA, *Memoriile*, 93; K. HITCHINS, *Orthodoxy and Nationality*, 110; M. DRĂGOI, *Rolul lui Andrei Şaguna*, 10; M. SOFRONIE, *Activitatea politică a lui Andrei Şaguna. 1863-1864*, 35.

<sup>493</sup> Cf. A. ŞAGUNA, *Memoriile*, 93; M. DRĂGOI, *Rolul lui Andrei Şaguna*, 11.

<sup>494</sup> I. LUPAŞ, *Vieaţa*, 236.

<sup>495</sup> From Andrei Şaguna’s speech at the regnicolar conference of Alba Iulia, in: *Telegraful Român*, No. 6, year IX, Sibiu, February 9, 1861, 21.

<sup>496</sup> About the legislation of the Diet of 1791 see R. KUTSCHERA, *Landtag und Gubernium*, 98-110.

<sup>497</sup> A. ŞAGUNA, *Memoriile*, 93. See also M. DRĂGOI, *Rolul lui Andrei Şaguna*, 10-11; M. SOFRONIE, *Activitatea politică a lui Andrei Şaguna. 1863-1864*, 35.

Catholic Bishop Lajos Haynald, and it “appears that he had charmed the Magyars by his tact, humour and words, so that the newspapers were full of reports and commentaries on him; they were of course circumspect with ‘the old diplomat’, as they called him.”<sup>498</sup>

By the imperial Patent of February 26, 1861, the constitution following Schmerling’s views was elaborated. He militated in favour of a more pronounced centralization, the October Diploma of 1860 containing concessions on behalf of federalism. So the competences of the provincial Diets were considerably reduced and the central parliament had a decisive role. The members of the central parliament had to be elected by the provincial Diets.<sup>499</sup>

The Diet of Hungary opened at the beginning of April 1861 and on August 22 it was dissolved. It defended the autonomy of Hungary and refused to send deputies in the central parliament.<sup>500</sup> Concerning the union of Transylvania with Hungary, the big goal of the Magyars, Bishop Andrei Şaguna was found guilty, like in 1848/1849, for the Romanians’ opposition to it.<sup>501</sup>

The bishop wrote at the beginning of July, 1861: “*It seems we are not in order with our national matters; I cannot see any pleasant icon of the political world, at least when I filter things inside my poor mind! It is also our certain fault that my perspective does not show anything good, because all of us want to lead the [political] issues, we do not have a centre, but all are Generals and Dukes; then [there is] excess of zeal! Everyone*

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<sup>498</sup> N. POPEA, Archiepiscopul și Metropolitul, 280.

<sup>499</sup> The February Patent is a constitution drawn up by State Minister Anton von Schmerling which was enacted throughout the Austrian Empire by Emperor Francis Joseph on February 26, 1861, amending the Oktoberdiplom of October 20, 1860, and forming the basis for a constitutional government. The February Patent divided the legislative branch of government between the Crown and two houses of the Reichsrat. The parliamentary deputies were elected by the legislative assemblies in the provinces (Landtage). Landtage were formed after the enactment of a decree allowing assemblies in the provinces. As Hungary and, at first, Galicia opposed the February Patent on the grounds that it was too centralist, it did not take effect throughout the empire and was suspended on September 20, 1865. Later it would form the basis for the constitution of 1867 for the Western half of the Austrian Empire. See F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 197-205.

<sup>500</sup> “Die ungarischen Kabinettsmitglieder versuchten auch noch vor der Eröffnung des für den 2. April 1861 einberufenen Landtages die nicht nur von Schmerling und seinem Anhang, sondern auch von ihnen pessimistisch beurteilten Verhandlungen zu präjudizieren, indem sie erstens verlangten, daß ungarischen Angelegenheiten nur durch ungarische Minister behandelt werden dürften, und zweitens den ungarischen Hofkanzler der Verpflichtung enthoben wissen wollten, seine Vorträge nur über den Ministerpräsidenten an den Kaiser zu bringen.” F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 206.

<sup>501</sup> Cf. I. LUPAŞ, *Vieața*, 242; the chapter III.1.4 herein.

wants to surpass the other and works secretly!”<sup>502</sup> Dark but realistic, these observations determined him to overtake once again firmly the helm of politics, as he had done between 1848 and 1850.

After on August 22, 1861, the Diet of Pest was dissolved, the emperor summoned the Diet of Transylvania<sup>503</sup> by the rescript of September 19, 1861, in order to support Schmerling’s plans. But the government of Transylvania rejected the imperial rescript.<sup>504</sup>

Since the Romanians were interested to take part in the constitutional life of the country, they sent protesting petitions to the emperor and on October 18, 1862, received a promising imperial resolution.<sup>505</sup> Speculating the moment, the Orthodox and Greek Catholic bishops presented on December 2, 1862, a common petition asking the approval of a new congress of the Romanians in Transylvania.<sup>506</sup> The emperor’s answer of February 17, 1863, although favourable to organization of the congress, it established a very restrictive framework for its programme.<sup>507</sup>

So the second congress of the Romanians during the constitutional experimentation met at Sibiu, between April 8/20 and April 11/23, 1863. Both bishops participated as chairmen in.<sup>508</sup> “This congress was genuinely Andrei Şaguna’s creation, because he not only took the initiative, but also carried out the main role there.”<sup>509</sup> The sessions lasted “*in best harmony possible*”<sup>510</sup>. Bishop Andrei was the one who transmitted the positive direction of the debates, while George Bariţiu was “the negative, opposing spirit.”<sup>511</sup> The congress elected a delegation of ten persons led again by the Orthodox Bishop to

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<sup>502</sup> Andrei Şaguna’s letter to George Bariţiu, dated Sibiu, July 3, 1861, in: G. BARITIU, *Parti alese din istoria Transilvaniei*, 572-573.

<sup>503</sup> During the era of the Austrian reign (1688-1868) the Transylvanian Diet only met if summoned by the Sovereign. From 1762 to 1790 the Diet was not summoned; from 1790 to 1866 only twelve times, when each session could last up to several months. In the eighteenth and nineteenth century the meetings took place almost without exception either at Sibiu or at Cluj. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 370.

<sup>504</sup> See A. ŞAGUNA, *Correspondenţa I/1*, 68.

<sup>505</sup> See K. HITCHINS, *Orthodoxy and Nationality*, 129-130; A. ŞAGUNA, *Correspondenţa I/1*, 69-70.

<sup>506</sup> Cf. A. ŞAGUNA, *Memoriile*, 94.

<sup>507</sup> See I. PUŞCARIU, *Notiţe*, 66.

<sup>508</sup> Cf. M. DRĂGOI, *Rolul lui Andrei Şaguna*, 11.

<sup>509</sup> N. POPEA, *Archiepiscopul şi Metropolitul*, 280.

<sup>510</sup> A. ŞAGUNA, *Memoriile*, 94.

<sup>511</sup> I. LUPAŞ, *Vieţa*, 250.

represent it at Court.<sup>512</sup> The emperor received the delegation on April 22/May 4, 1863, and he remarked especially “the serious word of the worthy chairman”<sup>513</sup>. Bishop Andrei Şaguna noticed in a private letter sent home, to his secretary: “*Dear Nicolae! [...] This evening, at 9 o’clock we are invited at the State Minister and tomorrow at an imposing banquet which the Viennese give in the honour of the deputies, as you can see from the invitation letter. That the works, behaviour and result of our congress make people astonished you could realize from the newspapers.*”<sup>514</sup>

Describing the historical importance of this political meeting of the Romanians in Transylvania, a contemporary of the events underlined as essential the circumstance when the emperor considered and spoke for the first time to the Romanians as to a nation.<sup>515</sup> It was an important step toward the recognition of corporate political rights of a nation excluded for centuries from the political system of the country.

The emperor summoned the Diet of Transylvania again, by the rescript of April 21, 1863; the rescript established the first meeting for July 1, 1863, at Sibiu.<sup>516</sup> So after the Romanian national congress, the election for the Diet of Transylvania began. The same day with the rescript the emperor promulgated a new electoral law that increased a lot the number of the Romanians with voting right.<sup>517</sup>

It was for the first time when the Romanians of Transylvania participated in a democratic way in the Diet, by their elected representatives.<sup>518</sup>

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<sup>512</sup> Cf. A. ŞAGUNA, *Memoriile*, 94; I. PUŞCARIU, *Notiţe*, 67; M. DRĂGOI, *Rolul lui Andrei Şaguna*, 11-12.

<sup>513</sup> *Telegraful Român*, No. 34, year XI, Sibiu, April 25/May 7, 1863, 132.

<sup>514</sup> “Andrei Şaguna către Nicolae Popea” (“Andrei Şaguna to Nicolae Popea”), dated Vienna, May 5, 1863, in: A. ŞAGUNA, *Correspondenţa I/1*, 173.

<sup>515</sup> See N.[icolae] P.[opea], “Congressulu romanu si diuarele straine” (“The Romanian congress and the foreign newspapers”), in: *Telegraful Român*, No. 34, year XI, Sibiu, April 25/May 7, 1863, 133.

<sup>516</sup> Cf. I. PUŞCARIU, *Notiţe*, 67-68; M. DRĂGOI, *Rolul lui Andrei Şaguna*, 12.

At length on the Diet of 1863/1864 see R. KUTSCHERA, *Landtag und Gubernium*, 117-140; Simion RETEGAN, *Dieta românească a Transilvaniei (1863-1864)*, Cluj-Napoca 1979.

<sup>517</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 138; R. KUTSCHERA, *Landtag und Gubernium*, 121.

<sup>518</sup> The constitutional structure of the Diet, consisting of about 300-400 members, hardly changed during time; about 75-80% were nobles who tried to assert their own social class interest. The appointment of the “Regalists” (often 50% of the assembly) by the monarch strengthened the majority of the nobles. In addition there were the members of the Transylvanian government, the members of the Royal Table (regional Court of Appeal), and other high jurisdictional or administrative officers. Only about 20% of all the members of the Diet were actually elected by voting assemblies. The members did not represent the ethnic composition of the country. The Romanians, by far the most numerous ethnic group, were excluded from Diet for centuries, and from 1733 onwards only the respective bishop of the Uniate Romanian Church (in his position as an estate owner) was allowed to participate in the meetings. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 370-371.

The Saxons took also part in the Diet of Sibiu, but the Magyar and Szekler deputies, under the influence of the Magyars former revolutionaries Julius Andrásy<sup>519</sup> and Kálmán Tisza<sup>520</sup>, decided do not take part in the Diet, contesting it as having been summoned on illegal bases. The Roman Catholic Bishop Lajos Haynald of Alba-Iulia paid the price of the episcopal see due to this gesture of nationalism, being dismissed and sent to Rome.<sup>521</sup>

Although appointed again by the emperor himself to participate in the Diet, Bishop Andrei Şaguna refused politely, preferring to attend it as a deputy of Sălişte, because he had been elected by people in this respect and did not want to deceive his electors trust.<sup>522</sup> His main desiderata remained the same, namely to obtain corporate rights for the Transylvanian Romanians: “he wanted, worked and fought for the equal rights of the Romanian nation and its Churches ...”<sup>523</sup> Out of his speeches in the Diet one can see the bishop’s healthy political vision, following to improve what was already been a benefit, not denying the past just for to have something new: “*Gentlemen! Not everything which is old is also bad. There are things that even because of their old age have the force of life for eternity, that will never grow old, but remain young. There are such things in the world, and in the old constitution of Transylvania I find such*

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<sup>519</sup> Gyula/Julius Andrásy (1823-1890), one of the leading figures in the 1848-49 Hungarian revolution, supported the liberal programme of Lajos Kossuth and after the Hungarian defeat he went into exile, mostly in Paris and London, until 1858. With Francis Deák he then rose to prominence in the negotiations leading to the Ausgleich (compromise) of 1867, which created the Austro-Hungarian Monarchy. Andrásy was (1867-1871) the first constitutional premier of Hungary. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 303, 349 et seqq.

<sup>520</sup> Kálmán Tisza (1830-1902), son of an old Calvinist family, entered politics in the Hungarian revolution of March, 1848. Elected (1861) to the Hungarian parliament, he led the radical group that later opposed the Ausgleich of 1867, which created the Austro-Hungarian Monarchy. He was Hungarian premier (1875-1890). Cf. *ibid.*, 349, 353 et seqq.

<sup>521</sup> See A. ŞAGUNA, *Memoriile*, 95.

Lajos Haynald (1816-1891), who early in 1848 was appointed chancellor-director to the prince-primate, refused to publish the declaration of April 14, 1849, when the Hungarian parliament proclaimed the independence of Hungary. The consequence was that he lost his position, whereupon he returned to his birth-place Szécsény. At the close of the revolutionary war he was restored to his office; on September 15, 1851, he was appointed coadjutor of the bishop of Transylvania, Nicholas Kovács, whom he succeeded on October 15, 1852.

On the publication of the October Diploma, in 1860, Haynald became one of the champions of the union of Transylvania with Hungary. His political opinions and activity thereupon brought him into conflict with the Viennese government. Count Francis Nádasdy, head of the Transylvanian Chancellery, accused Haynald of disloyalty. Haynald went to Vienna and presented a memorial in which he set forth his political views. Notwithstanding this, the dissensions between the government and Haynald continued, and resulted in Haynald’s resignation in 1863.

Cf. Ludwig Haynald, in: *The New Catholic Encyclopedia*, vol. 6, 678; Th. V. BOGYAY, Ludwig Haynald, in: *LThK*, 1957-1968, Bd. 5, 42.

<sup>522</sup> See I. LUPAŞ, *Importanţa Mitropolitului Andrei Şaguna în istoria noastră naţională*, 1031.

<sup>523</sup> N. POPEA, *Archiepiscopul şi Metropolitul*, 290.

*moments that will never grow old, but remain young, proving a young force. I identify such moments by the guarantee of the nationalities and confessions in the old constitution. This is, gentlemen, a valuable fortune of our country, which no other state of Europe can boast with. When in Europe there had been wars among brothers, in Transylvania there had been peace and brothers of different confessions had shaken friendly hands. Gentleman, one thing affects me! That the Romanians could not share the citizens rights [...] because they had been excluded from the virtues of the country and condemned to carry the burdens. [our reference]”<sup>524</sup>*

Bishop Andrei proved also his sense of humour even in the meetings of the Diet: “I heard today from a friend of mine, that he wished to declare sincerely his convictions concerning the object of day; so shall I be sincere, leave to the judgement of the others to what extent talking on politics, one can be sincere...”<sup>525</sup>

The Transylvanian Diet of Sibiu interrupted its works on October 13, 1863, in order to allow its representatives to take part in the Reichsrat.<sup>526</sup>

When the Diet met again, after a year, its only task was to proclaim the union of Transylvania with Hungary.

Although he got actively involved in the works of the first session of the Diet (July-October 1863), Bishop Andrei could not participate in the second session (May-October 1864)<sup>527</sup> because of an illness<sup>528</sup>, later he did not want to participate in anymore, except two times: “He had become disgusted with the people of the régime, who began to terrorize in an absolutist way the official deputies, obliging them to vote according to the wish of the régime.”<sup>529</sup> His plans concerning a real autonomous Transylvania, where all the inhabitants would be able to build their own destinies, were

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<sup>524</sup> Andrei Şaguna’s speech in the eighteenth meeting of the Diet of Sibiu of 1863, stenographical notices, in: *Telegraful Român*, No. 74, year XI, Sibiu, August 20, 1863, 298.

We underlined this beautiful description made in proud terms by Bishop Andrei to the first state-legally embodied religious tolerance in Europe, still at the end of the sixteenth century four Christian denominations being recognized by law in Transylvania.

<sup>525</sup> Andrei Şaguna’s speech in the nineteenth meeting of the Diet of Sibiu of 1863, stenographical notices, in: *Telegraful Român*, No. 75, year XI, Sibiu, August 22, 1863, 303.

<sup>526</sup> Cf. R. KUTSCHERA, *Landtag und Gubernium*, 131.

<sup>527</sup> “The activities of Diet were long-winded and complicated - not atypical of the period.” R. KUTSCHERA, *Landtag und Gubernium*, 370.

<sup>528</sup> On a photography from the years 1863/1864 one can see he was tired. See it in the annex II herein.

<sup>529</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 295.

gradually replaced by a form of centralism, which menaced with bringing back the severe realities of the absolutism.<sup>530</sup>

The results of the Diet of Sibiu of 1863/1864 were not remarkable: “In two years time - since the middle of 1863 till the middle of 1865 - hardly had four-five laws been passed [...] so that, when the régime changed, in 1865, Transylvania did not have any electoral law sanctioned.”<sup>531</sup>

A result of Andrei Şaguna’s political endeavours was the Article of Law of 1863, by which the Romanian nation and its confessions, the Greek Eastern (Orthodox) and Greek Catholic Churches, were recognized as equal with the other nations and confessions of the country.<sup>532</sup> The Article of Law of 1863 was promulgated by the emperor, on October 26, 1863, and it was published on May 30, 1864.<sup>533</sup>

Now, that the state finally guaranteed corporate rights to Romanian nation and to the Orthodox Church of Transylvania, the bishop could be able to follow the desideratum of autonomy from Karlowitz, by the restoration of the old Orthodox Metropolitanate of Transylvania. But the Article of Law of 1863 and all the others voted by the Diet of Sibiu in the years 1863-1864 had a short life, likewise the democratic constitutional experimentation in Transylvania. By the inauguration of the Austro-Hungarian Dualism in 1867 all the laws of that Diet have been annulled.<sup>534</sup>

The Orthodox bishop “was one of the few Rumanians at the Diet who grasped the seriousness of Austrian aims and who viewed the problems of Transylvania from the same broad perspective of the ‘Gesamtmonarchie’. [...] Later, after 1867, when the

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<sup>530</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 144.

<sup>531</sup> I. PUŞCARIU, *Notiţe*, 75.

<sup>532</sup> “Nach zehn Verhandlungstagen nahm das Plenum am 7. September 1863 im wesentlichen die vom Ausschuß vorgelegte Gesetzartikel ‘betreffend die Gleichberechtigung der romanischen Nation und ihrer Confessionen’ an. Darin wird zum Ausdruck gebracht: ‘Die gesetzlich anerkannten Nationen, als die Nation der Ungarn, der Szekler, der Sachsen und der Rumänen sind einander gegenüber vollkommen gleichberechtigt, und genießen als solche im Sinne der siebenbürgerischen Landesverfassung gleiche politische Rechte.’ (Protokoll und Reden, 294) Desgleichen werden die griechisch-katholische und die griechisch-orthodoxe Kirche den vier rezipierten Kirchen, der römisch-katholischen, der reformierten, der evangelischen und unitarischen gleichgestellt. Auch die beiden neue hinzugekommenen Bekenntnisse ordnen ihre eigenen kirchlichen und Schulangelegenheiten in eigener Verantwortung unter nomineller Oberaufsicht der Krone (§1-3).” R. KUTSCHERA, *Landtag und Gubernium*, 128.

<sup>533</sup> Cf. I. LUPAŞ, *Vieaţa*, 267; R. KUTSCHERA, *Landtag und Gubernium*, 128-129.

<sup>534</sup> See the chapter IV.3.2 herein. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 140.

compromise between the Court and the Magyars had become a reality, Şaguna was severely criticized for his haste in accepting Austrian terms.”<sup>535</sup>

#### III.3.4 The third mixed eparchial synod of March/April 1864; the bishops’ synod of August 1864, at Karlowitz

The eparchial mixed synod of 1860 had decided that in case the resolution to re-establish the Metropolitanate of Transylvania was not passed until St. George’s feast day (April 23) of 1861, the bishop should summon a new synod on May 1, 1861, to consult it regarding what he was going to undertake. Yet, this synod has not been summoned although the Metropolitanate had not been re-established.

Bishop Andrei Şaguna maintained his wish to have a yearly eparchial synod<sup>536</sup>, but this thing was not possible until March/April 1864, when he could organize the third mixed eparchial synod<sup>537</sup> composed of eighty appointed and ninety-two elected deputies; so it was the first time during the ecclesiastical leadership of Bishop Andrei Şaguna, when a great part of the participants in the mixed eparchial synod of the Eparchy of Transylvania were elected. The same as at the synod of 1860 no state representative was sent.

Like at the former synod, the reestablishment of the Metropolitanate was the burning issue. The bishop informed the participants, this time too, about the steps he took in the last four years, with a view to re-establish the Metropolitanate. A new petition in this respect was presented to the emperor.<sup>538</sup>

The emperor answered positively the petition, on June 25, 1864.<sup>539</sup>

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<sup>535</sup> K. HITCHINS, *Orthodoxy and Nationality*, 142-143.

<sup>536</sup> See Andrei Şaguna’s circular letter No. 165/1864, in: Gh. TULBURE, *Mitropolitul Şaguna*, 450-451.

<sup>537</sup> Cf. *Actele Sinodului Bisericii greco-resaritene in Ardealu din anulu 1864, Sibiuu 1864*; P. BRUSANOWSKI, *Reforma constituţională*, 108 et seqq.

<sup>538</sup> See “Petiţiunea sinodului diecesan din Sibiuu din 22 Martiu st. v. 1864 cătră împăratul în cauza reînfiinţării metropoliei” (“The petition of the diocesan synod from Sibiu of March 22/[April 3], 1864, to the emperor, concerning the reestablishment of the Metropolitanate”), in: Il. PUŞCARIU, *Metropolia, colecţia de acte*, 218-221.

<sup>539</sup> Cf. “Autograful împărătesc pentru înfiinţarea metropoliei române şi denumirea episcopului Şaguna de arhiepiscop şi metropolit” (“The imperial autograph for the establishment of the Romanian Metropolitanate and appointment of Bishop Şaguna as an archbishop and metropolitan”), in: Il. PUŞCARIU, *Metropolia, colecţia de acte*, 305.



Apart from the topic of the reestablishment of the Metropolitanate, Bishop Andrei presented to the eparchial synod of 1864 a project of regulation conceived by himself concerning the organization of a metropolitanate according to the Orthodox canon law.<sup>540</sup> This project will constitute the nucleus of the future church constitution of the Transylvanian Metropolitanate, “The Organic Statute”, later the basis of the organization of the entire Romanian Orthodox Church, until today.

At the very beginning of the synod, a committee of twelve members, four priests and eight laymen, was chosen to study the “Project of Regulation”.<sup>541</sup> After it was debated in five meetings and modified by the synod, the applicability of the modified regulation was limited only within the Eparchy of Sibiu, being turned into practice between 1864 and 1868, in that eparchy.<sup>542</sup>

Fully content, the bishop was writing in a private correspondence, about this third mixed eparchial synod: “*our synod went on well, the opinions came self-evidently and the conclusions were unanimous. This is why my satisfaction is so great.*”<sup>543</sup> Only this was the last synod which could content him.

In July/August 1864 the congress meant to elect the Serbian patriarch and the bishops’ synod of Karlowitz gathered.<sup>544</sup> The representatives of the Romanian Orthodox of Arad and Banat went to Karlowitz too, not to take part in the congress but to give declarations on behalf of the Romanian faithful that they could not consider the new elected one as their archbishop and metropolitan. So they could not take part in his election, but wait to be granted the right - in accordance with their desire long expressed - to have their own Romanian metropolitan.<sup>545</sup>

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<sup>540</sup> See A. Baronu de SIAGUNA, Proiectu de unu Regulamentu pentru organisarea trebiloru bisericesci, scolare, si fundationale romane de Relegea greco-orientale in Statele austriace, Sibiuu 1864.

At length on Andrei Şaguna’s “Project of Regulation” see the chapters V.2 and V.3.2 herein.

<sup>541</sup> Cf. Actele Sinodului...1864, 6.

<sup>542</sup> Cf. the chapter V.3.2 herein.

<sup>543</sup> Andrei Şaguna’s letter to A. Mocsonyi, dated Sibiuu, April 6/18, 1864, in: Spicuri şi fragmente din corespondenţa lui Şaguna, 485-486 here 486.

<sup>544</sup> Cf. “Samuil Maşirevici către Andrei Şaguna” (“Samuil Maşirević to Andrei Şaguna”), dated Karlowitz, September 2, 1864, in: A. ŞAGUNA, Corespondenţa I/2, 191.

<sup>545</sup> See “Dechiarăţiunea reprezentanţilor români către comisariul împărătesc Bar. Philippovics la congresul din Carloviţ” (“The declaration of the Romanian representatives at the congress of Karlowitz to the imperial commissary Baron Philippovics”), in: Il. PUŞCARIU, Metropolia, colecţia de acte, 222-226; “Memorandul reprezentanţilor români la congresul din Carloviţ către Împăratul” (“The memorandum of the Romanian representatives at the congress of Karlowitz to the emperor”), in: Il. PUŞCARIU, Metropolia, colecţia de acte, 226-235.

The synod of the bishops headed by the new elected Patriarch Samuil Maširević decided, according to the emperor's special assignment<sup>546</sup>, to establish a Metropolitanate of the Romanians of Transylvania, Banat and Hungary, as it comes out of the third point of the Protocol of the synodal meetings.<sup>547</sup>

The mixed eparchial synod of Transylvania suggested by its request concerning the reestablishment of the Metropolitanate read in the synod of Karlowitz the reestablishment should be followed by the functioning of a permanent common bishops' synod made up of all the Romanian and Serbian bishops members of the Romanian and Serbian Metropolitanates, as a sign of the dogmatic unity and of the united and identical avowal of the Orthodox faith.<sup>548</sup>

Coming later to Karlowitz, Bishop Eugeniu Hacman of Bukovina brought the idea of three metropolitanates which could be created by that synod: "first in Bukovina (for him!) with two suffragan bishops, a Romanian and a Ruthenian one, the second in Transylvania, and the third at Karlowitz, with its still existent suffragan bishops."<sup>549</sup>

Although the decision of the synod of Karlowitz was based on the emperor's letter of August 13, 1864, which was in favour of the setting up of a Romanian Metropolitanate coordinated to the Serbian one, "the favourable opinion of the synod is due only to the mild and peaceful steps taken by him [Andrei Şaguna]; because on the contrary, although it was requested by the emperor, it could still be impeded or delayed, who knows how long."<sup>550</sup>

The obstacles insistently created by the opponents of the Orthodox Romanian Metropolitanate of Transylvania were so big, that because of the delays of its restoration Bishop Andrei promised in the spring of 1864 do not take part in the Reichsrat as a member anymore until the cause of his Church was not solved. He told the political circles of Vienna: "[...] '*I won't step in Vienna, until the Metropolitanate has been approved!*' And he kept his word."<sup>551</sup>

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<sup>546</sup> The emperor's assignment was given by his hand written letter of August 13, 1864. Cf. "Protocolul şedinţelor sinodale, ţinute în 13 şi următoarele zile ale lui August 1864 în Carloviţ" ("The protocol of the synodal meetings held on 13<sup>th</sup> and the following days of August, 1864, at Karlowitz"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 285-291 here 287.

<sup>547</sup> *Ibid.*, 287.

<sup>548</sup> *Ibid.*, 288.

<sup>549</sup> N. POPEA, *Vechi`a Metropolia*, 278-279. See also "Propunerile episcopului Bucovinei Eugenie Hacman la sinodul din Carloviţ" ("Bishop of Bukovina Eugeniu Hacman's suggestions at the synod in Karlowitz"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 248-252.

<sup>550</sup> N. POPEA, *Archiepiscopul şi Metropolitul*, 139.

<sup>551</sup> *Ibid.*, 139.

## IV. ANDREI ȘAGUNA - METROPOLITAN OF TRANSYLVANIA

### IV.1 The reestablishment of the Metropolitanate of Transylvania

The year 1864 - “*a year of the supreme comfort and joy*”<sup>1</sup>- was crowned with a great success of the active bishop: on December 12/24, the emperor approved the reestablishment of the Orthodox Romanian Metropolitanate of Transylvania and Bishop Andrei Șaguna was entitled the archbishop and metropolitan of the Orthodox Romanians of Transylvania and Hungary: “Dear Baron of Șaguna. Listening to the demands of the Greek-Eastern Romanians of Transylvania and Hungary, in accordance with the intention manifested by my resolutions of September 27, 1860, and June 25, 1863, I approved the establishment of an independent Metropolitanate for them coordinated with the Serbian one, and that the Eparchy of Transylvania be raised at the rank of metropolitanate. At the same time, I consider proper to entitle you as the archbishop and metropolitan of the Greek-Eastern Romanians of Transylvania and Hungary. Vienna, December 24, 1864, Francis Joseph m.p.”<sup>2</sup>

On the one hand, the demand to occur first a church assembly made up of clergy and laymen in order to elect the metropolitan followed by the recognition of the elected metropolitan and the new Metropolitanate by the emperor was not taken into consideration.<sup>3</sup> On the other hand, Emperor Francis Joseph himself by the expression “Greek-Eastern Romanians” which replaced the famous one “not-Uniate” opened the path of the equal rights of the Orthodox of Transylvania, and not only of them, in the

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<sup>1</sup> A. ȘAGUNA, *Memoriile*, 95.

<sup>2</sup> “Autograful împărătesc pentru înființarea metropoliei române și denumirea episcopului Șaguna de arhiepiscop și metropolit” (“The imperial autograph for the establishment of the Romanian Metropolitanate and appointment of Bishop Șaguna as an archbishop and metropolitan”), in: Il. PUȘCARIU, *Metropolia*, colecția de acte, 305: “Lieber Freiherr von Schaguna! Den Bitten der griechisch-orientalischen Romanen in Siebenbürgen und Ungarn willfahrend, habe Ich in Übereinstimmung mit der durch Meine Entschliessungen vom 27-ten September 1860 und vom 25-ten Juni 1863 kundgegebenen Absicht genehmigt, dass für dieselben eine selbstständige, der serbischen koordinirte Metropole errichtet und die bischöfliche Kirche in Siebenbürgen zur Metropolitanwürde erhoben werde. Zugleich finde Ich Sie zum Erzbischofe und Metropoliten der griechisch-orientalischen Romanen in Siebenbürgen und Ungarn zu ernennen. Wien, 24-ten Dezember 1864, Franz Josef m.p.”

<sup>3</sup> Cf. “Adresa deputațiunii române către împăratul prezentată la 3/15 Martie 1862” (“The Romanian deputies’ address presented to the emperor on March 3/15, 1862”), in: Il. PUȘCARIU, *Metropolia*, colecția de acte, 200-205; “Respunsul lui Șaguna către Nadasdy” (“Șaguna’s answer to Nadasdy”), dated Sibiu, July 26, 1863, in: Il. PUȘCARIU, *Metropolia*, colecția de acte, 210-216.

state legislation of the Austrian Monarchy.<sup>4</sup> As a matter of fact, the elimination of the pejorative name “not-Uniate” used for the Orthodox within the monarchy had been asked explicitly in the meeting of September 11, 1864, of the synod from Karlowitz, because “our Church is called in the symbolic books ‘one, holy, catholic and apostolic Church’; we entitle ourselves ‘Orthodox Christians’ and our Church ‘the Orthodox-Eastern Church’; it is Eastern as opposed to the Latin-Western Church and it is Orthodox, as opposed to the heresies and sects which were born from our Church ...”<sup>5</sup>

The same day, on December 12/24, 1864, the emperor announced the Serbian patriarch to have in view the summoning of a national congress at Karlowitz to resolve the separation of the common property of the Romanian canonical jurisdictional units that should be detached from the Metropolitanate of Karlowitz.<sup>6</sup>

Later in time, Andrei Şaguna’s biographer Ioan Lupaş wrote: “For the Romanians it appears as a destiny of justice and for the Serbians as an irony of history that Şaguna who raised among the Serbians, who enjoyed in his youth the trust and favours of the Serbian metropolitans of Karlowitz, even he was called to carry out the plan - as wonderful as difficult it was - of the emancipation of the Orthodox Romanian Church from the Serbian hierarchy.”<sup>7</sup>

Although from the six eparchies conceived by Andrei Şaguna to compose the Metropolitanate of Transylvania - the Eparchies of Sibiu, Arad, Bukovina, Timişoara, Caransebeş and Cluj<sup>8</sup> - were approved only three - those of Sibiu, Arad and Caransebeş, the latter should be founded -, “the joy was great and whole. Such merry Christmas days as they were that year, the poor Romanians won’t have celebrated for centuries.”<sup>9</sup>

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<sup>4</sup> Cf. J. SCHNEIDER, *Der Hermannstädter Metropolit*, 93.

<sup>5</sup> “Protocolul şedinţei sinodale, ținută la Carloviţ în 11 Septembrie 1864” (“The protocol of the synodal meeting, held on September 11, 1864, at Karlowitz”), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 291-292 here 292.

<sup>6</sup> See “Autograful împărătesc îndreptat către patriarhul sârbesc privitoriu la întrunirea congresului sârbesc în cauza împărţirii averii” (“The imperial autograph to the Serbian patriarch concerning the summoning of the Serbian congress on the matter of the division of property”), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 305-306.

<sup>7</sup> I. LUPAŞ, *Vieaţa*, 324.

<sup>8</sup> See “Respunsul lui Şaguna către Nadasdy” (“Şaguna’s answer to Nadasdy”), dated Sibiu, July 26, 1863, in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 210-216.

<sup>9</sup> N. POPE`A, *Vechi`a Metropolia*, 296.

Only the Romanians of Bukovina could not fully enjoy “because here do not rule our Saviour’s holly redeeming teachings, but only the human interests and whims.”<sup>10</sup> Austria succeeded in cultivating for some time discord among the Romanians, following its old governing saying: *divide et impera!* This quarrelling policy led from Vienna found a docile supporter in the person of Bishop Eugeniu Hacman of Bukovina, who sheltered Şaguna’s plan and caused a great affliction in the hearts of many Romanians of Bukovina.<sup>11</sup> The visionary character of Andrei Şaguna’s conception on the unitary organization of the Orthodox Romanians of the Austrian Monarchy was confirmed in 1923, by a Bukovinian: “The decades before the [First] World War and the fate the Church of Bukovina had show how careful was the bishop of Sibiu. How much damages for the Romanians of Bukovina could have been avoided if Şaguna’s plan had been achieved ...”<sup>12</sup>

The Romanians of Banat were also dissatisfied; after 1849, when they were incorporated into the Serbian Vojvodina, and more insistently after 1860, when they passed to Hungary<sup>13</sup>, the Romanians of Banat militated in favour of their incorporation into the Romanian Metropolitanate of Transylvania. In 1860, Bishop Andrei Şaguna together with Andrei Mocioni/Mocsonyi and Nicolae Petrino, as representatives of the Romanians of Transylvania, Banat, and respectively Bukovina, began a common action with an aim to re-establish the Metropolitanate.<sup>14</sup>

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<sup>10</sup> The Romanians’ of Bukovina address to Metropolitan Andrei Şaguna, dated Czernowitz, January 1865, in: N. POPE’A, *Vechi’ a Metropolia*, 299-301 here 300.

<sup>11</sup> Cf. I. LUPAŞ, *Importanţa Mitropolitului Andrei Şaguna în istoria noastră naţională*, 1105.

The Eparchy of Bukovina was raised at the rank of metropolitanate on January 23, 1873; it was given two suffragan Slavic eparchies in Dalmatia: Zara and Cattaro, which from a historical, geographical or ethnical point of view had nothing in common with Bukovina. In spite of his struggle and wish to be a metropolitan, Eugeniu Hacman was not enthroned, because he died on March 31, 1873. The first metropolitan of this metropolitanate was Teofil Bendela, consecrated bishop at Sibiu, on January 1874. Cf. M. PĂCURARIU, *100 de ani de la reînfiinţarea Mitropoliei Ardealului*, 828.

<sup>12</sup> R. CÂNDEA, *Andrieu Şaguna*, 182.

<sup>13</sup> The new crown land of the “Serbian Vojvodina and the Banat of Timișoara” proclaimed by the Court of Vienna in 1849 for to punish the Magyars, in which the Romanians were a majority, ended in December 1860 when the bulk of Serbian Vojvodina’s territory was reincorporated in Hungary. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 427.

<sup>14</sup> See “Petiţiunea senatorilor imperiali Bar. Şaguna, Andreiu de Mocsonyi și Bar. Petrino, din 21 Aug. 1860 pentru reînfiinţarea metropoliei ortodoxe române” (“The petition of the imperial senators Baron Şaguna, Andreiu of Mocsonyi and Baron Petrino, of August 21, 1860, concerning the reestablishment of the Romanian Orthodox Metropolitanate”), in: IL. PUŞCARIU, *Metropolia, colecţia de acte*, 166-167.

Metropolitan Andrei Şaguna himself could not either be satisfied with the ecclesiastical situation of the Romanians of Banat, left outside the Metropolitanate, but under the circumstances he could not do more.

Although preparative to enthrone the Metropolitan Andrei Şaguna on the metropolitan see according to the tradition were made, namely in the big church of Răşinari, the enthronement did not happen<sup>15</sup>, because the required diplomas necessary to re-establish the Metropolitanate and his appointment were late<sup>16</sup>. However, Metropolitan Andrei worked in his new ecclesiastical office, considering himself enthroned.<sup>17</sup>

The final document that marked the official inauguration of the Metropolitanate of Transylvania was the imperial resolution of July 6, 1865, by which the separation of the Eparchies of Arad and Caransebeş from the Metropolitanate of Karlowitz was declared, beginning with July 15, 1865.<sup>18</sup> By the imperial Diplomas of July 8, 1865, the new canonical territory of the Eparchy of Arad<sup>19</sup> and the establishment of the Eparchy of Caransebeş<sup>20</sup> were decreed, as suffragan bishoprics of the Metropolitanate of Transylvania.

At the beginning of 1865, the metropolitan leading a delegation<sup>21</sup> of Romanians of

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<sup>15</sup> See II. PUŞCARIU, *Chestiunea instalării lui Andreiu Baron de Şaguna în scaunul metropolitan*, 97-99 and 145-150; A. GRAMA, *Memoria urmaşilor: Secvenţe*, 125-126.

<sup>16</sup> The historians' opinions concerning these diplomas are different: Ilarion Puşcariu denies their existence on the ground that they "are not to be found among other diplomas left from Metropolitan Şaguna, nor is it mentioned that someone else had seen them" (II. PUŞCARIU, *Chestiunea instalării lui Andreiu Baron de Şaguna în scaunul metropolitan*, 149); Ioan Mateiu on the contrary states that they were obtained "in January 1866". (I. MATEIU, *Şaguna şi restaurarea Mitropoliei*, 21).

<sup>17</sup> Cf. M. PĂCURARIU, *100 de ani de la reînfiinţarea Mitropoliei Ardealului*, 835.

<sup>18</sup> Cf. "Ministru-preşedinte Schmerling către metropolitul Şaguna privitoriu la rezolvarea finală a despărţirii ierarchice" ("Minister President Schmerling to Metropolitan Şaguna concerning the final solution of the separation of hierarchy"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 388-389.

<sup>19</sup> See "Cuprinsul diplomei împărătesci despre estinderea eparchiei Aradului" ("The content of the imperial Diploma concerning the extension of the Eparchy of Arad"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 397-398.

<sup>20</sup> See "Cuprinsul diplomei împărătesci despre înfiinţarea eparchiei Caransebeşului" ("The content of the imperial Diploma concerning the establishment of the Eparchy of Caransebeş"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 396-397.

<sup>21</sup> Cf. A. ŞAGUNA, *Memoriile*, 96. See also "Cuvântarea mea către Împărat, când m'am înfăţişat la Prea înalt Acelaşi cu deputaţii din întreaga metropolie de ai mulţami pentru rezolvirea metropoliei" ("My speech before the emperor, when I was together with the deputies from all our Metropolitanate to thank him for the reestablishment of the Metropolitanate"), in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 320-322.

Transylvania, Banat and Hungarian territories went to the emperor to thank him for the support given to re-establish the Metropolitanate. During the audience of February 6, Emperor Francis Joseph I declared: "I am glad to greet as archbishop and metropolitan a man richly deserved for the throne and his country, in whom I as well as all the Greek-Eastern Romanians fully trust."<sup>22</sup>

#### **IV.2 The ecclesiastical autonomy; canonical-organizational attempts**

As it was pointed out<sup>23</sup>, after 1700, because of the unsuccessful attempt to annihilate the Orthodox Romanian Church of Transylvania, canonical-jurisdictional inter-Orthodox problems between the Romanians and Serbians came up. Naturally, the process of resolving these problems followed the path of their coming into existence.

The first necessary step was the decision of the Court to re-establish the Metropolitanate of Transylvania, by the imperial resolution of December 12/24, 1864.

The next step, a delicate one, was the division of the common funds and of the monasteries of Banat administrated by the Serbian hierarchy. The beginning of this separation *de facto* was, according to the above-mentioned imperial resolution of December 12/24, 1864, the congress summoned by the patriarch in February/March, 1865<sup>24</sup>. The debates concerning the church funds and the common monasteries started on February 20<sup>25</sup>, but the Romanian deputies left Karlowitz without coming to an agreement with the Serbians<sup>26</sup>, followed by the fact that the political power had to resolve this aspect.

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<sup>22</sup> G. BARITIU, *Parti alese din istoria Transilvaniei*, 296-297.

<sup>23</sup> See the chapter I.2.3 herein.

<sup>24</sup> Cf. P. BRUSANOWSKI, *Reforma constituțională*, 121.

<sup>25</sup> See Andrei Șaguna's letter to Jakob Rannicher, dated Karlowitz, March 2, 1865, in: *Spicuri și fragmente din corespondența lui Șaguna*, 488-492.

<sup>26</sup> Cf. A. ȘAGUNA, *Memoriile*, 96.

Because the political circumstances changed in a short time<sup>27</sup>, the cause fell under the competence of the Magyar Parliament of Pest “which gave an unfavourable decision for the Romanians by transferring the problem the civil courts.”<sup>28</sup> There followed a long press’ controversy between the Romanians and the Serbians, on this topic.<sup>29</sup>

Aware that the organizational problems of the Metropolitanate since it was re-established belong to the Church itself, Metropolitan Andrei, soon after his appointment, “using the valuable support of his hardened friend Jakob Rannicher, a counsellor of the government in Budapest”<sup>30</sup> got involved in the convocation of the mixed church synod of the whole metropolitan province that had to work out the church organization of the Metropolitanate. While he was at the synod in Karlowitz, in March 1865, Metropolitan Andrei asked Jakob Rannicher: “*strictly confidentially, please do draft: [...] 3. [...] a representation to the same presidium of the State Ministry [...]. By this we wish to ask to be allowed to hold a church assembly in which an organic regulation has to be made up, valid for the entire metropolitanate and its sole parts, then for the church and school funds and other confessional foundations; the regulation should be submitted to His Majesty to be sanctioned. This regulation would contain rules taken from the Church life which point out the path how the clergy and the laity - within a church discipline - can correspond to their confessional position and duty and can also enjoy their rights in the Church. In this respect I have elaborated a draft that will serve the assembly as a project and will regulate the debates. I will summon for this scope, together with the bishops of Arad and Caransebeș, thirty deputies from the*

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<sup>27</sup> The Austrian defeat by Prussia in the summer of 1866 and the internal agitation by the various nationalities of the empire determined Austria to conclude the Compromise of February 1867, known in German as the *Ausgleich*, which was signed by Emperor Francis Joseph of Austria and a Hungarian delegation led by Ferenc Deák, establishing the Dual Monarchy of Austria-Hungary. Under the new arrangement, the Magyar dominated government of Hungary gained near equal status to the Austrian government based in Vienna, while the common monarch government had responsibility for the army, navy, foreign policy, and customs union. “The Compromise of 1867, which signified a victory for Deák’s policy, brought Hungary a degree of autonomy unprecedented since 1526. Moreover, internal power was almost entirely retained by the Magyars.” (R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 351) Both Austria and Hungary had their own Prime Minister and parliament. While in Hungary the legislative and executive authority followed the pattern established in 1848, the non-Hungarian Lands acquired separate constitutional laws (*Staatsgrundgesetze*), the so-called December Constitution, which in essence retained the narrower Reichsrat and the diets of the February Patent of 1861. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 300.

<sup>28</sup> N. POPE`A, *Vechi`a Metropolia*, 322.

<sup>29</sup> *Ibid.*, 323.

<sup>30</sup> I. MATEIU, *Șaguna și restaurarea Mitropoliei*, 15. On the friendship Andrei Șaguna - Jakob Rannicher see the chapter III.2.8 herein.



*clergy and sixty laymen who have to be elected in the solitary church districts of the Archbishopric and of the Eparchies of Arad and Caransebeș.*”<sup>31</sup> By another letter addressed to the same recipient<sup>32</sup> Metropolitan Andrei Șaguna sent his “Project of Regulation” concerning the organization of the Metropolitanate of Transylvania, asking to examine its content and translate it into German. This was to be attached to “the representation” and presented the Aulic Chancellery. He mentioned that the last part concerning the right of supreme inspection of the Crown was not yet elaborate and that was the reason why he asked Rannicher to outline his option on this matter.<sup>33</sup>

The political changes prevented the display of the things according to the metropolitan’s plans, the first mixed metropolitan assembly being summoned only in 1868, after the promulgation of the Law of the Magyar Diet by which the Metropolitanate of Transylvania was recognized<sup>34</sup> in the new political frame: the Dual Monarchy of Austria-Hungary.

Because at the time when the Article of Law IX/1868 of the Diet of Pest was adopted the discussions between the Romanians and the Serbians concerning the division of common property were not finished, Metropolitan Andrei Șaguna’s intervention in the meeting of the House of Magnates was decisive for the division of common property too. He pointed out eloquently: *“I think that if we want to build the Church, we should not turn it into a leasing issue, but really believe that we have to preach about light, culture and freedom because, as Apostle Paul says, the Holy Ghost is freedom.”*<sup>35</sup>

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<sup>31</sup> Andrei Șaguna’s letter to Jakob Rannicher, dated Karlowitz, March 5, 1865, în: Spicuirii și fragmente din corespondența lui Șaguna, 492-496.

<sup>32</sup> This undated letter was published by Tschurl Max in the study “Biserica regnicolară evanghelică în ultimii 10 ani” (“The regnicolar Protestant Church in the last ten years”) in “Monografia Transilvaniei și Bănățului” (“The Monography of Transylvania and Banat”), published in 1929. Cf. I. MATEIU, Șaguna și restaurarea Mitropoliei, 17.

<sup>33</sup> Cf. *ibid.*, 17.

<sup>34</sup> See the chapter IV.3.2 and a copy of the German text of the Law in the annex XIV herein.

<sup>35</sup> “Cuventarea Escelenției Sele Andreiu Baronu de Siagun’a, Metropolitulu Româniloru din Transilvani’a si Ungari’a, rostită in siedinti’a casei Magnatiloru dela 16 Maiu a.c.” (“The speech of His Excellency, Baron Andrei of Șaguna, the metropolitan of Romanians of Transylvania and Hungary, given in the Magnates’ Hall on May 16, of this year”), in: Telegrafulu Romanu, No. 37, May 9/21, 1868, 145.

It was not until 1873, after many discussions, that the Metropolitanate of Transylvania received 230,000 florins and only the monastery Hodoş-Bodrog on the territory of the Eparchy of Arad.<sup>36</sup>

All that the metropolitan could do before 1868 - regarding the canonical organization of the Metropolitanate - was the consecration and enthronement, on October 31/November 12, 1865<sup>37</sup>, of the bishop of the newly established Eparchy of Caransebeş, in the person of Archimandrite Ioan Popasu<sup>38</sup>. The political situation blocked so much the favourable working on the ecclesiastical level, that by the end of 1867 Metropolitan Andrei was writing: “*‘Hermannstädter Zeitung’ brings the news today that the Romanian and Serbian deputies met at a conference, where they discussed the solution of their ecclesiastical cause in the parliament. [...] I wish that the deputies produce a valuable thing, because their Church is still a slave.*”<sup>39</sup>

The autonomy of the Metropolitanate toward the state became final in 1868. By the imperial resolution of October 1, it was disposed the return of all the eparchial funds - which until then were in the administration of the state bodies - in the direct administration of the Metropolitanate, on the basis of its right of autonomy.<sup>40</sup>

Some of the Church matters of the Orthodox Romanians of Transylvania - older than hundred and fifty years - were resolved like that, as a result of a strong and strained struggle. Beginning with 1864, Andrei Şaguna showed in a private letter to his secretary to be tired of so much work, but confident of the success, owing to his conviction that his cause was just, and to “the weapons” he relied upon all his life: his belief in God, morality and knowledge. “*I am tired of fights and I wish peace. But that won’t be easy. Finally, I put all my trust into the Almighty Who holds in his hands the destiny of all peoples. If He gives us courage, we will come off victorious, because we*

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<sup>36</sup> Cf. M. PĂCURARIU, 100 de ani de la reînfiinţarea Mitropoliei Ardealului, 836.

<sup>37</sup> Cf. “Ioan Popasu către Andrei Şaguna” (“Ioan Popasu to Andrei Şaguna”), dated Caransebeş, October 3, 1865, in: A. ŞAGUNA, Corespondenţa I/1, 158-159.

<sup>38</sup> Archimandrite Ioan Popasu of Braşov had been elected by the bishops’ synod (made up, at that time, only of Metropolitan Andrei Şaguna and the bishop of Arad) and confirmed by the imperial resolution of July 6, 1865.

<sup>39</sup> Andrei Şaguna’s letter to Jakob Rannicher, dated Sibiu, November 11, 1867, in: Spicuiuri şi fragmente din corespondenţa lui Şaguna, 515-519 here 518-519.

<sup>40</sup> Cf. N. POPE`A, Vechi`a Metropolia, 345.

*have not had until now but two weapons, moral and intellectual ones. Therefore each of us must improve in his call, because we have enemies as many as the grains of sea sands and we can make them inoffensive only by morality and knowledge; that way can we enjoy the right that is owed to us, as a moral and political individuality.*

*If you are to know about progress of my life, you should know that such principles led me. But it could not be otherwise. The places where I defeated and the persons of high rank who I met are known. And the door was opened in front of me and I was listened to, because morality and knowledge are not easily ignored or despised.”<sup>41</sup>*

The posterity of the most famous metropolitan of Transylvania did not forget to be grateful for his gain, which was achieved with much sacrifice, after many endeavours: “In the house of humility of the Eparchy of Sibiu he handled and spoke like an old aristocrat, a great lord, a prince of the most glorious Church. It seems that his authority created a respected past the eparchy where he ruled. And thus, in 1864 he became metropolitan and won the [ecclesiastical] independence from the foreigners.”<sup>42</sup>

### **IV.3 The legal recognition of the Metropolitanate of Transylvania**

#### IV.3.1 The end of the constitutional experimentation in Transylvania: the Diet of Cluj of November/December 1865

On July 30, 1865, the State Minister Anton von Schmerling<sup>43</sup> resigned, which practically meant the end of the parliamentary life of the Romanians of Transylvania, initiated by the political organization of this minister. Within the context of the growth of Magyar pressures “the first sacrifice asked by the reconciliation of the Magyars with the dynasty [Habsburg dynasty] was the autonomy of Transylvania, followed, after two

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<sup>41</sup> “Andrei Șaguna către Nicolae Popea” (“Andrei Șaguna to Nicolae Popea”), dated Sibiu, November 15, 1864, in: A. ȘAGUNA, *Corespondența I/1*, 175-176.

<sup>42</sup> N. IORGA, *Oameni cari au fost*, 47.

<sup>43</sup> About this minister, a Transylvanian contemporary of him gave testimony: “The most good-willing toward our Metropolitanate among the ministers of the time was Minister Schmerling. And if we are to confess the truth, we have to highly thank him for the reestablishment of our Metropolitanate.” N. POPEA, *Vechi`a Metropolia*, 293-294.

years, by the tearing of the national equal right articulated in the laws of the Diet of Sibiu.”<sup>44</sup>

At the same time, “the sudden changes in the system of the régime had fallen over the Romanians of Transylvania like a thunderbolt and surprised them - in their dizziness - so much, that most of them lost their head. Their situation resembled a shipwreck, out of which everybody - in order to be saved - grasped the other by the hair and hence, instead of redeeming themselves, the more inevitably sank together.”<sup>45</sup>

Around the major changes the monarchy was preparing the emperor called to Vienna several political leaders among whom Metropolitan Andrei Şaguna, who was received in audience on August 22, 1865.<sup>46</sup> The metropolitan avoided to give any explanation on this audience.<sup>47</sup> It is suggested that this was one of the least enjoyable of his audiences at the Court. Within the confused political context Metropolitan Andrei was writing to the Greek Catholic metropolitan: “*In such a fatal position and under such critical circumstances, for me nothing is more useful than to hold attention so that the honour of the nation and its just cause should by no means be compromised, or at least not out of the bishops’ fault.*”<sup>48</sup>

On the other hand, the fact that the Orthodox metropolitan but not the elected representatives of the Romanians were informed by the emperor himself irritated more the intellectuals, who considered him anyway insufficiently nationalist and sold to the Austrians: “Şaguna’s actions, real and imagined, finally brought their long-smouldering resentment of episcopal leadership to an open break.”<sup>49</sup> Neither the Greek Catholic metropolitan could accept that the Orthodox metropolitan was preferred instead of him: “From now on, the inflamed spirits raised against Şaguna either secretly or openly in the newspapers, like ordered by someone [...]. The old Şuluţiu, hurt in his heart of hearts because he had been ignored by the emperor [...], did not want to face Şaguna in

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<sup>44</sup> I. LUPAŞ, *Vieaţa*, 274.

<sup>45</sup> I. PUŞCARIU, *Notiţe*, 84.

<sup>46</sup> *Ibid.*, 85; Cf. A. ŞAGUNA, *Memoriile*, 97.

<sup>47</sup> Cf. I. LUPAŞ, *Vieaţa*, 275.

<sup>48</sup> “Nr. 230, Sibiu 11/23 Septemvre 1865” (“No. 230, Sibiu, September 11/23, 1865”), in: A. SIAGUN’A, *Scrisori apologetice*, 3-4 here 4; “Andrei Şaguna către Alexandru Sterca Şuluţiu” (“Andrei Şaguna to Alexandru Sterca Şuluţiu”), dated Sibiu, September 11/23, 1865, in: A. ŞAGUNA, *Correspondenţa I/1*, 453-454 here 453.

<sup>49</sup> K. HITCHINS, *Orthodoxy and Nationality*, 149.

Sibiu.”<sup>50</sup> Metropolitan Andrei fully felt the tough blows: “*for me, this year was very fatal; because some of the Romanian intelligentsia, ahead of them Șuluțiu attacked me in our newspapers.*”<sup>51</sup>

Not long after, by the rescript of September 1, 1865, the emperor dissolved the democratic Diet of Sibiu and summoned another one, on November 20/December 2, at Cluj, an aristocratic Diet which had to deal with one issue only: to revise the legal article concerning the union of Transylvania with Hungary.<sup>52</sup> This last Diet in the history of Transylvania<sup>53</sup> “*was summoned based on the Transylvanian law of 1848*”<sup>54</sup>. Only eleven Romanians obtained seats of deputies as compared with forty-six in the previous Diet of Sibiu; Metropolitan Andrei Șaguna was called by emperor (as “Regalist”) together with other thirty-three persons, out of whom only nineteen came.<sup>55</sup>

The first action of the Romanian deputies was to meet in a national conference “in order to come to an agreement on how they will act in the Diet”<sup>56</sup>. The passivists led by George Barițiu militated the Romanians should not join the Diet - likewise the Magyars acted toward the Diet of Sibiu - hoping to prevent the union between Transylvania and Hungary from taking place. The activists led by Andrei Șaguna militated in favour of the Romanians representativeness in the Diet of Cluj in order to defend the rights obtained at Sibiu.

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<sup>50</sup> I. PUȘCARIU, *Notițe*, 86-87.

<sup>51</sup> A. ȘAGUNA, *Memoriile*, 98.

<sup>52</sup> See I. PUȘCARIU, *Notițe*, 84-85; R. KUTSCHERA, *Landtag und Gubernium*, 140.

<sup>53</sup> The rebellion of the Magyars against the Austrian rule (1849) did not succeed, but during the reign of Austrian absolutism (1849-1860) there was no room for the Transylvanian Diet. The attempt of 1863/1864 to establish a Diet consisting of all three nationalities represented in Transylvania, namely the Hungarians (together with the Hungarian-speaking Szeklers), the Saxons and the Romanians failed after one year (1865) because of a boycott by the Hungarian deputies. As emperor Francis Joseph could not rule his multi-ethnic state without the help of the Magyars, he finally agreed to the unification of Transylvania with Hungary (1868). With this decision the Diet (Local Parliament) of Transylvania ceased to exist, because all future laws had to be decreed by the Hungarian Parliament in Budapest. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 371.

<sup>54</sup> A. ȘAGUNA, *Memoriile*, 97.

<sup>55</sup> Cf. I. PUȘCARIU, *Notițe*, 90.

<sup>56</sup> *Ibid.*, 91.

In the Diet, the Magyars' rigid attitude made the Romanian deputies think of presenting a memorandum to the emperor, declaring the Diet illegal, asking for a new one that had to be called based on a liberal electoral law.<sup>57</sup>

The debate of this memorandum was made in the meeting of the Diet of November 20/December 2, 1865. In his speech at that meeting, Metropolitan Andrei Şaguna underlined the fact that the Diet was illegal, as it was based on the legislation before 1848 and as such was not constitutional and consequently, unable to deliver lawful documents. He conceived a motion, asking to be sent an address to the Court in order to approve the electoral law processed by the Diet of Sibiu in 1863-1864 and then, the Diet of Cluj should be summoned according to the electoral law of Sibiu. Finally, the Diet of Cluj so summoned could be able to revise the legal article of 1848, concerning the union between Transylvania and Hungary. Until then, the Romanian representatives in the Diet of Cluj decided to remain active and go, if necessary, even to Pest to defend the national rights by the separate vote.

Among other things, the metropolitan expressed his conviction that in the Orthodox Church the constitutionalism is at home, more than in the political life of the country: *"I confess that I am a reserved man; [...] I do not go to balls or the theatre, I always sit by my books. Yet, I can perceive certain things and I have a thorough knowledge on the constitutional life, because although I am a new citizen inside constitutionalism - being until now excluded from it [as an Orthodox and Romanian] - this exclusion concerned only the political constitutionalism. In my Church the constitutionalism is so perfect that I would recommend it to the whole world! So I have learnt about the virtue of constitutionalism in my Church; as for political constitutionalism, it is said to be equal rights, but I have not felt it. [our reference][...] Because I am a partisan of the constitutionalism, I came to this Diet, following my own conviction, for to prove that I am acquainted with constitutionalism, legality and their consequences. Well, we are in the Diet, but I feel obliged to confess that it is not made up according to the law, constitutional, and therefore I am not its friend; and I feel obliged to confess too, that I do not like to follow the inconsistency on the constitutional realm."*<sup>58</sup> As his secretary

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<sup>57</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 154. See also G. BARITIU, *Parti alese din istoria Transilvaniei*, 347.

<sup>58</sup> Andrei Şaguna's speech in the Diet of Cluj of 1865, stenographical notices, in: *Telegraful Român*, No. 92, year XIII, Sibiu, November 21/December 3, 1865, 366.

later remarked, “we might say that Metropolitan Şaguna had reached the culmination of his political maturity, at this Diet.”<sup>59</sup>

On December 2/14, 1865, the Magyar Diet of Pest opened<sup>60</sup>, and on December 13/25, Emperor Francis Joseph gave an answer to the address of the Diet of Cluj, inviting the people of Transylvania to designate their representatives for the Diet of Pest, elected according to the electoral law of 1848.<sup>61</sup> He promised that the already approved laws “would not be changed at all”<sup>62</sup> and suspended the Diet of Transylvania for an unlimited time. Because he has never summoned it again, this document marked the end of the legal historical period of Transylvania under the Habsburg reign, which had started with *Diploma Leopoldinum* in 1691; Transylvania ceased *de facto*<sup>63</sup> to exist as an autonomous principality.<sup>64</sup>

#### IV.3.2 The Article of Law IX/1868 of the Diet of Pest

Until June 1866, a committee of the Diet of Pest had already worked out a project concerning the relationships between Hungary and Austria, with some concessions made to the Austrian Empire from the part of the Magyars.<sup>65</sup> The same year, by the

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<sup>59</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 297.

<sup>60</sup> “Der für den 10. Dezember 1865 nach Pest berufene Landtag wurde am 14. Dezember vom Kaiser persönlich eröffnet. In seiner Thronrede stellte sich Franz Joseph auf den Boden der für König und Nation staatsrechtlich gleich verbindlichen Pragmatischen Sanktion und stimmte der magyarischen Forderung nach Wiederherstellung der territorialen Integrität des Stephansreiches in seiner durch die Achtundvierziger-Gesetze erreichten Gestalt zu.” F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 220.

<sup>61</sup> Cf. G. BARITIU, *Parti alese din istoria Transilvaniei*, 347-348.

<sup>62</sup> *Ibid.*, 348.

<sup>63</sup> Transylvania ceased *de jure* to exist as an autonomous principality, on December 1868. After the Austro-Hungarian dualism was inaugurated, in 1867, Emperor Francis Joseph finally promulgated the Law of the unification of Transylvania with Hungary, on December 9, 1868. See the Magyar text and the German translation of the Law, in: R. KUTSCHERA, *Landtag und Gubernium*, 359-369.

On the other hand, the Hungarian Parliament dissolved the Transylvanian National Government (Das Landesgubernium), too, by the Law XLVIII,7/1868. The government of Cluj worked until 30 April 1869, when it ceased to exist, after 178 years. Cf. R. KUTSCHERA, *Landtag und Gubernium*, 310.

<sup>64</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 155.

<sup>65</sup> Cf. I. LUPAȘ, *Vieața*, 282; F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 220-221.

peace of Prague, of August 23, the Habsburg dynasty entered under the hegemony of Prussia and by the peace of Vienna, of October 12, it lost Venice.<sup>66</sup>

Under the influence of these events, the dispute between the passivists and the activists in Transylvania became extremely. The distinctive sign of the activists was their wish to act within the existing system. Metropolitan Andrei Şaguna was the promoter of the idea that the most effective way to defend the Romanians' rights was their full participation in the political life of the state, in the new form it was shaping.

The culmination of the conflicts among the Romanian political leaders was reached in 1866, at Alba-Iulia, when in a private conference of the political leaders gathered to participate in the general assembly of "The Transylvanian Society for the Romanian Literature and the Culture of the Romanian People" (ASTRA) Metropolitan Andrei Şaguna was charged to present a new memorandum to the emperor. But this memorandum was neither conceived, nor sent. Instead, it was decided that George Bariţiu and Ioan Raţiu go to the emperor with a petition signed by 1,000 people. This thing made behind the Orthodox metropolitan "broke totally the Romanians' solidarity, re-made whole so many times and sustained with many difficulties, producing again hate and groups among Romanians and discord between the two metropolitans."<sup>67</sup> This final break was followed by many controversies and poisoned articles in the newspapers against the Metropolitan Andrei, "discomfort and other many troubles"<sup>68</sup>: *"The hate some Romanian Uniate intellectuals show me in 'The Transylvania's Gazette' and even in 'The Romanian' - an offensive paper from Bucharest - is for me the most bitter cup, which of course, I have not deserved [...]. And thus, a controversy started between 'The Romanian Telegraph' and the other Romanian newspapers. See, my dear friend, this is the reward of the world!"*<sup>69</sup> At the same time, the metropolitan felt obliged to notice the involution of the political situation in the empire: *"the misfortune lies in the existence of a conservative old government. And so, we are where*

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<sup>66</sup> "Am 3. Juli [1866] wurde die österreichische Nordarmee aber bei Königgrätz geschlagen, und damit änderte sich die Stellung der Krone und der Regierung den Völkern der Monarchie gegenüber entscheidend. Daß der Tag von Königgrätz für die Gestaltung Mitteleuropas, ja vielleicht der ganzen Welt ein Tag des Unheils war, läßt seine Rückwirkungen auf den Bereich der Innenpolitik der Monarchie fast ohne Gewicht erscheinen." F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 221.

<sup>67</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 305.

<sup>68</sup> *Ibid.*, 305.

<sup>69</sup> Andrei Şaguna's letter to Jakob Rannicher, dated December 22, 1866, in: *Spicuri și fragmente din corespondența lui Şaguna*, 506-509 here 508.



*we started, because here are normative not the persons, but the principles. I emphasize my opinion with the assertion that our Church and school matters are discussed at Buda, still following Count Thun's principles, so what is the use of the changing of the persons?"*<sup>70</sup>

On February 17, 1867, the reestablishment of the Magyar constitution of 1848 - The April Laws - was proclaimed<sup>71</sup>, followed on February 18, by the appointment of a responsible Prime Minister, in the person of Count Julius Andrassy. Baron József Eötvös - Andrei Şaguna's friend from his youth - was again appointed minister of public worship and instruction.<sup>72</sup>

In 1867 Metropolitan Andrei took part in the Diet of Pest, and on June 8, in the coronation ceremonies of the emperor as king of Hungary, as ratification act of Dualism.<sup>73</sup>

The reconciliation of the Magyars with the dynasty of Habsburg being sealed like this, Schmerling's system of centralization was buried for ever. The beginning of Dualism meant not only the loss of the Romanians' rights pledged by the laws of the Diet of

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<sup>70</sup> Ibid., 509.

<sup>71</sup> Through the Compromise of 1867, the former revolutionaries - German and Magyar - became de facto "peoples of state", each ruling half of a twin country united only at the top through the King-Emperor and the common Ministries of Foreign Affairs and of War. Each half of the country had its own Prime Minister and parliament.

Aside from the common affairs, the organization of legislative and executive authority in Hungary after the Compromise of 1867 followed the pattern established in 1848. The Diet turned into a parliament with the Table of Magnates (renamed the Upper House) - remaining partly hereditary and partly appointive - and the Lower Table (now called the House of Deputies) of 453 members being elected on the basis of a highly restrictive franchise. The special status of Transylvania and the Military Border ended, because The April Laws had brought Transylvania under Hungarian rule. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 351 et seq.

<sup>72</sup> The fact that Baron József Eötvös appreciated much the Metropolitan Andrei is reported by a former royal school inspector Rethy, Eötvös's collaborator during this ministry: "It was 1869, when the minister of public worship and instruction Baron Eötvös sent me as school inspector in Hunedoara county, and he told me like that: 'go to Metropolitan Şaguna first and bow before him. But take care how you appear before him, because that is a man who is so brainy, as half of the people in the country putted together.'" I. LUPAŞ, *Şaguna şi Eötvös*, 20.

<sup>73</sup> Cf. I. PUŞCARIU, *Notiţe*, 114-118.

"Am 8. Juni 1867 wurden Franz Joseph und Elisabeth unter ungeheurem Jubel des Volkes und mit dem bekannten prunkvollen, das Auge blendenden Zeremoniell gekrönt. Am 12. Juni sanktionierte der gekrönte König dann den für den Ausgleich grundlegenden Gesetzartikel XII..." F. WALTER, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500-1955*, 225.

Sibiu of 1863-1864<sup>74</sup>, the shattering of the dream of Transylvania's autonomy<sup>75</sup>, for which they had fought two decades, the end of Vienna's political competences in Transylvania's matters, but also a regrettable hatred among the leaders of the Romanians and a total break up of their actions in the years to come.

The Article of Law of 1863, by which the Romanian nation and its confessions, the Greek Eastern (Orthodox) and Greek Catholic Churches, were recognized as equal with the other nations and confessions of the country<sup>76</sup> being cancelled, the legal status of the Orthodox became ambiguous. Metropolitan Andrei had to deal again with it. The legal frame of the Metropolitanate of Transylvania had to be completed by moving its cause from Vienna to "the new and uncertain front of Budapest"<sup>77</sup>.

The passivists had won more and more adherents<sup>78</sup> owing to an unrealistic assessment of the successes the Magyars had obtained by this kind of policy, or the Croatians' resembling actions. But Metropolitan Andrei Şaguna remained constant in his opinion that the Romanians must be active under any circumstances or political context, in order not to lose the ground obtained with so much difficulty.

At the general assembly of "The Transylvanian Society for the Romanian Literature and the Culture of the Romanian People" (ASTRA) from Cluj, on August 27, 1866, the metropolitan was removed ungratefully as a president of the association he himself had founded and led from the very beginning.<sup>79</sup> Thus "seeing himself abandoned by the whole nation - not only on the political, but also on the literary level - he retired in his ostracism within the Church domain, to try to redeem at least it from the dangers it was threatened by, as much as it would be possible."<sup>80</sup>

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<sup>74</sup> The laws of the Diet of Transylvania of 1863-1864 were annulled by a royal rescript. Cf. A. ŞAGUNA, *Memoriile*, 99.

<sup>75</sup> The Nationality Law of 1868, drafted by Eötvös failed to satisfy the wish of the non-Magyar nationalities for territorial autonomy. Moreover, Magyar became the official and state language to be used in the parliament, the courts, the higher education. Other languages were admissible in churches, county and municipal governments, and primary and secondary schools. Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 351.

<sup>76</sup> See the chapter III.3.3 herein.

<sup>77</sup> I. MATEIU, *Şaguna și restaurarea Mitropoliei*, 30.

<sup>78</sup> See K. HITCHINS, *Orthodoxy and Nationality*, 166-172.

<sup>79</sup> Cf. A. ŞAGUNA, *Memoriile*, 98; I. PUŞCARIU, *Notițe*, 118-119.

<sup>80</sup> I. PUŞCARIU, *Notițe*, 119.

The year 1868 marked the end of Andrei Şaguna's political public activity. He took part for the last time in the meetings of the Diet of Pest, pleading for the legal recognition of his Metropolitanate at the same time at Court, at the new Magyar Ministry of Public Worship, but especially "at his school mate and childhood friend, Baron Eötvös"<sup>81</sup>.

As a result of Metropolitan Andrei's insistency, a special Law came up, presented by the minister of public worship<sup>82</sup> at the meeting of the parliament of March 30, 1868, and after "serious debates"<sup>83</sup> this Law was passed and also sanctioned by the emperor, on June 24, 1868.<sup>84</sup> That was the legal recognition, in the Dual Monarchy of Austria-Hungary, of the existence of the Metropolitanate of Transylvania, equal with that of Karlowitz.<sup>85</sup> The law confirmed the faithful' right to decide and regulate in church assemblies - called congresses - their ecclesiastical, school and economic matters; to administrate them independently, by their own bodies.<sup>86</sup> It was disposed the convocation of the Romanian church congress without delay, and at the same time established the number of deputies of the congress.<sup>87</sup> The church autonomy within the state - an important principle of Andrei Şaguna's church organization<sup>88</sup> - was infringed only by the Crown's right of "supreme inspection"<sup>89</sup>.

Although accustomed to laws which theoretically granted equal corporate rights with other confessions, but which practically were either not respected or annulled, the Transylvanian Orthodox showed this time more confident.<sup>90</sup> Yet, "this law (IX/1868) had a fatal part for the Romanians. The Greeks of Braşov and Pest sharing the churches

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<sup>81</sup> Ibid., 119. "Enlightened and liberal spirit, enjoying a great authority in the government, Eötvös was a warm supporter of the equal rights of all nationalities and consequently, he tried to be more prudent and generous, in his sphere of action." I. MATEIU, Şaguna şi restaurarea Mitropoliei, 30.

<sup>82</sup> The fact that the Romanian Orthodox Metropolitanate was legally recognized, on the one hand out of Andrei Şaguna's insistency, on the other hand because of Eötvös' bright and generous ideas, determined the blame of József Eötvös from his ultra-nationalist co-nationals. See I. LUPAŞ, Şaguna şi Eötvös, 16-17.

<sup>83</sup> I. PUŞCARIU, Notiţe, 119.

<sup>84</sup> See "IX. Gesetzartikel. In Angelegenheit der griechisch-orientalischen Gläubigen", in: [Ungarische] Landesgesetz-Sammlung für die Jahre 1865/67 und 1868, 81-83; "Lege in cauz'a celoru de confesiunea greco-orientală" ("Law concerning the faithful of Greek-Eastern confession"), in: N. POPE`A, Vechi`a Metropolia, 328-329. See a copy of the German version in the annex XIV herein.

<sup>85</sup> Ibid., § 2 of the Law.

<sup>86</sup> Ibid., § 3, 4 of the Law.

<sup>87</sup> Ibid., § 6 of the Law.

<sup>88</sup> See the chapter VI.2.3 herein.

<sup>89</sup> Cf. § 3 of the Law.

<sup>90</sup> See Telegraful Român, No. 26, year XVI, Sibiu, March 30/April 11, 1868, 101.

with the Romanians went to Court since the last century (1786), because they wanted the hegemony of Greek language and to remove the Romanians from church; these litigations were not over yet and made the existence of Romanians and Greeks together unbearable. That is why the Greeks found in the incident of separation of the hierarchical structures of the Romanians from the Serbians the most welcome occasion to emancipate from both Romanians and Serbians.”<sup>91</sup> The fruit of their insistence was the article 9 of the Law, by which the church autonomy was pledged to those Orthodox who were neither Serbians, nor Romanians.<sup>92</sup> The follow up of this article was that the Greeks of Pest did not receive anymore in their church community any Romanian, and then, drawing on their side some of the Macedo-Romanians they withdrew the Romanian language from church, beginning with February 6, 1888; the Greeks of Braşov obtained - by trial - the removing of the Romanians from the church they shared with, without returning the big fortune which the Romanian prince George Brâncoveanu had left to this church, in 1823.<sup>93</sup>

Through the Article of Law IX/1868 was reached the legal recognition of the Transylvanian Orthodox in the new political context - the first fundamental desiderata of Andrei Şaguna’s political involvement. After that he gave up the second desideratum - to obtain corporate rights for the Romanian nation - withdrawing from politics: “As a result of all those [misunderstandings and conflicts with the Romanian politicians], Metropolitan Şaguna, deeply disgusted, withdrew completely from political national realm, to the ruin of the Romanian cause and the bitterness of all sensitive Romanians.”<sup>94</sup>

Although he withdrew disappointed from politics, Metropolitan Andrei remained unique in his art of getting involved in the social-political issues: “none of its [the Church’s] leaders, either Uniate or Orthodox, ever enjoyed the preeminent position in national affairs that Şaguna had held between 1848 and 1865.”<sup>95</sup>

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<sup>91</sup> I. PUŞCARIU, *Notiţe*, 121-122.

<sup>92</sup> “Baron Eötvös’ idea was, since that time, to create a Greek hierarchy, believing that in Hungary there were about forty up to fifty thousands Greeks ...” I. PUŞCARIU, *Notiţe*, 122.

<sup>93</sup> Cf. I. PUŞCARIU, *Notiţe*, 144.

<sup>94</sup> N. POPEA, *Archiepiscopul şi Metropolitul*, 305.

<sup>95</sup> K. HITCHINS, *Orthodoxy and Nationality*, 172.

A last attempt of some political leaders to co-opt him again in the leadership of the national cause, in the years 1871-1872 - to which the metropolitan responded well, signing even the convocation of a national congress which was planned to be held at Sibiu, in August 1872<sup>96</sup> - failed because of confessional splits, supported and well speculated by the Magyars: Ioan Vancea, the new Greek Catholic metropolitan refused to sign the appeal<sup>97</sup>, because he had started some reconciliation negotiations with the Magyars.<sup>98</sup>

#### **IV.4 The canonical organization of the Metropolitanate of Transylvania**

##### IV.4.1 The first church congress of autumn 1868; “The Organic Statute”

According to the §6 of the Article of Law IX of 1868, Metropolitan Andrei Șaguna organized the first Romanian church congress<sup>99</sup> at Sibiu, between September 16/28 and October 7/19, 1868, in order to constitute and organize the metropolitan province. Ninety elected deputies from all the eparchies of the Metropolitanate, thirty priests and sixty laymen gathered.<sup>100</sup>

In the opening speech of this congress, the metropolitan underlined once more the importance and necessity of the mixed synods within Church: *“Because His Majesty appointed our metropolitan only once, at the foundation of our Metropolitanate, without to indicate in advance about the legal future modality to elect the metropolitan or the bishops, therefore assigned me together with the bishops, to suggest such a modality of the future elections. We, the bishops, approached this subject at the synod*

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<sup>96</sup> See “Andrei Șaguna către Ioan Vancea” (“Andrei Șaguna to Ioan Vancea”), dated Sibiu, July 14, 1872, in: A. ȘAGUNA, Corespondența I/1, 540-541.

<sup>97</sup> See “Ioan Vancea către Andrei Șaguna” (“Ioan Vancea to Andrei Șaguna”), dated Blaj, July 17, 1872, in: A. ȘAGUNA, Corespondența I/1, 541-542.

<sup>98</sup> Cf. I. LUPAȘ, Importanța Mitropolitului Andrei Șaguna în istoria noastră națională, 1032.

<sup>99</sup> See Protocolul Congresului Național Bisericesc român de religiunea greco-răsăriteană conchiamat în Sibiu pe 16/28 septembrie 1868, Sibiu 1868; P. BRUSANOWSKI, Reforma constituțională, 125 et seqq.

<sup>100</sup> In the petition from 1862 to the emperor there were proposed forty clergy and sixty laymen, maybe because at that date the representatives of Bukovina to the congress were also taken into consideration; but after 1864, only thirty clergy are proposed and this number was also approved by law. Cf. I. MATEIU, Șaguna și restaurarea Mitropoliei, 15. Cf. also “Adresa deputațiunii române către împăratul prezentată la 3/15 Martie 1862” (“The Romanian deputies’ address presented to the emperor on March 3/15, 1862”), in: II. PUȘCARIU, Metropolia, colecția de acte, 200-205.

*of August 16, 1865, and found out unanimously that we do not have the authority to deal with this subject without the intervention of the representatives of the clergy and the faithful from all over the Metropolitanate; consequently, only a Romanian congress is authorized to legally approach this. [...]*

*If we sometimes used to impose something, we did this just because of the circumstances, having the conviction that our clergy and faithful will be content, but in no case did we do that with the intention to ascertain or establish in our church, school or foundation matters any hierarch's absolutism. Because of this, I have to underline that if we have sometimes used imposed matters, these are not to be understood strictly as imposed; because something which is imposed always means an arbitrary measure in the Church. I did not take any arbitrary measure concerning the issue of the reestablishment of the Metropolitanate, but being prevented by the circumstances to consult our men, I worked alone in the sense of the positive Church's laws. And thus, I have sometimes worked alone to accomplish our ecclesiastical wish, as canons dictated me, but not to introduce and establish any hierarch's absolutism, which I have always opposed to ...*<sup>101</sup> At the same time, faithful to the anti-clerical and anti-authoritative conception on Church and its administration, he assigned out of his own initiative major administrative competences to the congress, making it responsible regarding the future destiny of the Metropolitanate: *"From now on, I entrust the responsibility regarding the future destiny of the Church in the hands of this congress and the following ones ..."*<sup>102</sup>

In the third meeting of the congress, of September 18/30, the "Project of Regulation" conceived by Andrei Șaguna himself meant to organize the Metropolitanate was submitted again<sup>103</sup> to a committee of the congress, made up of twenty-seven people - three clergy and six laymen from each eparchy.<sup>104</sup> Then, beginning with the eighth meeting, of October 3/15, until the eleventh meeting, of October 6/18, the congress itself debated the changes which the committee made at Andrei Șaguna's "Project of Regulation", and thus was born "The Organic Statute" - the church constitution of the

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<sup>101</sup> Protocolul Congresului Național Bisericesc...1868, 4 et seqq.

<sup>102</sup> Ibid., 10.

<sup>103</sup> See the chapter III.3.4 herein.

<sup>104</sup> Protocolul Congresului Național Bisericesc...1868, 41 et seqq. ; N. POPE'A, *Vechi'a Metropolia*, 344.

Metropolitanate of Transylvania. “In the twelfth meeting of October 7, the debate on ‘The Organic Statute’ was finished and it was agreed unanimously that after its approval by His Majesty it will become final and turned into practice; until then it should be used provisory in each parish and protopopiate.”<sup>105</sup>

Aware of the content and the essential provisions of his “Project of Regulation”, conceived on a thorough research of the Tradition and Orthodox canons, Metropolitan Andrei warned cautiously the members of the congress: “*Take care, gentlemen, not to ruin things, instead of setting them in order; I draw your attention that this great concern I had the honour to present like a project is many years old, not just one day old!*”<sup>106</sup> It is exactly this warning that has not been taken into consideration, and the changes brought to the project “precisely in which they differ from it, do not correspond to the nature of such a thing, to the canons and church institutions.”<sup>107</sup>

This happened because: “The ambitious and frustrated national leaders who were present had no intention of letting such an opportunity to achieve their goals slip by. Moreover, many of them were opponents of political activism and were eager to use the congress to demonstrate their dissatisfaction with ecclesiastical leadership of the nation’s affairs. It quickly became evident from the debates that they had a very different conception of the nature of the Church and the significance of its role in society than did Şaguna. Şaguna believed that the clergy should stand at the head of all the constituent organs of the Church, from the village parish to the synod of bishops, as a consequence of the powers conferred upon it by both ancient custom and canon law. He contended that certain matters such as the purity of dogma and of ritual and the dispensing of ecclesiastical justice were exclusive prerogatives of the clergy.”<sup>108</sup>

One of the changes<sup>109</sup> aimed at the consistorial assessors (bishop’s councillors): according to the metropolitan’s project the consistorial assessors had to be selected

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<sup>105</sup> N. POPE`A, *Vechi`a Metropolia*, 346.

<sup>106</sup> *Protocolul Congresului Național Bisericesc...* 1868, 12.

<sup>107</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 56.

<sup>108</sup> K. HITCHINS, *Orthodoxy and Nationality*, 245.

<sup>109</sup> At length on the changes of Andrei Şaguna’s “Project of Regulation” made by the church congress of 1868 see the chapter V.3.2 herein.

among the priests and appointed by the respective bishop<sup>110</sup>, while the committee of the congress suggested that laymen should also be part of the consistory and they should be elected by the synod, not appointed by the bishop. Moreover, the committee made the consistory's decisions compulsory for the bishop. "He tried in vain to convince the congress that this institution would be against the canons and practice of the Church; all his explanations were useless, the committee insisted and the congress approved it by a majority of votes, thus the metropolitan remained in the minority. [...] the metropolitan retired very upset and one could believe that this incident would bring the dissolution of the congress itself."<sup>111</sup> The misunderstandings between the metropolitan and the laymen consisted in the different fundament and motivation of their activity within Church: "The lay majority of the congress showed little knowledge of church history and even less appreciation of the subtleties of canon law. The motivation behind their actions sprang chiefly from liberal political ideas, as was evident from their eagerness to transplant the practices of Western European parliamentary democracy into Orthodox Church government. Their aim was to use the Church to carry out their ambitious social and political program."<sup>112</sup>

At the end of this congress "Metropolitan Şaguna, tired of fighting, traveling and work, older but also totally disgusted with the misunderstandings among the Romanians, began to travel less, to retire; even so, retired, he continued to serve the common good."<sup>113</sup>

The project of statute approved by the congress was submitted to the Ministry of Public Worship of Pest, to be sanctioned. Minister József Eötvös set up a board meant to check it, led by himself. The board read and analyzed excerpt by excerpt everything. Nine points were subject to change, but the Romanian referents preferred that they should be rectified by the ministry, without sending the whole statute for a new check up to a future Romanian congress. Their decision proved to be providential, because the minister died<sup>114</sup> soon. Because of the old friendship between József Eötvös and Andrei

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<sup>110</sup> Cf. A. Baronu de SIAGUNA, Proiectu de unu Regulamentu, §115, §116.

<sup>111</sup> N. POPEA, Archiepiscopul și Metropolitul, 57.

<sup>112</sup> K. HITCHINS, Orthodoxy and Nationality, 246.

<sup>113</sup> N. POPEA, Archiepiscopul și Metropolitul, 57.

<sup>114</sup> József Eötvös died on February 2, 1871. Cf. I. LUPAŞ, Şaguna și Eötvös, 25.



Şaguna, but also owing to the respect and authority József Eötvös enjoyed in the Andrassy government, he passed the statute easier beyond Andrassy's vigilant eye.<sup>115</sup> Later, when the Serbian Orthodox conceived such a statute, "it was censured by Andrassy, who - when he was told by referent Mandics that the Orthodox Romanian bishops are elected by the eparchial synod - would not believe it, and - when he was shown the respective paragraph from 'The Organic Statute' of the Romanians, sanctioned by His Majesty - exclaimed: 'poor Eötvös! He had before his eyes only American institutions, and things go not like this in America, either!'"<sup>116</sup>

On May 28, 1869, "The Organic Statute" proposed by the Romanian church congress, with the changes introduced by the Magyar Ministry of Public Worship was sanctioned by the emperor.<sup>117</sup> After that Metropolitan Andrei Şaguna began to turn it into practice and organize the entire metropolitan province following the provisions of the statute.

#### IV.4.2 The mixed arch-eparchial synod and the second church congress of 1870

According to "The Organic Statute" the mixed eparchial synod was held annually and the metropolitan congress gathered every three years. "*This year [1870] on Thomas's Sunday*<sup>118</sup>, we held the eparchial Synod, the first one according to 'The Organic Statute'."<sup>119</sup> Then, between 1/13 and 16/28 October 1870, the second church congress was held.<sup>120</sup> Like at the previous congress, misunderstandings and controversies among the participants came up, some of them insisted to be taken steps in order to reject the

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<sup>115</sup> See I. PUŞCARIU, *Notițe*, 135-136.

<sup>116</sup> *Ibid.*, 136. Baron Eötvös's progressive humanistic ideas - still as a minister of public worship in Batthyány's government he wished to support the progress for all the inhabitants from Hungary and from the territories administrated by it at that time, irrespective of nationality and language - have always constituted his "weak" side, criticized on any occasion by the Magyar ultra-nationalists. From the time of his first mandate as a minister of public worship, a law project dates back to 1848 meant to organize the people's educational system, which in § 13 stipulated that the state was obliged to support school in one and the same village for each confession separately, if the confession has at least fifty schoolchildren. He considered Hungary a state like the others within the monarchy, contradicting Julius Andrassy, his friend's nationalistic vision. Cf. I. LUPAŞ, *Şaguna și Eötvös*, 9-14.

<sup>117</sup> At length on "The Organic Statute" see the chapter V.3 herein.

<sup>118</sup> It is the first Sunday after Easter, in the Orthodox Church.

<sup>119</sup> A. ŞAGUNA, *Memoriile*, 100.

<sup>120</sup> See P. BRUSANOWSKI, *Reforma constituțională*, 132-135.

changes of “The Organic Statute” made by the Magyar Ministry of Public Worship.<sup>121</sup> On the other hand, an article of “The Romanian Telegraph” of July 1869 had reported that the changes made in the text of “The Organic Statute” by the Magyar Ministry are regrettable, but it thought that it were well to accept this statute how it was, because “any constitutional life does not start with the perfection”<sup>122</sup>.

A very bothering incident for the metropolitan occurred during this congress, when he drew the attention on some disciplinary-moral misbehaviours some priests, even protopopes were accused of, by the faithful: “Look! Some of the deputies felt hurt by the fatherly words addressed by the venerated metropolitan, although he had uttered the pure truth; they pulled the alarm, laid the blame on the metropolitan in a private conference, asking that he should be punished, because he hurt the clergy! [...] Metropolitan Şaguna was upset in his heart of hearts and when he came out of the meeting, he tore his testament and threw it into the fire!”<sup>123</sup> The metropolitan himself was describing the event sadly: *“Well! Another thing concerning my person: the commission referred about the necessity of a reduction of the clergy and mentioned that the clergy’s culture won’t be enough, if their number is not reduced. I showed the great lack of clergy’s culture, because only through culture its morality will be accomplished; and I added that among them there are priests who are drunkards, or accustomed to play cards, or attend the pub, and only few who endeavour to make progress for their own culture, I could count them on my ten fingers. And listen, when I stepped out of the meeting Borlea attacked me that I have blamed all the priests, which does not suit me, in short he faced and defied me before the others, and together with Măcelariu worked and sent to me a deputation in order to withdraw my words, but the deputation stayed outside; the following day, in public meeting, Borlea and Măcelariu imputed me those words and I dissimulated do not understand them, because I stay away from furious people. What is your opinion on this? The archdiocesan synod and the metropolitan congress watch every occasion to dishonour me.”*<sup>124</sup>

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<sup>121</sup> Ibid., 134-135.

<sup>122</sup> See “Statutul Organicu” (“The Organic Statute”), in: *Telegrafulu Romanu*, No. 54, year XVII, Sibiu, July 10/22, 1869.

<sup>123</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 58.

<sup>124</sup> Andrei Şaguna’s letter to Ioan Cavalier of Puşcariu, dated November 21, 1870, in: II. PUŞCARIU, *Din anii ultimi*, 409-411 here 410-411.

Another contemporary of Metropolitan Andrei Şaguna, namely Ilarion Puşcariu wrote also, in 1909, about the episode in which the metropolitan tore the testament, but in a different way: “Metropolitan Şaguna, since the beginning of his ministry in the Transylvanian Church, observing the total lack of material resources looked for sources of church revenues adding kreutzer by kreutzer and thus he set up the actual arch-eparchial funds, which in 1870 did not look like a considerable fortune so that one might spend easily without jeopardizing the whole. In spite of all this, in the arch-eparchial synod of 1870 the first thing for some interested lay members of the synod was to create more posts of school referents in the consistory - with big salaries - for school matters which until then were solved by the president and secretary of the consistory; but it took several years of development until more referents were suddenly needed. The metropolitan saw on the one hand that not the necessity of two referents, who were maybe welcome, led the majority of the synod when it decided to create two posts, but rather the ardent desire of some members of the synod to occupy those posts; on the other hand he saw that the funds created by him are jeopardized by assigning too heavy tasks, even unbearable. He also noticed that his good advice - to take care of the funds created with so much difficulty - was not taken into account. Consequently, he got so upset, that when he arrived home from the synod he tore his testament which he had written a few months before. From here it followed that he wrote another testament and, as a sign of his distrust toward the ecclesiastical bodies, he took his personal funds - one bearing his name and another on behalf of the printing house - from the direct administration of those bodies, and gave them to some special boards, a thing that, without these explanations, many cannot explain it themselves.”<sup>125</sup>

Even if the tearing of the will is presented as being done in two different circumstances, it is to believe that both events were real, owing to the fact that those who reported were their contemporaries. It is an extra proof that Metropolitan Andrei Şaguna had enough reasons to be disillusioned, after such a titanic work for the benefit of the Church, because many understood by the Church just an institution behind which one could live profitably.

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<sup>125</sup> Il. PUŞCARIU, *Din anii ultimi*, 406-407.

His state of mind by the end of 1870 is best described by himself, in a letter to a friend - Ioan Cavalier of Pușcariu (Ilarion Pușcariu's brother) - : *“I supposed that you would get astonished because I wanted to have that ABC [of the Hebrew language]; but if you knew my life which thousands of unpleasant circumstances influence on, and if you knew how those fatal circumstances work upon me, then you would recognize by yourself that the study of languages is the only comfort which sustains my spirit in a normal state, I could say which keep away the spiritual despair, which is the most terrible disease. Believe me, there have been two weeks since the congress, and I still feel the arrows and wounds in my heart bleeding, which the congress provoked. I can add that the congress renewed the wounds made by the [arch-eparchial] synod. And when I think of the arch-eparchial synod near coming, believe me that I am taken by the creeps. [...] It is true that I have good and capable men, but I also have malicious and envious ones, who can make the good and active ones get paralyzed.”*<sup>126</sup>

One of the theology professors and collaborators - Ilarion Pușcariu - remembered: “In the year 1868 Metropolitan Șaguna was in perfect health, he was vigorous, in spite of his grey hair which showed early in his life, he was agile and extremely in love with hard work. That year Metropolitan Șaguna participated and spoke with great success in the House of the Magnates [of Pest], insisting on the separation from the Serbian hierarchy, on the autonomy of the Romanian Orthodox Church in Hungary and the legal recognition of the Metropolitanate; that year he also led the Romanian church congress, where ‘The Organic Statute’ of our Church was worked out. A big difference in his state of mind and the condition of his body was noticed after two years, in the arch-eparchial synod and the church congress of 1870.”<sup>127</sup>

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<sup>126</sup> Andrei Șaguna's letter to Ioan Cavalier of Pușcariu, dated November 21, 1870, in: II. PUȘCARIU, *Din anii ultimi*, 409-411 here 409.

<sup>127</sup> II. PUȘCARIU, *Din anii ultimi*, 414-415.

#### IV.5 The last years of Andrei Şaguna's life

During the summer of 1871, the symptoms of the disease (hypertrophy and dilation of the heart)<sup>128</sup> which will be fatal to the metropolitan became acute. The fact that Metropolitan Andrei Şaguna knew and lived in the spirit of the canons is shown by the episode of re-writing of his testament, as a result of the sharp outbreak of the disease. His secretary Nicolae Popea narrated: "He had become highly perplexed at the beginning of his disease, because of the will which he was lacking. He said: '*For God's sake, I do not have a will and the canons ask for, in the case of a bishop!*' Suddenly, very frightened, eyes in tears, he began to re-write his will."<sup>129</sup>

On August 21/September 2, 1871, the clergy and faithful organized the anniversary of the twenty-five years since Andrei Şaguna began his activity in the Church of Transylvania.<sup>130</sup> Invited to take part in the jubilee, the metropolitan gave a noble answer: "*The truth is that the Almighty was willing, by His mercy only, to redeem and set free our Church and nation from the condition of slave, in the days of my pasturing; but from here I cannot deduce any consequence meant to glorify my name, so that a jubilee of twenty-five years to be held in my honour. You know, gentlemen! That all the gifts and the grace come from heaven, from our Father of the Light<sup>131</sup>; from this liturgical prayer I draw the consequence that we have to bring our thanks during all the days of our lives to God and to His Majesty, because we were freed from political bondage and church slavery. If it is your wish to celebrate the jubilee of twenty-five years of my working within the Church of Transylvania, appreciating you as free and independent men I do not stop you, only please, receive my sincere discovery that along all these twenty-five years I avoided any applause; hence, I will avoid the ovations of this day too and stay alone, in fasting and prayer, to thank God and His Majesty for all*

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<sup>128</sup> Cf. A. ŞAGUNA, *Memoriile*, 100.

<sup>129</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 59.

<sup>130</sup> Cf. A. ŞAGUNA, *Memoriile*, 100. More on this subject see at A. GRAMA, *Jubileul din august 1871, ca un cântec de lebedă*, 110-118.

<sup>131</sup> Cf. James 1.17: "Every good endowment and every perfect gift is from above, coming down from the Father of lights with whom there is no variation or shadow due to change." This is also a part of a liturgical prayer in the Orthodox Church - the prayer behind the ambon from the Saint John Chrysostom's Liturgy.

*the good graces which were shed upon our Church and the Romanian nation along these twenty-five years.*”<sup>132</sup>

So he reserved the right to be absent from the festivities, retiring at Rășinari. There he wrote the dedication from the beginning of the collection of canons which he had just finished to prepare: *“Dedicated by the author to the faithful of the Romanian Metropolitanate of Greek-Eastern confession in Hungary and Transylvania.*”<sup>133</sup>

In the same year, 1871, the ancient Romanian Academic Society, the present day Romanian Academy made the venerable metropolitan a member of honour, in the meeting of September 7.<sup>134</sup>

As his disease grew worse, this made him declare in a private letter by the end of the year that he was already prepared for death: *“My physical strength diminishes. Today I have celebrated in the inner chapel, because I had to ordain a priest and I was so weak that I could hardly finish the Holy Liturgy. It does not matter; I am prepared and I quietly wait for what has to come.*”<sup>135</sup>

The same collaborator Ilarion Pușcariu wrote: “Metropolitan Șaguna’s disease progressed and aggravated successively, following his restless and unquiet state of mind which he had experienced in the last years of his life, owing to the continuous, undeserved attacks, especially in the Romanian newspapers, from those most of whom owed him thanks. Even those who were appointed in high positions by Șaguna, in their ignorance not to say wickedness, believed to bring a national sacrifice if they hurt him too.”<sup>136</sup>

Because of the often attacks of his disease, in the last two years of life Metropolitan Andrei wrote little, the last literary composition of him being the pastoral letter on Easter, of the year 1872. Yet, “at the time he also led the church administration until he

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<sup>132</sup> “Iubileulu de 25 de ani” (“The Jubilee of twenty-five years”), in: *Telegraful Român*, No. 53, year XIX, Sibiu, July 4/16, 1871.

<sup>133</sup> A. Baronu de SIAGUN’A, *Enchiridionu*, III.

<sup>134</sup> Cf. I. NAGHIU, *Aspecte ale activității culturale a Mitropolitului Șaguna*, 294.

<sup>135</sup> Andrei Șaguna’s letter to Ioan Cavalier of Pușcariu, dated December 17/29, 1871, in: II. PUȘCARIU, *Din anii ultimi*, 411.

<sup>136</sup> II. PUȘCARIU, *Din anii ultimi*, 414.

felt short of powers. In the official matters he was not the man of clichés, he was very prompt. Three words written with the ballpoint pen by him, accompanied by an A. [from Andrei], they were a more valuable conclusion than one on papers beautifully written, because what he wrote was written and it was not changed and everybody could rely on.”<sup>137</sup> He “regularly went to church, during the Lent too, on Wednesday and Friday, to the Liturgy of the Presanctified Gifts<sup>138</sup>. He stood in the pew, showing a majestic appearance. He noticed the tiniest mistakes made during the celebration; he invited at home the one who made mistakes and kindly showed him the ritual.”<sup>139</sup>

The discontentedness did not avoid him till the moment of his death. Thus, in February 1872 the metropolitan was writing: “*I assisted at the clerical exams and I was content only with Ilarion’s [Ilarion Pușcariu, Ioan Cavalier of Pușcariu’s brother] professorship; the others were horrible; I found out there is no harmony among the theological studies, because the professors are not acquainted with the knowledge of our theology and are not inspired by the teachings of our Church, which are classical and which no other Church can be proud of; I am sure that they treat their profession as an accident and spend their time outside professorship trying to make profits and get money.*”<sup>140</sup>

In the summer of 1872, Metropolitan Andrei Șaguna made another attempt to bring the Romanians to a political agreement, urging them to be active and send deputies in the Diet of Pest. To this purpose he sent to Blaj representatives to talk to the Greek Catholic metropolitan; at Sibiu was held a political conference and was published a brochure entitled “The Romanian cause in 1872” (“Cauza română la anul 1872”) in which the starting and directing points of the political situation were made clear; “but

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<sup>137</sup> Ibid., 408.

<sup>138</sup> The Liturgy of the Presanctified Gifts consists of vespers, with special prayers together with a portion of the Divine Liturgy, omitting its most important part, the consecration of the Holy Gifts; and the third, sixth and ninth hours (with the typical Psalms) are used in a particular manner at the beginning. It received its present form from St. Gregory the Great, Bishop of Rome in the sixth century. It became a Canon at the Quinisext Council in 692 AD. Today, it is used in the Orthodox Church only during the Great Fast, on Wednesdays and Fridays; on Thursday in the fifth week of Great Fast; and on Monday, Tuesday and Wednesday in Passion (Holy) Week. It is anyway a longer Liturgy as compared to the other two used in the Orthodox Church. Cf. Liturgy of the Presanctified Gifts, in: The Oxford Dictionary of Byzantium, vol. 3, 1714-1715.

<sup>139</sup> Il. PUȘCARIU, *Din anii ultimi*, 416.

<sup>140</sup> Andrei Șaguna’s letter to Ioan Cavalier of Pușcariu, dated February 5, 1872, in: I. LUPAȘ, Șaguna și Eötvös, 24.

everything was in vain”<sup>141</sup>. Overwhelmed by illness, the metropolitan could not turn into practice a last attempt to improve the political situation: an appeal to the people. “He strongly wished to see his people once more, that people he so much loved, to speak to it from the bottom of his heart, to show it the real state of things and at the same time the root of evil, being sure of the good result of his enterprise.”<sup>142</sup>

During the sessions of the mixed arch-eparchial synod of 1873, on a visit paid by the members of the synod at his residence, although he was so ill, the metropolitan wished to assure once more his collaborators about the importance of “The Organic Statute”, and about their responsibility for keeping and correct turning into practice of this church constitution. He drew their attention “on the beautiful church constitution we have, recommending it to be taken care of by the synod, so that it should not be damaged, but stay pure and keep its good name together with the faithful of our Church, from the young to the old ones, in front of other confessions and nations of the state.”<sup>143</sup>

And so, between great pains and hard sufferings, Metropolitan Andrei Şaguna resisted until Saturday, June 16/28, 1873, 6 o’clock p.m. According to the testimony of those present, his last words addressed to the eparchial vicar were: “*I’m ready, Nicolae! God’s will be done, everything is in order. Peace be with you all, do not quarrel!*”<sup>144</sup> At the end of a life full of events, he had a feeling of accomplishment, and also the one of his own value; the words addressed to one of those close to him, during his illness, remained famous: “*When you come back from my tomb, you will know who you have lost!*”<sup>145</sup>

By his will, the metropolitan expressed the wish to be buried in a simple way: “*My funeral shall be done before noon, without pomp, music and sermon. [...] my confessor alone shall celebrate the Holy Liturgy and accomplish the funeral service ...*”<sup>146</sup>

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<sup>141</sup> Il. PUŞCARIU, Un episod din viaţa Societăţii seminariale “Andrei Şaguna” in Sibiu, 395.

<sup>142</sup> N. POPEA, Arhiepiscopul şi Metropolitul, 307.

<sup>143</sup> Ibid., 62.

<sup>144</sup> Ibid., 60. See also H. S. BORDEAN, Din amintirile unor foşti teologi şagunieni, 91.

<sup>145</sup> N. POPEA, Arhiepiscopul şi Metropolitul, 63.

<sup>146</sup> Andrei Şaguna’s testament, in: N. POPEA, Arhiepiscopul şi Metropolitul, 178-187 here 179.



Simplicity of the funeral did not exclude grandiosity, on the contrary.<sup>147</sup> The general sympathy he had always enjoyed manifested itself on the occasion of his death too, by the common spontaneous mourning, by the ringing of the bells in all the churches of Sibiu, by the participation of people from all the social classes of Sibiu in his funeral, as well as by the obituaries in all the newspapers.<sup>148</sup>

One of the periodicals of Sibiu, the German newspaper “Hermannstädter Zeitung” was writing: “he understood the spirit of his time and the spirit of his time understood him; we cannot do anything else, than express and place on the great man’s grave a wreath of veneration and glory. Our paper is a German one. The Romanians, who have lost in Șaguna more, see in our deep condolences that they are not the only ones able to understand and value his real and historical greatness.”<sup>149</sup>

On the jubilee of twenty-five years since he became emperor of Austria, in December 1873, Emperor Francis Joseph I expressed his regret for the Transylvanian metropolitan’s death, naming it “a multilateral loss”<sup>150</sup>.

In 1908 Ioan Lupaș - the first Andrei Șaguna’s biographer in the twentieth century - questioned rhetorically: “And where would the Orthodox Romanian Church of Transylvania be without him? If the redeeming work of this lawgiver ‘strong in deed and word’ had missed, who could have ‘turned away the offenders, scolding them’, who would have put together ‘those destined to perish’, direct and advise them in order to reach the redemption? It would have been difficult to find another one, able to accomplish so brightly a so important historical, religious, cultural and political call, as was Șaguna’s call.”<sup>151</sup>

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<sup>147</sup> “Einfach und grossartig, wie fast alle Schöpfungen Schagunas, war auch sein Leichenzug. Leider war der Schöpfer dieses letzten Werkes nicht mehr Zeuge desselben. Wäre es das gewesen, so hätte er wahrgenommen, dass in diesem Leichenzuge sich noch eine Macht geltend machte, die kein Programm und keine Disposition verträgt. Diese Macht hat im Herzen ihren Sitz und heisst Verehrung und Liebe. Sie bildete gewissermassen das Erdreich und die Atmosphäre, welche den abstrakten Programmpunkten ein so ergreifendes Leben gab.” Hermannstädter Zeitung, Hermannstadt am. 3 Juli 1873, Nr. 154, 731. Cf also G.-L. ITTU, Presa sibiană de limbă germană la moartea lui Andrei Șaguna, 130-131.

<sup>148</sup> Cf. N. POPEA, *Archiepiscopul și Metropolitul*, 348; G.-L. ITTU, *Presa sibiană de limbă germană la moartea lui Andrei Șaguna*, 131.

<sup>149</sup> Hermannstädter Zeitung, Hermannstadt, am 30. Juni 1873, Nr. 151, 718.

<sup>150</sup> Cf. *Telegrafulu Romanu*, No. 95, year XXI, Sibiu, November 25/December 7, 1873, 362.

<sup>151</sup> I. LUPAȘ, *Anastasia Șaguna*, 37.

## V. ANDREI ȘAGUNA'S CANONISTICAL WORKS AND CHURCH CONSTITUTION

Even if the memory of the Metropolitan Andrei has become “diluted” in people’s consciousness<sup>1</sup>, and the Communist ideology has created an “Andrei Șaguna myth” rather than a real image of his personality, the theological memory has preserved two of his immortal deeds, still visible nowadays: the reestablishment of the Metropolitanate of Transylvania<sup>2</sup> and its organization through “The Organic Statute”.

However, the principles of the entire church organization dealt especially in Șaguna’s canonistical works are not known and appreciated at their true value. The metropolitan’s dimension as a canonist, hardly negligible, cannot be said to have overwhelmed the Romanian ecclesiastical spirit of the last sixty years at least. This happened in spite of the fact that “through his works on canon law Șaguna introduced the study of canon law in Romania, familiarized both the clergy and the lay people with the canons, of which they had barely heard before.”<sup>3</sup> Moreover, “for those who are acquainted with Șaguna’s activity it is certain that the great restorer of the Transylvanian Metropolitanate is one of the best canonists of the Orthodox Church. An undisputed master of Serbian, Greek and Russian canonistical literature, Șaguna was able - also with the support of his historical knowledge - to have access to the genuine spirit of the origin and evolution of the Universal Church and to understand, through a deep intuition, which must be the apostolic character of the Church institutions and to what canonical extent the ecclesiastical organization can be susceptible of a normal evolution.”<sup>4</sup>

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<sup>1</sup> J. SCHNEIDER, *Der Hermannstädter Metropolit*, 227: “Die Werke und Reformansätze Andrei Șagunas sind heutigen orthodoxen Priestern und Laien so gut wie unbekannt; sogar die Studenten der Hermannstädter orthodoxen Fakultät, die den Namen Șagunas trägt, kennen kaum die Lebensdaten ihres berühmtesten Metropoliten.”

<sup>2</sup> The reestablished metropolitanate and implicitly Andrei Șaguna’s memory were publicly invoked, maybe more than ever, in different tones, in the Romanian mass-media of all orientations, during the heated debate generated by the sudden synodal decision of November 4, 2005, of dividing the Transylvanian Metropolitanate (the follower of Andrei Șaguna’s Metropolitanate) into the Metropolitanate of Sibiu and Covasna-Harghita with the residence at Sibiu, and the Metropolitanate of Cluj, Alba-Iulia, Crișana and Maramureș with the residence at Cluj-Napoca.

<sup>3</sup> N. DOBRESCU, *Mitropolitul Andrei Șaguna*, 569.

<sup>4</sup> I. MATEIU, *Cercetări privitoare la Constituția Bisericii Ortodoxe din Ardeal*, 35.

The Romanian historian Nicolae Iorga stated: “Still, his books have no lasting value, nor is there any beauty that one could find in them. [...] Şaguna’s writings were meant to constitute the first learning elements for the common people and represent a strong urge rather than a monument, coming from his high position.”<sup>5</sup> This is an opinion that undoubtedly proves to be superficial when approaching Andrei Şaguna’s works, out of which those related to canon law are far from being “the first learning elements for the common people”.

Nicolae Iorga’s statement can have a point only as far as the accessibility but not shallowness of Şaguna’s works is concerned, caused not by the fact that the scholarly bishop found it hard to write pretentiously (on the contrary!) but by his wish to write usefully, to make himself understood not only by the élite, but by all the faithful, because “he was preoccupied not only with the scholarly aspects, but even more with the moral ones.”<sup>6</sup>

As a matter of fact, Andrei Şaguna considered the canonistical writings as a part of the Church teachings and, implicitly, of his duties as a bishop, stating in the preface of the manual of canon law, from 1854: “*Among the many duties I have undertaken as a bishop is the one to preach the Word of the Lord and the institutions of the Holy Fathers, as well as to observe the Law of God and teachings of the Church in holiness, and by so doing to advance the true spirit of our Orthodox Church for the eternal redemption of all those who were entrusted to my episcopal guidance.*”<sup>7</sup>

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<sup>5</sup> N. IORGA, *Oameni cari au fost*, 45.

<sup>6</sup> R. CÂNDEA, *Andrei Şaguna*, 186.

<sup>7</sup> Andreiu Baronu de ŞAGUNA, *Elementele dreptului canonic*, <sup>2</sup>1855, III.

## V.1. Andrei Şaguna's canonistical works

### V.1.1 Brochures on the reactivation of the Metropolitanate of Transylvania

Andrei Şaguna's first writings which imply to a certain extent canon law are, in fact, brochures meant to justify, firstly historically and secondly canonically, the legitimacy and necessity to reactivate the old Metropolitanate of Transylvania: "Pro-Memory" ("Promemorie"), "Addendum to Pro-Memory" ("Adaos la Promemoria") and "Memorial" ("Memorialu").<sup>8</sup>

"Pro-Memory"<sup>9</sup> is a brochure meant to convince the Viennese upper circles about: the existence of an autonomous (independent) archbishop and metropolitan of the Romanians within the Habsburg Empire, having his see at Alba-Iulia (former Bălgrad)<sup>10</sup>; that metropolitan had three suffragan bishops, namely those of Maramureş, Silvaş and Vad; he was elected by the priests; the canonical authority of the metropolitan see of Alba-Iulia was the Patriarchate of Constantinople, whose patriarch or representative - the Wallachian metropolitan of Targovişte - was in charge of consecration and enthronement of the metropolitan of Bălgrad. Andrei Şaguna supports his statements with information taken from: Alexandru Geanoglu Lesviodax - the author of a church history -, Engel Pál - the author of six volumes on the history of Hungary -, and Petru Maior - another author of a church history. The brochure ends with a demand to the emperor to allow the convening of an assembly (synod) of the representatives of Romanians of Transylvania, Bukovina, Timișoara, Arad and Werschetz in order to gain their historical right to autonomy, based on canons. However, it did not receive any answer from Court.<sup>11</sup> The Serbian patriarch was handed the brochure also, but "*Karlowitz showed no interest in that*"<sup>12</sup>.

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<sup>8</sup> See also N. CHIFĂR, Apărarea dreptului istoric privind restaurarea Mitropoliei Transilvaniei, 138-143.

<sup>9</sup> See Andreas SCHAGUNA, Promemoria über das historische Recht der nationalen Kirchen-Authonomie der Romanen morgendländ. Kirche in den k. k. Kronländern der österreich. Monarchie, Wien 1849, 15 pages; Andreiu ŞAGUNA, Promemorie despre dreptul istoric al autonomiei bisericeşti naţionale a românilor de relegea răsăriteană în ces. reg. provinciilor ale Monarhiei Austriace, Sibiu 1849, 15 pages (Cyrillic letter).

<sup>10</sup> In this brochure Andrei Şaguna dealt especially with the metropolitan see of Alba-Iulia, but he also mentioned the episcopal see of Bukovina.

<sup>11</sup> Cf. M. PĂCURARIU, 100 de ani de la reînfiinţarea Mitropoliei Ardealului, 819.

<sup>12</sup> A. ŞAGUNA, Memoriile, 28.

A year later, “Pro-Memory” was completed with a new brochure, “Addendum to Pro-Memory” (“Adaosu la Promemoria”), printed in Romanian<sup>13</sup> and German, at Sibiu. This brochure brings new evidence about the age of the Transylvanian Metropolitanate by reproducing four diplomas awarded by the Hungarian kings László V (1440-1457)<sup>14</sup> and Mátyás Hunyadi (1458-1490)<sup>15</sup>. Those proved the existence of an archbishop and metropolitan over the Orthodox Romanians in Transylvania ever since the fifteenth century. There follows a short history of the Transylvanian Orthodox Church in the sixteenth and seventeenth centuries, ending with a list of the Transylvanian bishops from 1783 up to Andrei Șaguna, but containing “some gaps and chronological shortcomings”<sup>16</sup>.

On April 20, 1851, Bishop Andrei Șaguna addressed the Ministry of Public Worship a new “Memorial” (“Memorialu”), written in German and printed at Vienna, during the Easter holiday of the conference of the Orthodox bishops of the monarchy. Later, it was published in Romanian too, at Sibiu.<sup>17</sup> He added now canonical arguments to the historical ones in the first two brochures, with the purpose to sustain the reestablishment of the Metropolitanate. Then he showed how the old metropolitan see of Alba-Iulia (Bălgrad) perished, how the Orthodox Romanians came to be under the jurisdiction of the Serbian Metropolitanate, and which the relationships between the two ethnic groups during the eighteenth century were.

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<sup>13</sup> Andreiu ȘAGUNA, *Adaosu la Promemoria despre dreptul istoric al autonomiei bisericești naționale a românilor de relegea răsăriteană în ces. reg. provincii ale Monarhiei Austriace, Sibiu 1850*, 23 pages (Cyrillic letter).

<sup>14</sup> Utószülött László/Ladislaus Posthumus (1440-1457), Archduke, king of Hungary as László V, king of Bohemia as Ladislav; duke of Austria.

<sup>15</sup> Mátyás Hunyadi/Matthias Corvinus (1458-1490), King of Hungary (1458) and Bohemia (1469).

<sup>16</sup> M. PĂCURARIU, *100 de ani de la reînființarea Mitropoliei Ardealului*, 820.

<sup>17</sup> See Andreiu Baron de ȘAGUNA, *Memorialu, prin care se lămurește cererea Românilor de religiunea răsăriteană în Austria pentru restaurarea Mitropoliei lor din punctu de vedere a Ss. Canoane. Așternutu c. r. Ministeriu pentru Cultu și Instrucțiune 1851, Sibiu 1860*, 23 pages (Cyrillic letter) (=Andreas Freiherr von SCHAGUNA, *Denkschrift, wodurch die Bitte der Romanen des orientalischen Glaubens in Oesterreich um Herstellung ihrer Metropole aus dem Gesichtspunkte der Kirchensatzungen beleuchtet wird. Dem k.k. Ministerium für Kultus und Unterricht überreicht 1851, Hermannstadt 1860*). Cf. also: “Memorial, prin care se lămurește cererea românilor de religiunea răsăriteană în Austria pentru restaurarea mitropoliei lor din punct de vedere a ss. canone, - așternut c. r. ministeriu pentru cult și instrucțiune în 1851, de Andreiu Bar. de Șaguna, episcopul bisericii răsăritene în Ardeal”, in: Il. PUȘCARIU, *Metropolia, colecția de acte*, 88-97 (Latin letter).

### V.1.2 Systematic canonistical works without “Compendium”

Besides the above-mentioned printed petitions with a canonistical character, Andrei Șaguna wrote also systematic canonistical works. These are the following, in a chronological order: “Useful Information about Marriage Affairs” (“Cunoștințe folositoare despre trebile căsătoriilor”), “The Elements of Canon Law” (“Elementele dreptului canonic”), “Anthonismos”, “Compendium”, and “Enchiridion”.<sup>18</sup>

“Useful Information on the Marriage Affairs” (“Cunoștințe folositoare despre trebile căsătoriilor”)<sup>19</sup> is the first Orthodox book of matrimonial law in Romanian. It was edited in the same year as “The Elements of Canon Law” (“Elementele dreptului canonic”) and is organized in thirty-six paragraphs; it sprang from a pastoral necessity, namely the “empirical, often arbitrary character of the rules applied in the important field of marriages”<sup>20</sup>.

After reading this short informative guide on Orthodox matrimonial law, it is quite clear that the regulation of marriage in the Transylvanian Orthodox Church in the Austrian Empire had much more in common with the current marriage regulation of Latin and Oriental Catholic Churches<sup>21</sup>, as the matrimonial law of the Romanian

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<sup>18</sup> Some authors include the “Manual of Pastoral Study” (Andrei Baronu de SIAGUN’A, Manualu de studiu pastoralu, Sibiu 1872 7+VII+302 pages, Latin letters) in the category of canonistical writings too. It was devised dictated by practical needs, for the use of the Orthodox clerical schools and of the priests. There was a similar work of pastoral theology in Romanian, relatively recent, written by Archbishop Melchisedec Ștefănescu of Huși (Melchisedec ȘTEFĂNESCU, Teologia Pastorală, București 1863, 280 pages), but that was “not practical, being too general and theoretical”. Cf. A. CONSTANTINESCU, Andrei Șaguna, canonist, 441.

<sup>19</sup> See Andrei Barone de ȘAGUNA, Cunoștințe folositoare despre trebile căsătoriilor, spre folosul preoțimei și al scaunelor protopopești, Sibiu 1854, 43 pages (Cyrillic letter); Andreas Freiherr von SCHAGUNA, Nützliche Kenntnisse in Sachen der Ehe, zum Gebrauche der Seelsorger und der erzpriesterlichen Richterstuhle, Hermannstadt 1855, 32 pages.

See also the Romanian version in Latin letters at I. MARGA, Mitropolitul Andrei Șaguna, autorul primei cărți de drept al familiei la români, 283-293.

<sup>20</sup> A. CONSTANTINESCU, Dreptul canonic în opera lui Andrei Șaguna, 873.

<sup>21</sup> Of course, there was then, as there is today too, the difference concerning the celebrant of the sacrament, which in the Orthodox comprehension can be only the bishop or the priest (a deacon cannot celebrate a wedding in the Orthodox Church), whereas in the Roman Catholic widespread comprehension the celebrants of the sacrament are the wedded couple themselves, in the presence of a bishop, a priest, a deacon or even a layman.

See cc. 1055-1165 Codex Iuris Canonici (CIC) and cc. 776-866 Codex Canonum Ecclesiarum Orientalium (CCEO).

Orthodox Church nowadays<sup>22</sup> has. The whole problematic on marriage affairs was later resumed in “Compendium”, chapter II, section 7: “On the Mystery of Marriage”.<sup>23</sup>

The protopope - as a follower of the chorepiscopos<sup>24</sup> of the primary Church - and the protopopiate see - as his administrative organ - had in Andrei Şaguna’s church organization the competence of the court of first instance in issues of matrimonial law.<sup>25</sup> As these competences are annulled by the present-day regulation of the Romanian Orthodox matrimonial law<sup>26</sup>, the institutions of protopope and protopopiate see have lost much of the importance they had in the nineteenth century.

The manual “The Elements of Canon Law” (“Elementele dreptului canonic”) was first edited at Sibiu, in 1854, being re-edited a year later.<sup>27</sup> Although it has gaps, the work is a first attempt of writing a manual of canon law, so necessary to the theological educational system that was in the process of organization at Sibiu. Metropolitan Nifon

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<sup>22</sup> Nowadays, the Romanian Orthodox Church has a system of regulating marriages according to which the marriage contract is exclusively a state problem. What is the competence of the Church is the marriage as a sacrament. See I. FLOCA, *Drept canonic ortodox, legislație și administrație bisericească*, vol. II, 67-111.

<sup>23</sup> See A. Baronu de SIAGUN`A, *Compendiu*, 55-86.

<sup>24</sup> A chorepiskopos (Χορεπίσκοπος), or chorbishop - “country bishop” - is an extinct office of clergy in the Church. He was a type of assistant bishop who presided over a community in the rural countryside. The chorepiskopoi, who were probably originally endowed with full episcopal ministry, became gradually subject to their urban colleague, the city bishop. Although their number increased in the fourth century, their sacramental and administrative functions were gradually restricted. Thus, the local synod of Antioch (341) decreed that they could only ordain anagnostai, subdeacons and exorcists; deacons and priests could be ordained only with the city bishop’s permission (canons 8, 10). Although ultimately unsuccessful, canon 57 of the local synod of Laodikeia (343/364?) even attempted to replace them with itinerant priests (periodontai). Finally, the Seventh Ecumenical Council (Nicaea II - 787) restricted their episcopal prerogatives almost entirely by legislating that they could not ordain even anagnostai without episcopal consent (canon 14). Soon thereafter chorepiskopoi disappeared. Cf. Chorepiskopos, in: *The Oxford Dictionary of Byzantium*, vol. 1, 430.

<sup>25</sup> Cf. A. Barone de ŞAGUNA, *Cunoștințe folosite despre trebile căsătoriilor*, 32-37.

<sup>26</sup> The matrimonial competences of the judicial ecclesiastical forums have been abolished; the bishop does not delegate any of his powers anymore to any other church organ, as far as marriages are concerned, but he takes care personally of the problems of matrimonial church law (marriage licences are among the most frequent problems). Cf. I. FLOCA, *Drept canonic ortodox, legislație și administrație bisericească*, vol. II, 103-104.

<sup>27</sup> See Andreiu Baronu de ŞAGUNA, *Elementele dreptului canonic al bisericii drept-credincioase răsăritene spre întrebuițarea preoțimei, a clerului tânăr și a creștinilor*, ediția II., Sibiu 1855, XXI+183 pages (Cyrillic letter). About the two “canonical” reasons (the paragraphs 66 and 90 of the first edition, on the second marriage of the priests, respective the exclusion of the nuns as altar servers) which determined the (corrected) re-editing of this book after a year see N. BOCŞAN, I.-V. LEB, *Corespondența lui Andrei Şaguna cu arhierii din Moldova și Țara Românească*, 79-80; M. STAN, *Frauenrollen und Frauenrechte in der Rumänisch-Orthodoxen Kirche*, 126-127.

of Wallachia had published in 1853 a “Manual of Church Law Code” (“Manual de pravilă bisericească”), but that was “only a short form of the universal canons”<sup>28</sup>.

“The Elements of Canon Law” were born “*of the conviction that the best way to spread the systematic and essential words related to the Church affairs is a manual which comprises all the ecclesiastical life. We have therefore realized the necessity of a book for the clergy and faithful to see what and how our Church is; because the unpropitious times have erased many things, and have destroyed many things, and have made for forgetting many things!*”<sup>29</sup> The subsequent improvement of this manual will lead to the systematic and complete work of 1868, the “Compendium”.

Friedrich Heinrich Vering<sup>30</sup> considers this work of Andrei Şaguna to be a processed version of Jeftimije Jovanović’s book “The Principles of Canon Law of the Old Orthodox Eastern Church” (“Načatki Cerkovnago Prava Drevnyja Pravoslavnyja Vostočnyja Cerkve”/“Principia juris ecclesiastici veteris orthodoxae orientalis ecclesiae”) that appeared at Novi Sad, in two volumes, in 1841 and 1844.<sup>31</sup>

However, Ioan Mateiu analysing comparatively both works<sup>32</sup> concluded: “I could not verify this opinion. The truth is that the structure of the book is almost the same, but this structure is to be found in so many canon law manuals. We find it even in Milaš’s work, with some alterations. Essential are the conception and the approach, and here we notice differences and chapters that Ioannovics [Jovanović] does not have, for instance

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<sup>28</sup> A. CONSTANTINESCU, Andrei Şaguna, canonist, 437.

<sup>29</sup> A. Baronu de ŞAGUNA, Elemente de dreptul canonic, <sup>2</sup>1855, V.

<sup>30</sup> The Catholic canonist Friedrich Heinrich Vering (1833-1896) was, since 1875, the first professor of canon law at the newly-created Francesco-Josephina University of Czernowitz from where, in 1879 he was invited to the German University of Prague. His manual of Catholic, Eastern and Protestant Law was edited in three editions (F. H. VERING, Lehrbuch des katholischen, orientalischen und protestantischen Kirchenrechts, mit besonderer Rücksicht auf Deutschland, Oesterreich und die Schweiz, 1876, <sup>2</sup>1881, <sup>3</sup>1893). On his person see Franz HEINER, Friedrich Vering †, in: AfkKR 76 (1896), I-VII; Nikolaus HILLING, Zur Biographie von Friedrich H. Vering, in: AfkKR 112 (1922), 48-55; IDEM, Vering, in: LThK, <sup>1</sup>1930-1938, Bd. 10, 561 et seq.; J. WEIER, Vering, in: LThK, <sup>2</sup>1957-1968, Bd. 10, 707; Franz KALDE, Vering, in: LThK, <sup>3</sup>1993-2001, Bd. 10, 673 et seq.; IDEM, Vering, Friedrich Heinrich, in: BBKL, Bd. 12, 1258-1259.

<sup>31</sup> Jeftimije Jovanović (ca. 1776-1852) wrote the above-mentioned work in Slaveno-Serbian and then it was translated into Latin. Both texts - the original and the translation - were printed together, thus forming a bilingual edition (the left pages in Latin, the right pages in Slaveno-Serbian). Very interesting is the fact that Andrei Şaguna is mentioned among the subscribers of the first volume on page 303 (Andrei Şaguna A. E. Mitropolitiskii Protosyggellü). Friedrich Heinrich Vering stated erroneously that the second volume was published in 1847 instead of 1844. Cf. Mihailo POPOVIĆ, The life and work of Jeftimije Jovanović: an overview, Paper presented at the study congress “Scienza canonistica orientale. Personaggi e dottrine”, Nyíregyháza - Ужгород/Hungary, 20-22 April 2007. See also F. H. VERING, Lehrbuch, <sup>2</sup>1881, 21-22.

<sup>32</sup> A detailed comparison of the two works that clearly refutes the accusation of plagiarism can be found at C. P[APUC]-SECELEA, Dreptul canonic în literatura românească, 11-15.



regarding the canons and their collections, then Şaguna's doctrine on the temporary value of the disciplinary canons. Actually, Ioannovics treats things almost fragmentarily, while Şaguna does not. If Vering's statement were true, we do not understand why Şaguna should have hidden that, as long as we see that he indicates all the sources used."<sup>33</sup> Indeed, in the preface of "The Elements" the author specifies that he gathered "all my notes that I have made for almost twenty years, since I started to serv the Church"<sup>34</sup> and next he enumerates the canonical sources he used to compose this book: "The notes I have mentioned were taken from 'Pravilă' ('Law Code')<sup>35</sup>, 'Kormčaja [Kniga]' ('The Guiding Book')<sup>36</sup>, Beveregius' 'Syntagm', Archimandrite Jovan Rajić's<sup>37</sup> manuscript on synods, then I compared all these with 'Pedalion'<sup>38</sup> and I wrote them according to it, that is why all the canons are quoted after 'Pedalion'."<sup>39</sup>

"Anthonismos" is a polemical work edited first in Romanian<sup>40</sup> at Sibiu, in 1861, and later, in 1863, in German<sup>41</sup> too, in response to a brochure which appeared at Czernowitz, in 1861<sup>42</sup>, and had as starting point the Viennese Court's intention - vigorously promoted during the Neoabsolutism - of sustaining its policy of centralization also by strengthening the control over the Orthodox Church in the

<sup>33</sup> I. MATEIU, Contribuțiuni la istoria dreptului bisericesc, 169-170.

<sup>34</sup> A. Baronu de ŞAGUNA, Elementele dreptului canonic, <sup>2</sup>1855, VI.

<sup>35</sup> "Pravilă" ("Law Code") is a Romanian mediaeval collection of nomocanons.

<sup>36</sup> "Kormčaja Kniga" ("The Guiding Book") is a Russian mediaeval collection of nomocanons, firstly printed in 1650-1653. Cf. I. ŽUŽEK, Kormčaja Kniga, 52 et seqq.

<sup>37</sup> On the person of Jovan Rajić (1726-1801) see Th. BREMMER, Ekklesiale Struktur, 20.

<sup>38</sup> "Pedalion", "Rudder" ("Πηδάλιον") edited by Agapios the Hieromonk and Nikodemos the Monk, was printed in 1800 in Leipzig and officially recognized by Constantinople as a sort of Code of Canon Law of the Orthodox Church. Cf. I. ŽUŽEK, Kormčaja Kniga, 8.

<sup>39</sup> A. Baronu de ŞAGUNA, Elementele dreptului canonic, <sup>2</sup>1855, VII-VIII.

<sup>40</sup> Andreiu Baronu de ŞAGUNA, Anthonismos sau desluşire comparativă asupra broşurei „Dorințele dreptcredinciosului cleru din Bucovina în privința organizării canonice a diecezei, și a ierarhiei sale referințe în organismul bisericii ortodoxe din Austria”, Sibiu 1861, 132 pages (Cyrillic letter).

<sup>41</sup> Andreas Baron de SCHAGUNA, Anthonismos oder berichtigende Erörterung über die Broschüre „Die Wünsche des rechtgläubigen Klerus aus der Bukovina in Betreff der kanonischen Organisation der Diöcese und ihrer hierarchischen Stellung im Organismus der orthodox-orientalischen Kirche in Österreich.", Hermannstadt 1863, 131 pages.

<sup>42</sup> The title of the brochure was: "The Wishes of the Orthodox Clergy of Bukovina concerning the Canonical Organization of the Eparchy and its Hierarchical Position within the Orthodox Church in Austria". As it was not possible to have access to a copy of this brochure, we used only "Anthonismos" that quotes the content of it too. So in the following chapters we will quote both the arguments of the clergy of Bukovina and Andrei Şaguna's counterarguments according to the same source, "Anthonismos" (in German).

monarchy, after the model of the Russian Empire - caesaropapism<sup>43</sup> - established by the Tsar Peter the Great (1682-1725).

In addition to the excellent argumentation of the Church's autonomy in the state, "Anthonismos" also refers to some of the Orthodox canonical principles that Andrei Şaguna defended and promoted intensively: canonicity, pentarchy, hierarchical synodality, mixed synodality.<sup>44</sup>

The author's erudition, his capacity to clarify things (at the risk of being acid!), the vivacity and certainty by which he always anchor himself in the genuine spirit of the Church make "Anthonismos" into a short treaty of ecclesiastical polemics, that should not be ignored by the theologians or at least by the contemporary canonists. Logical, historical, canonical arguments are so cumulated as to counteract, in fact, a bishop's (Eugeniu Hacman of Bukovina) wish to climb the hierarchical ladder by receiving as a "gift" a metropolitanate created by the political power according to criteria other than canonical ones, so that he would serve the monarchy's political interests rather than those of the Church. What Andrei Şaguna thought to be the angular stone of the ecclesiastical organization - the canonicity - seemed unnatural to some Bukovinian clergy, who tried by their "Wishes of the Orthodox Clergy", on the one hand to reject truths considered incontestable by the Transylvanian bishop, and on the other hand to establish as canonical principles some simply misfortunate historical occurrences.

The "Enchiridion"<sup>45</sup> is the first Romanian collection of canons. Before Andrei Şaguna only "Law Codes" ("Pravile") had been written in Romanian, mixed collections of canons and state laws, corresponding to the Byzantine nomocanons. He made the transition from the law codes to the collection of canons proper, because in the Austrian

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<sup>43</sup> Caesaropapism is the state's interference in the internal affairs of the Church under the pretext of defending the interests of the faithful. It is a conventional term for the allegedly unlimited power of the Byzantine emperor over the Church, including unilateral intervention in doctrinal questions ordinarily reserved to ecclesiastical authority. The term has been rejected by most scholars as a misleading and inaccurate interpretation of Byzantine political reality. It was introduced in the eighteenth century to indicate the political-ecclesiastical régime or the system of relationships characterized by the domination of the state (which openly confesses the Christian religion) over the Church, because the monarch, taking on a religious mission and supremacy over the ecclesiastical organization, puts under his control the Church's spiritual functions of teaching, holifying and leading. Cf. Caesaropapism, in: *The Oxford Dictionary of Byzantium*, vol. I, 364-365.

<sup>44</sup> For details on each of these principles and their argumentation in "Anthonismos" see the chapter VI herein.

<sup>45</sup> Andreiu Baronu de SIAGUN'A, *Enchiridionu, adeca Carte manuale de canóne ale unei, sântei, sobornicesci, si apostolesci Biserici cu Comentare, Sabiiu 1871, LII+548 pages (Latin letter).*

Empire there was no nomocanonical tradition.<sup>46</sup> Published on the occasion of the twenty-fifth jubilee of ministry in Transylvania, “Enchiridion” is dedicated by the author to “*Thee, dear clergy and faithful of our Metropolitanate*”<sup>47</sup>: “*In this year [1871] my Romanians celebrated my jubilee of twenty-five years as an ecclesiastical leader in Transylvania. On this occasion I took out my canonistical flag which contains the canons of our Orthodox Church with explanations. And I dedicated this work to our Orthodox Romanian people [...] for to be seen how deeply I am connected to our Orthodox Church.*”<sup>48</sup> Due to its commentaries and the alphabetic index the “Enchiridion” appears useful for to read the “Compendium”, as an attachment of it.

The imperative of canonicity in the Orthodox Church, to which the “Enchiridion” is subordinated, is supported by a strong argument in the introduction: the canons are superior to the civilizing science and knowledge of that age. In order to sustain the

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<sup>46</sup> “Pravilă” (“Law Code”) is the Romanian term which was used to name the collections of nomocanons published in Romanian in the Middle Age. The nomocanons were official collections for the Church usage which contained, in a systematic order, firstly the Church laws called canons and, alongside with them the state laws, the laws issued by the Roman and Byzantine emperors in matters of the Church. Henceforth, the name of the nomocanon names: nomos=state law and canon=Church law, therefore a mixed collection of Church and state laws. The first nomocanons seem to have been written in the fifth century, when the nomocanonical principle was introduced in the Church life, according to which the Church guided itself after both its own laws and state ones.

The most important nomocanon is “The Photius’ Nomocanon” or “The Nomocanon of Fourteen Titles”, published in 883 and accepted by the Constantinople synod of 920 as “the official Code of the whole Church”, still undivided at that time. The Western Church already in dispute with the Eastern one neither accepted nor rejected this Code. Soon the Great Schism occurred (1054) and since then it has been an official Code only for the Orthodoxy to this day. In the form it was devised by Photius and then perfected, this Code contains all the canons (given by the Apostles, the Ecumenical Councils, the local Synods or the Holy Fathers) and all the texts from the Byzantine emperors’ laws until 883 that refer to ecclesiastical affairs.

On the Byzantine canonistic and nomocanons see, e.g., Péter ERDŐ, *Geschichte der Wissenschaft vom kanonischen Recht. Eine Einführung*, Münster 2006, 36-39.

From Byzantium, the tradition of the nomocanons spread to the countries in Eastern Europe, in forms specific to every local Church. Thus, beginning with the twelfth century, in the Slavic Churches a great nomocanon appeared, under the name of “Kormčaja Kniga”, printed as late as 1650-1653 in Moscow. Cf. I. ŽUŽEK, *Kormčaja Kniga*, 14-51.

Several nomocanons called “Pravile” (“Law Codes”) appeared in Romania too. Form the tens of law codes in Slavonic, Greek and Romanian, five were printed, which is more than in any other Orthodox Church, namely: “Pravila lui Coresi” (“Coresi’s Law Code”), Braşov 1561-1580; “Pravila mică” or “Pravila de la Govora” (“Small Law Code” or “Govora Law Code”), Govora 1640; “Pravila bisericească de la Iaşi” (“The Iaşi Church Law Code”), Iaşi 1644; “Pravila lui Vasile Lupu” or “Pravilele împărăteşti”, (“Vasile Lupu’s Law Code” or “Imperial Law Codes”), Iaşi 1646; “Pravila Mare sau Îndreptarea Legii” or “Pravila lui Matei Basarab” (“The Great Law Code or Law Amendment” or “Matei Basarab’s Law Code”), Târgovişte 1652. “The Great Law Code” was in force until the nineteenth century, during the reign of Alexandru Ioan Cuza (1859-1866), which shows the longevity of the nomocanonical tradition in the Romanian Principalities. Cf. L. STAN, *Legislaţia Bisericii Ortodoxe Române în timpul arhipăstoririi Prea Fericitului Părinte Patriarh Justinian*, 288-290.

<sup>47</sup> A. Baronu de SIAGUN’A, *Enchiridionu*, V-VI.

<sup>48</sup> “A.B.M. 2628”, an unfinished letter dated Sibiu, 1871, addressed to Teodor Mandici, in: T. BODOGAE, *Un capitol din istoria relaţiilor culturale sârbo-române*, 556. Cf. also A. ŞAGUNA, *Correspondenţa I/2*, 242.

argument eight principles are given as examples, among which two were really superior, even revolutionary in the nineteenth century's ecclesial context: the synodal principle - an essential element of the Orthodox Church's theology, canon law and organization - that infringes both the clericalism and the privileges derived from the right of patronage, and the principle of using the language of the faithful in the liturgical and administrative life of the Church as well as the translation of the Bible in the national languages in order to be read by the believers.<sup>49</sup>

### V.1.3 The "Compendium" - a remarkable work within the Orthodox canonistic

The "Compendium" was published in 1868 at Sibiu in Romanian<sup>50</sup> and in German translation<sup>51</sup>. Although Friedrich Heinrich Vering considers it is written in many cases according to Protestant views<sup>52</sup>, when analysed in its historical background it proves to be a special work in the Orthodox Church's literature, a real book of Orthodox canon law, structured in 489 paragraphs (§). Highly spoken of in international publications<sup>53</sup>, it comprises Andrei Șaguna's entire canonistic doctrine and proves "a great and profound erudition which combined with an admirable stylistic clarity make this work a classical one"<sup>54</sup>. Shortly after its editing it was translated into Russian too, published in

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<sup>49</sup> A. Baronu de SIAGUN'A, *Enchiridionu*, VII- IX.

<sup>50</sup> Andreiu Baronu de SIAGUN'A, *Compendiu de Dreptulu Canonicu alu unei sântei sobornicesci si apostolesci Biserici, Sabiu 1868*, XLVI+452 pages (Latin letter).

<sup>51</sup> Andreas Freiherr von SCHAGUNA, *Compendium des kanonischen Rechtes der einen, heiligen, allgemeinen und apostolischen Kirche, aus dem Romanischen übersetzt von Dr. Alois Sentz, Hermannstadt 1868*, XLIII+450 pages.

We preferred to quote the original Romanian version, the German translation not being very precise. Besides, the numbering of the pages is almost identical in the two versions therefore the readers of German can easily use the German translation of book taking as reference the original Romanian quoted version.

<sup>52</sup> F. H. VERING, *Lehrbuch*, 1881, 22: "vielfach nach protestant.[ischen] Anschauungen umgestaltendes 'Compendium...'" Similar to the case of "The Elements of Canon Law", Vering's opinion, on which other further opinions were based, was rejected as being unfounded. Details on this at C. P[APUC]-SECELEA, *Dreptul canonic în literatura românească*, 15-35.

<sup>53</sup> See ZOTOS, *Le droit canonique de l'Église Orthodoxe*. Par Mgr André de Siaguna, archevêque de L'Église orthodoxe de Transylvanie et Hongrie, in: *L'Union Chrétienne*, IX (1868), No. 11, 527-528. The article is reproduced entirely in both original and Romanian translation in *RT XIII* (1923), No. 6-7, 216-219.

See also *Evangelische Kirchenzeitung*, Berlin 1869, No. 18.

<sup>54</sup> ZOTOS, *Le droit canonique de l'Église Orthodoxe*, 218.

the magazine of the Theological Academy in Saint Petersburg and finally edited in a volume, in 1872<sup>55</sup>.

As the author himself clarifies in the prologue, apart from the introduction - the notion, definition, origin, evolution, necessity and the sources of canon law - the work has three parts: I. Internal canon law, II. External canon law, and III. Legislation, administration, and ecclesiastical leadership. Both the introduction and each of the main chapters are preceded by a biblical quotation, called “the principle” of that respective chapter.

Still in the prologue the readers are introduced to the fundamental ideas that guided the author in composing the “Compendium”<sup>56</sup>: the work was drafted in the spirit of originality and genuineness of the primary institutions of the Church, as they were founded by Jesus Christ and then developed by the Apostles and Church Fathers; Jesus Christ is the founder, the head and the legislator of the Church, therefore the founder of the canon law; the synodal or constitutional principle is grounded by Christ Himself and developed by the Apostles, who continue on the basis of synodality the advancement of the material of the canon law initiated by Christ; the Apostles’ followers are the bishops and they have continued the subsequent advancement of the canon law by taking their decisions in a similar manner, the synodal one; the bishops’ activity and the advancement of the Church after the Edict of Milan (313) are reflected in the most obvious way by the Ecumenical Councils and local Synods, whose fruits are the canons - the culminating point of the canon law.

The corollary of all these fundamental ideas is: *“Thou shall see for thyself from the canon law about the dignity of thy individuality to which the Church’s institutions raise thee, giving thee the right to elect, directly or indirectly, observing the canonical requirements, all the clergy from deacons, priests and protopopes to bishops and the metropolitan, and this right will convince thee ‘that we are fellow workers for God’ (1 Corinthians 3.9) ... ”*<sup>57</sup>

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<sup>55</sup> See “Kratkoe izloženie kanoničeskago prava edinoj, svjatoj sobornoj i apostol’skoj cerkvi sostavlyennoje Andrejem Sagunoj, archiepiskopom Sedmogradskim i Mitropolitom Rumyn greko-vostocmago veroispovedanja v Vengriji i Sedmigradiji”, 637 pages, in: “Christianskoe Čtenie”, years 1870-1872. Cf. I. LUPAŞ, Vieaţa, 189. Details on the reception of “Compendium” in Russia see at J. SCHNEIDER, Der Hermannstädter Metropolit, 162-165.

<sup>56</sup> See A. Baronu de SIAGUN`A, Compendiu, VIII-X.

<sup>57</sup> Ibid., X.

The same as in the case of “The Elements of Canon Law”, in “Compendium” Andrei Şaguna enumerates his sources of information, apart from the Bible and the canons: the interpretations from “Pedalion”, the commentaries of John Zonaras<sup>58</sup> and Theodore Balsamon<sup>59</sup>, Matthew Blastares<sup>60</sup> “Syntagm”, as well as the works of Bingham and

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<sup>58</sup> John Zonaras (Ιωάννης Ζωναράς) (11<sup>th</sup>-12<sup>th</sup> centuries) is a Byzantine chronicler and canonist (commentator/scholiast). Under Emperor Alexius Comnenus (1081-1118) he was commander of the imperial body-guard and first secretary of the imperial chancellery. Later he became a monk at Hagia Glykeria (one of the Princes’ Islands now known as Niandro). Here he wrote his compendium of history: “Epitome ton istorion”, superior in form and contents to most other Byzantine chronicles, and extensively used during the Middle Ages. Another important work of him is a commentary on the canons. One of the greatest peculiarities of his “Exposition of the Sacred and Divine Canons”, and one which distinguishes it very markedly from the later work of Balsamon upon the same subject, is that Zonaras confines himself strictly to the canon law and rarely makes any references to the civil law whatever; and in such canons as bear no relation to the civil law Balsamon often adopts Zonaras’ notes without change or addition. These commentaries were collected by Beveridge in his Oxford Edition for the first time into one work.

A complete edition of Zonaras’ works is found in P.G., CXXXIV-CXXXV and CXXXVII-CXXXVIII. Cf. Robert BROWNING, John Zonaras, in: *The New Catholic Encyclopedia*, vol. 14, 934; Klaus-Peter TODT, Zonaras, Johannes, in: *BBKL*, Bd. 14, 579-584; Joannes Zonaras, in: *The New Encyclopædia Britannica*, vol. 12, *Micropædia*, 930; Johannes Zonaras, in: *The Oxford Dictionary of the Christian Church*, 1795; John Zonaras, in: *The Oxford Dictionary of Byzantium*, vol. 3, 2229.

<sup>59</sup> Theodore Balsamon (Θεόδωρος Βαλσαμών) (c. 1105/1130-40 - c.1195) also called Balsamo, patriarch of Antioch (c. 1185–95), is the principal Byzantine legal scholiast of the mediaeval period. He was a deacon nomophylax, or guardian of the Laws, and from 1178 to 1183, under the Patriarch Theodosius, he had charge of all ecclesiastical trials or cases. He was looked upon as the greatest jurist of his times both in ecclesiastical and civil matters.

After a long tenure as law chancellor to the patriarch of Constantinople, Balsamon preserved the world’s knowledge of many source documents from early Byzantine political and theological history through his best work - “Scholia” (c. 1170), or commentary on the “Nomocanon” of Photius. “Scholia” was published first in Latin at Paris (1561), at Basle (1562); in Greek and Latin at Paris (1615), and again at Basle (1620). It is also found in Beveridge’s “*Pandecta Canonum*”, Oxford 1672 (P. G., CXXXVII-CXXXVIII).

In his “Scholia” Balsamon insists on existing laws, and dwells on the relation between canons and laws - ecclesiastical and civil constitutions - giving precedence to the former.

Cf. Friedrich Wilhelm BAUTZ, Balsamon, Theodorus, in: *BBKL*, Bd. 1, 358 et seq.; Francis X. MURPHY, Theodore Balsamon, in: *The New Catholic Encyclopedia*, vol. 2, 33; Theodore Balsamon, in: *The New Encyclopædia Britannica*, vol. 1, *Micropædia*, 846; Theodore Balsamon, in: *The Oxford Dictionary of the Christian Church*, 148; Theodore Balsamon, in: *The Oxford Dictionary of Byzantium*, vol. 1, 249.

<sup>60</sup> Matthew Blastares (14<sup>th</sup> century) is a priest-monk of the Esaias monastery at Thessalonica, Greece, who applied himself to the study of theology and canon law. In 1335 compiled the “*Syntagma alphabeticum*” (“*Alphabetical Arrangement*”), a handbook of Byzantine church and civil laws that synthesized material from previous collections. It is a real nomocanon, in which the texts of the canons and of the laws are arranged in alphabetical order by means of the initial letters of the words which indicate the subject-matter of each chapter; several chapters are thus found under one letter. Blastares’ “*Syntagma alphabeticum*” was almost immediately translated into Slavonic at the behest of King Stefan Dušan of Serbia and influenced the development of later Slavic legal codes. It is found in Beveridge’s “*Pandecta Canonum*”, II/2, Oxford 1672 (P.G., CXLIV, CXLV) and in “*Sýntagma ton theíon kai hieron kanónon*”, ed. by G. A. Rhalles and M. Potles, VI, Athens 1859.

Cf. Friedrich Wilhelm BAUTZ, Blastares, Matthaios, in: *BBKL*, Bd. 1, 616 et seq.; Harold D. HUNTER, Matthew Blastares, in: *The New Catholic Encyclopedia*, vol. 2, 435; Matthew Blastares, in: *The New Encyclopædia Britannica*, vol. 2, *Micropædia*, 277; Matthew Blastares, in: *The Oxford Dictionary of the Christian Church*, 216; Matthew Blastares, in: *The Oxford Dictionary of Byzantium*, vol. 1, 295.

Heineccius<sup>61</sup>. Moreover, he wants to make clear that apart from these “*I have not used any other sources or books*”<sup>62</sup>, nor any of the particular works belonging to the patriarchates (local churches). The latter works would have been useless if they corresponded to the sources used, and if they not “*then I would have been unable to use them, because they are without any value and without any power, and that is why each of us is entitled to blame any canonistical works or patriarchate’s [local Church’s] writings if they do not correspond to the Holy Bible and positive canons.*”<sup>63</sup>

The algorithm which describes the Church power from the Orthodox point of view<sup>64</sup> is

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<sup>61</sup> Joseph Bingham (1668-1723) was an English clergyman and scholar who wrote the exhaustive “*Origines ecclesiasticae*” or “*The Antiquities of the Christian Church*” (10 vols., 1708-1722). Cf. Friedrich Wilhelm BAUTZ, Bingham, Joseph, in: BBKL, Bd. 1, 597; Joseph Bingham, in: The Oxford Dictionary of the Christian Church, 210.

Johann Gottlieb Heineccius (1681-1741) was a German Lutheran theologian and lawyer. He studied theology at Leipzig, and law at Halle; and at the latter university he was appointed in 1713 professor of philosophy, and in 1718 professor of jurisprudence. Heineccius belonged to the school of philosophical jurists and developed his legal doctrines as a system of philosophy. His chief works were “*Antiquitatum Romanarum jurisprudentiam illustrantium syntagma*” (1718), “*Historia juris civilis Romani ac Germanici*” (1733), “*Elementa juris Germanici*” (1735), “*Elementa juris naturae et gentium*” (1737). Besides these works he wrote on purely philosophical subjects, and edited the works of several of the classical jurists. His *Opera omnia* (9 vols., Geneva, 1771) were edited by his son Johann Christian Gottlieb Heineccius (1718-1791). Cf. Hiram KÜMPER, Heineccius, Johann Gottlieb, in: BBKL, Bd. 25, 553-558; Heineccius, Johann Gottlieb, in: Deutsche Biographische Enzyklopädie, hrsg. von Walther Killy - Rudolf Vierhaus, 13 Bde., München u.a. 1995-2003, Bd. 4, 512.

<sup>62</sup> A. Baronu de SIAGUN`A, Compendiu, XVII.

<sup>63</sup> Ibid., XVII. Although a man of Ghost that gives life, not a man of the letter (form) which kills, Andrei Şaguna underlined here the compliance ad-litteram with the Bible and canons, giving another argument to maintain the canonicity within Orthodoxy, taking into consideration the numerous deviations from this principle, which he had to fight against.

<sup>64</sup> The Church power as plenary power of the entire Church, which means of Christ’s entire mystical body is held only by Him, as the head and supreme leader of the Church. From this plenary power of the Church the clergy (bishops, priests, deacons) are given by ordainment only that part which is necessary for the work they have a special calling, which is to serve the Word, to holify the life of the faithful and to guide them towards salvation.

The Church power as special power of the clergy consists, in its essence, of a variety of means which those that are part of the priesthood receive through the grace that them is shared at each step of priesthood. Because of practical or methodical reasons, the Church divides these means into three categories: a) means that make them able to preach the Word of the Gospel; b) means that make them able to mediate the holification of the life of the faithful and c) means which make them able to lead the whole life of the faithful towards salvation. Moreover, using a borrowed judicial language rather than adequate expressions corresponding to reality, the three categories of means that the clergy use in their service are called powers. Cf. D. BELU, Autoritatea în Biserică, 555-556; L. STAN, Poziția laicilor în Biserica Ortodoxă, 198-199.

For the Catholic comprehension of the Church power/Church authority and its exercising, before and after the Second Vatican Council, see E. CORECCO, *Ordinatio Fidei*, 223-248; L. GEROSA, *Gesetzesauslegung im Kirchenrecht*, 149 et seqq.; Peter KRÄMER, *Dienst und Vollmacht in der Kirche. Eine rechtstheologische Untersuchung zur Sacra Potestas-Lehre des II. Vatikanischen Konzils*, Trier 1973; IDEM, *Sacra potestas im Zusammenspiel von sakramentaler Weihe und kanonischer Sendung*, 23-33; K. MÖRS DORF, *Schriften zum Kanonischen Recht*, 171-240; A. M. ROUCO VARELA, *Schriften zur Theologie des Kirchenrechts und zur Kirchenverfassung*, 267-278.

followed by the author for to organize the content of the book. In order to express the content of this power as appropriately as possible, a trichotomical division was adopted, after Jesus Christ's threefold activity (Prophet, Bishop/Priest and King)<sup>65</sup>, that is: teaching, holifying and leading power (*potestas magisterii, potestas ministerii, potestas jurisdictionis*)<sup>66</sup>. The leading power is subdivided, in its turn, into three sub-branches or functions: legislative, executive and judicial, thus resembling the ways in which the state's public power manifests itself.<sup>67</sup>

From the viewpoint of the content, the "Compendium" can be seen as comprising besides the introductory notions (§1-§20) all the fundamental themes of canon law. The first part contains: Orthodox ecclesiology - as fundament of the entire canonical organization (§21-§29) -, *potestas magisterii/munus docendi*, including an approach on sacred places and times (§30-§46), *potestas ministerii/munus sanctificandi* or the law of the Sacraments (§47-§130), constitutional law with the emphasis laid on the election of the clergy of all ranks by the faithful (clergy and laymen) - as a fundamental constitutional ecclesiastical right -, but also on the participation of the believers in the administration of the Church goods (§131-§292). The second part is, in fact, a chapter of Orthodox ecclesiastical public law (§293-§312).<sup>68</sup> The third part deals with such problems as *potestas jurisdictionis/munus regendi*, with all its three sub-branches or functions: the church legislative power - synodality as fundamental source of Orthodox

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<sup>65</sup> On the three branches of the Church power see, e.g., Felix BERNARD, Zur Genese der Drei-Gewalten-Lehre, in: ÖAKR 36 (1986), 232-236; Yves CONGAR, Sur la trilogie Prophete-Roi-Prêtre, in: RSPHTh 67 (1983), 97-116; Ludwig SCHICK, Das dreifache Amt Christi und die Kirche. Zur Entstehung und Entwicklung der Trilogien, Bern 1982; D. STĂNILOAE, Orthodoxe Dogmatik, Bd. 2, 89-122.

<sup>66</sup> The present Catholic canon law uses a different terminology to describe these three branches of the Church power: *munus docendi, munus sanctificandi, munus regendi* (cf. the systematics of the Codex Iuris Canonici of 1983: Liber III De Ecclesiae munere docendi; Liber IV De Ecclesiae munere sanctificandi; there is omitted, anyway, "De Ecclesiae munere regendi"). However, in the present work it was preserved the terminology used by the Romanian Orthodox canonists during the twentieth century (*potestas magisterii, potestas ministerii, potestas jurisdictionis*), considering that it is outside the sphere of this thesis to revise the terminology for to eliminate obscurity in the canonical language nowadays. In order to eliminate confusions it was added, according to the terms used by the Orthodox canonical language, the ones corresponding to the Catholic canonical language.

<sup>67</sup> Cf. I. IVAN, Cățiva termeni canonici, 97-98.

<sup>68</sup> On the issue ecclesiastical public law in the Western Church and the school of *Ius Publicum Ecclesiasticum* see Joseph LISTL, Kirche und Staat in der neueren katholischen Kirchenrechtswissenschaft, Berlin 1978; Ludger MÜLLER, Die Kirche – Institution oder vollkommene Gessellschaft?, in: Im Dienst von Kirche und Wissenschaft. Festschrift für Alfred E. Hierold zur Vollendung des 65. Lebensjahres, hrsg. von Wilhelm Rees – Sabine Demel – Ludger Müller, Berlin 2007, 293-317; L. GEROSA, Gesetzeauslegung im Kirchenrecht, 19-29.



canon law, the Ecumenical Councils and local Synods and their canonical decisions, the Orthodox Canon Law Codes and the Byzantine canonists (§313-§368); ecclesiastical economical administration or Orthodox patrimonial law, and the organs entitled to exercise this power within each ecclesiastical administrative unit (§369-§414); the ecclesiastical judicial power - ecclesiastical procedural law, delicts, the execution of ecclesiastical judicial decisions (§415-§489).

Some approaches have to be especially identified while dealing with such themes:

For instance, the stavropegic and dedicated monasteries, a hot subject in nineteenth century Romania, are presented as non-canonical, against the opinion expressed by Theodore Balsamon, in his commentary on apostolical canon 31.<sup>69</sup> The secularization of monastic properties by the state, another theme of the time, is presented as an abuse just as anti-canonical as that.<sup>70</sup> If the stavropegic and dedicated monasteries infringe the Orthodox canonical principle of internal eparchial autonomy, the secularization infringes the same principle from an external viewpoint - it is an abuse of the state against the Church -, but also the ecclesiastical constitutional right of administration of the Church's goods by the faithful (clergy and laymen).<sup>71</sup>

The right of patronage - the appointment of the clergy by the donors or church founders - is also considered to be anti-canonical and directed against the fundamental ecclesiastical constitutional right to elect the clergy of all ranks. Emperor Justinian's Novella 123 according to which the one who founds the church and undertakes to support its future priests has the right to appoint its respective celebrants is presented as being null for the Church, as long as no Council (namely the Fifth Ecumenical Council from 553, summoned by Emperor Justinian himself and then the Ecumenical Quinisext from 691, the Seventh Ecumenical Council from 787 and the regional Synods of Constantinople from 861 and 879) received it in its canonical decisions.<sup>72</sup>

One cannot ignore, in the chapter on ecclesiastical public law, Andrei Şaguna's ecumenical creed, his urge to an inter-confessional cordiality which is active, not just tolerant, without any pretence of supremacy or hegemony of any confession. The inter-

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<sup>69</sup> See A. Baronu de SIAGUN`A, *Compendiu*, 203-207. For the explanation what the stavropegic and dedicated monasteries are, see the chapter III.2.8 herein.

<sup>70</sup> *Ibid.*, 219-221. See also the chapter III.2.8 herein.

<sup>71</sup> At length on these canonical principles see the chapter VI herein.

<sup>72</sup> Cf. A. Baronu de SIAGUN`A, *Compendiu*, 264-268.

confessional relationships must be based on Christian love that embraces both the friend and the enemy, the different confessions having do not forget two essential common things: the same shepherd (Jesus Christ) and His word (the Bible).<sup>73</sup> This ecumenical creed is an element not very familiar to the ecclesiastical mentality of the middle nineteenth century, especially in the Austrian Empire.

It is also important how Andrei Şaguna treated the sources of the Orthodox canon law. Speaking about those he indicated two groups: originary or primary sources (the Gospels) and secondary sources (the Apostles' deeds and writings, the apostolical canons and those of the Ecumenical Councils and regional Synods as well as those of the Holy Fathers authorized by canon 2 of the Quinisext Ecumenical Council). In addition to this he mentions "adminiculi"<sup>74</sup>, this term including: the Old Testament, the Byzantine canonists' interpretations or commentaries, the Holy Fathers' canonistical writings recorded in "Pedalion", the traditions and customs of law approved by the Church as being canonical, as well as the legislation of the political power as long as it does not infringe the Church's canons and institutions.<sup>75</sup>

With the secondary sources of canon law Andrei Şaguna approaches the central theme of his work and the key note of his entire church organization which is the synodality.<sup>76</sup>

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<sup>73</sup> Ibid., 297-302.

<sup>74</sup> Lat. adminiculum=help, support

<sup>75</sup> Cf. A. Baronu de SIAGUN`A, Compendiu, 7.

<sup>76</sup> It is easy to notice and understand the importance given by Andrei Şaguna to the issue synod/synodality, if one take into consideration only a few elements related to the ecclesial context, Eastern but also Western, in which he lived and devised the "Compendium": in the West, while between the 1054 Schism and the 1917 codification there was an inflation of canonical norms issued by popes, the Protestant Rudolph Sohm (1841-1917) came to contest and reject the canon law itself; in the East, the Russian and Greek Churches confronted themselves with massive interference of politics in the ecclesiastical affairs, the classical Orthodox institutions established by the Ecumenical Councils being neglected. Therefore, for a vigilant spirit like Andrei Şaguna it was necessary to clarify the sources of the Orthodox canon law and its foundation.

For Rudolph Sohm's thesis on the contradiction between Church and law see Hans BARION, Rudolph Sohm und die Grundlegung des Kirchenrechtes, Tübingen 1931; Wolf-Dieter MARSCH, Ist das Recht eine notwendige Funktion der Kirche? Zur Auseinandersetzung mit Rudolph Sohm, in: ZevKR 5 (1956), 117-158; Wilhelm MAURER, Die Auseinandersetzung zwischen Harnack und Sohm und die Begründung eines evangelischen Kirchenrechtes, in: Kerygma und Dogma 6 (1960), 194-213; Klaus MÖRSDORF, Altkanonisches Sakramentsrecht? Eine Auseinandersetzung mit den Anschauungen Rudolph Sohms über die inneren Grundlagen des Decretum Gratiani, in: IDEM, Schriften zum Kanonischen Recht, 3-20; Antonio Maria ROUCO-VARELA, Die katholische Reaktion auf das „Kirchenrecht I“ Rudolph Sohms, in: IDEM, Schriften zur Theologie des Kirchenrechtes und zur Kirchenverfassung, 59-94; Rudolph SOHM, Kirchenrecht I: Die geschichtlichen Grundlagen, Leipzig 1892; Dieter STOODT, Wort und Recht. Rudolph Sohm und das theologische Problem des Kirchenrechtes, München 1962; IDEM, Rudolph Sohms Kirchenrecht I nach hundert Jahren, in: Theologia Practica 28 (1993), 238-245.

The synodality is mentioned not only in the introductory part, in the section dedicated to the sources of Orthodox canon law, but it is amply treated and analysed in “Compendium” in the chapter dedicated to the legislative power of the Church.<sup>77</sup>

An intrinsic element of the Orthodox Church “*from Christ Himself, Who promised the Apostles and through them their followers and all the Christians that ‘for two or three have gathered together in His name, there was He in the midst of them’*”<sup>78</sup>, the synodality is the fundament not only for the legislative process in the Church, but also for all its fields of action: “*The synodal form in the Church affairs expands itself not only toward legislation, but also toward all of the functions of the social elements in the Church organism such as the aspects related to the economical administration of the Church, and toward its leadership...*”<sup>79</sup> Only the bishops participated in the synods dealing with dogmatic problems or those examining the newly-elected bishops, whereas in the synods dealing with administrative, economical, philanthropical matters or those concerning the election of the clergy from patriarchs to deacons together with the bishops participated the representatives of the clergy and of the laymen too.<sup>80</sup>

The “Compendium” treated the synodality especially as fundament of *potestas jurisdictionis/munus regendi* and by the provisions of the “Project of Regulation”<sup>81</sup> the synodal principle in its widest meaning was materialized by Andrei Şaguna in the practice of the Transylvanian Orthodox Church.

#### V.1.4 The theological foundation of the Orthodox canon law

In the context of the chapters dedicated to the synodality one can implicitly find the Orthodox answer to the issue of the theology of canon law, of its theological

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<sup>77</sup> See A. Baronu de SIAGUN`A, Compendiu, §323-§348.

<sup>78</sup> Ibid., 308.

<sup>79</sup> Ibid., 309.

<sup>80</sup> Ibid., 313-314.

<sup>81</sup> At length on the “Project of Regulation” see the chapters V.2 and V.3 herein.

foundation.<sup>82</sup> In Orthodoxy has never been any problem of legitimacy or any contesting of the canon law<sup>83</sup> for the very reason that, once the ecumenical synodality closed (at the Constantinople local Synod of 879), the canonical Code<sup>84</sup> accepted by the entire Orthodox Church closed. Any further decision of any local Orthodox Church, conditioned by the compliance with the general canons, is valid only for that Church until the respective norm will be accepted by entire Orthodoxy.<sup>85</sup> Moreover, what Orthodoxy considers to be its canonical Code practically includes all the decisions of the Ecumenical Councils (dogmas, liturgical, moral, and organizational norms), not

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<sup>82</sup> The discussion on the issue of the theological foundation of canon law was launched in the West, in the second half of the nineteenth century, by the Protestant jurist Rudolph Sohm. A century later, the theological foundation of canon law became an usual issue of the Catholic canonistic. See Yves CONGAR, Sohm nous interroge encore, in: RSPTh 57 (1973), 283-294; Eugenio CORECCO, *Theologie des Kirchenrechts*, in: IDEM, *Ordinatio Fidei*, 3-16; Sabine DEMEL, *Zwischen Rechtspositivismus und Kirchenspiritismus. Eine theologische Grundlegung und Theologie des Kirchenrechts*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 17-38; Péter ERDŐ, *Theologie des kanonischen Rechts. Ein systematisch-historischer Versuch*, Münster 1999; L. GEROSA, *Canon Law*, 5-47; Markus GRAULICH, *Unterwegs zu einer Theologie des Kirchenrechts. Die Grundlegung des Rechts bei Gottlieb Söhngen (1892-1971) und die Konzepte der neueren Kirchenrechtswissenschaft*, Paderborn u.a. 2006; Peter KRÄMER, *Theologische Grundlegung des kirchlichen Rechts. Die rechtstheologische Auseinandersetzung zwischen H. Barion und J. Klein im Licht des II. Vatikanischen Konzils*, Trier 1977; Klaus MÖRSDORF, *Kanonisches Recht als theologische Disziplin*, in: IDEM, *Schriften zum Kanonischen Recht*, 54-67; A. M. ROUCO VARELA, *Schriften zur Theologie des Kirchenrechts und zur Kirchenverfassung*, 3-193; Gottlieb SÖHNGEN, *Grundfragen einer Rechtstheologie*, München 1962; Myriam WIJLENS, *Theology and Canon Law. The Theories of Klaus Mörsdorf and Eugenio Corecco*, Lanham et al. 1992. For Orthodox viewpoints on the theological foundation of canon law see Liviu STAN, *Ontologia juris*, Sibiu 1943; IDEM, *Probleme de ecclesiology*, 295-315; IDEM, *Jus ecclesiasticum. Dreptul în viața Bisericii*, 467-483.

<sup>83</sup> Just Nikolaj Afanas'ev (1893-1966), the most important representative of the Orthodox "eucharistic ecclesiology" received, in a personal way, the Protestant jurist Rudolf Sohm's thesis. Afanas'ev doubted of the legitimacy of canon law in the Church. See Aidan NICHOLS, *Nikolaj Afanas'ev and the Byzantine Canonical Tradition*, in: *The Heythrop Journal*, Vol. 33 Issue 4 (October 1992), 415-425; Peter PLANK, *Die Eucharistieversammlung als Kirche. Zur Entstehung und Entfaltung der eucharistischen Ekklesiologie Nikolaj Afanas'evs (1893-1966)*, Würzburg 2000. For a critical perspective of Afanas'ev's ecclesiology see John ZIZIOULAS, *Being As Communion. Studies in Personhood and the Church*, Crestwood, NY 2000.

<sup>84</sup> On the issue of the Canon Law Code of the Orthodox Church see N. DURĂ, *Le Régime de la Synodalité*, 287-374.

<sup>85</sup> The reception of any local canonical norm, respectively the creation of new canonical norms by a Pan-Orthodox synod would transform them into canonical norms generally valid for Orthodoxy, but it is hard to believe that they will have the same value and authority as what is known in Orthodoxy as "The Holy and Divine Canons". Probably the Latin Church's sinuous experiences concerning the canon law in the second Christian millennium determine reserve on the part of many Orthodox people concerning possible alterations or additions to what the Ecumenical Councils of the first millennium decided. Last but not least the undivided Church's councils are a fundament and a very important point of reference in the ecumenical dialogue nowadays. See J. RINNE, *The Ecumenical Synods and the Present Reality*, 561-562.

On the local and general canonical norms within Catholic Church see Peter KRÄMER, Sabine DEMEL, Libero GEROSA, Ludger MÜLLER (Hrsg.), *Universales und partiales Recht in der Kirche. Konkurrierende oder integrierende Faktoren?*, Paderborn 1999; Michael WERNEKE, *Ius universale – Ius particulare. Zum Verhältnis von Universal- und Particularrecht in der Rechtsordnung der lateinischen Kirche unter besonderer Berücksichtigung des Vermögensrechts*, Paderborn 1998.

only strict canonical norms, as in the Western acceptance of the term. This cohabiting of canon law (strictly speaking) and dogmas makes clear the theological foundation of the Orthodox canon law and confers it, at the same time, the stability and continuity which the dogmas have ever in the Orthodox Church.

The supreme legislator in Orthodoxy is Christ, and his followers - the Apostles and then the bishops - took legislative measures valid for the entire Church only in synods, explaining the Gospels' "laws" out of the necessity to fulfil the purpose of the Church. The form of Christ's legislation is divine<sup>86</sup>, the form of the Apostles and their followers' legislation is synodal, synodality itself being a divine institution<sup>87</sup>. That is why, in Orthodoxy, canons are considered "Holy and Divine"<sup>88</sup>.

Actually, the discussions in Western Europe on the foundation of canon law have their roots in the papal decretals. Martin Luther did not reject the canon law entirely, the undivided Church's canons, but just the decretals displayed by the popes.<sup>89</sup> Then, Rudolph Sohm only took a step further, contesting the canon law entirely.<sup>90</sup> Therefore, the deviation from synodality - as form of legislation in the Church - led to the discussion on the legitimacy of canon law itself.

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<sup>86</sup> Cf. A. Baronu de SIAGUN'A, *Compendiu*, 306.

<sup>87</sup> *Ibid.*, 307-308. For details on the synodal principle in Andrei Şaguna's works see the chapters VI.3 and VI.4 herein.

In the usual Orthodox comprehension through the synods decrees Christ Himself. Cf. J. RINNE, *The Ecumenical Synods and the Present Reality*, 562.

Essentially, the difference between Orthodoxy and Roman Catholicism lies in synodality, in its understanding and application. While Orthodoxy preserved the synodality unaltered, as fundament of the entire life of the Church, facing any attempts to undermine this institution that may have occurred, the Church of Rome deviated flagrantly, especially after the Great Schism (1054), firstly from the ecumenical synodality of the first Christian millennium, replacing it, at the beginning with the theory and ecclesiology of the papal primacy, then with the dogmas of primacy and infallibility, proclaimed as such by the First Vatican Council (1869-1870). A return to the idea of synodality (*communio*) was achieved through the Second Vatican Council (1962-1965), but not a complete return, as long as the abovementioned dogmas of The First Vatican Council are unchanged. "Während die Römische Kirche die Unterwerfung unter den päpstlichen Primat fordert, tritt die orthodoxe Kirche für die Synodalstruktur ein." F. R. GAHBAUER, *Die Pentarchie*, 422.

See W. AYMANS, K. MÖRSDORF, *Kanonisches Recht*, Bd. 2, 9-17; K. MÖRSDORF, *Schriften zum Kanonischen Recht*, 241-284, 322-338; John R. QUINN, *The reform of the papacy*, New York 1999 (= *Die Reform des Papstums*, Freiburg im Breisgau u.a. 2001); Barbara RIES, *Petrusdienst – Dienst an der Einheit*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 104-126; D. STĂNILOAE, *Orthodoxe Dogmatik*, Bd. 2, 193-194, 218-223; Thomas STUBENRAUCH, *Der Papst als Primus inter pares und höchste Autorität in der katholischen Kirche*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 74-103.

<sup>88</sup> Andrei Şaguna declared: "in my ministry I keep tight the rudder of the Church [Pedalion] [...] because it is the word of God". *Actele Soboarelor... 1850 și 1860*, 71.

<sup>89</sup> See Hans LIERMANN, *Der unjuristische Luther*, in: *Lutherjahrbuch* 24 (1957), 69-85.

<sup>90</sup> See Hans BARION, *Rudolph Sohm und die Grundlegung des Kirchenrechts*, Tübingen 1931; Ludger MÜLLER, *Fede e Diritto. Questioni Fondamentali del Diritto Canonico*, Lugano 2006.

The fact that the Orthodoxy is maintaining itself, to this day, in the strict limits of the canons devised by the Ecumenical Councils of the undivided Church conferred it not only notable continuity of dogmas, of doctrine on the apostolical basis, but also the implicit stability of the canon law and discipline.<sup>91</sup> Although there have been exceptions to strict canonicity (caesaropapism, clericalism, autocephaly - as it was interpreted in the nineteenth and twentieth centuries -, decisions of local Churches made not always within the limits of the canons), they are just exceptions that confirm the rule; throughout the time only strictly canonical solutions have survived. “The Holy and Divine Canons” applied in the spirit of Oikonomia<sup>92</sup> represented the antibody by which the Orthodox ecclesial body - not necessarily special measures and disciplinary

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<sup>91</sup> Paradoxically, especially some of the Catholic canonists think that the canon law is not so important for the Orthodoxy as for the Catholic and Oriental Catholic Churches and that the Orthodoxy is less “disciplined” than these two Churches. Actually, the Orthodoxy is less institutionalized and more mystical and traditional, its organizational and disciplinary system being created following millenary canonical rules and principles. The fact that particularly after the fall of Constantinople (1454) the institutional system of the Orthodox Church lost its Byzantine complexity and magnificence could not be categorically understood - especially nowadays - as a disadvantage for Orthodoxy.

An usual Catholic opinion on the role and foundation of the canon law within Orthodox Church see at E. CORECCO, *Ordinatio Fidei*, 6-7.

<sup>92</sup> The topic “Oikonomia” was analysed through different perspectives, especially in the twentieth century, by Orthodox authors but not only. See Hamilkar ALIVIZATOS, *Die Oikonomia*, Frankfurt am Main 1998; Bartholomeos ARCHONDIS, *The Problem of Oikonomia Today*, in: *Kanon VI* (1983), 39-50; IDEM, *Kirchliche Ökonomie*, in: *EKL*, Bd. 2 (1989), 1244-1245; Gheorghe CRONȚ, *Iconomia în dreptul bisericesc ortodox, I Principii, II Dispensa și grațierea*, București 1937; John H. ERICKSON, *Oikonomia in the Byzantine Canon Law*, in: *Law, Church, and Society. Essays in Honor of Stephan Kuttner*, ed. by Kenneth Pennington - Robert Somerville, Philadelphia 1977, 225-236; IDEM, *The “Oikonomia” of Orders in Byzantine Canon Law*, in: *Proceedings of the Sixth International Congress of Medieval Canon Law*, ed. by Stephan Kuttner - Kenneth Pennington, Città del Vaticano 1985, 259-270; IDEM, *The Orthodox Canonical Tradition*, in: IDEM, *The Challenge of Our Past*, 9-21; IDEM, *The Problem of Sacramental “Economy”*, in: *Ibidem*, 115-132; IDEM, *The Value of the Church’s Disciplinary Rule with Respect to Salvation in the Oriental Tradition*, in: *Atti del congresso internazionale Incontro fra canonici d’Oriente e d’Occidente*, a cura di Raffaele Coppola, Bari 1994, 245-274; Pierre L’HUILIERE, *L’conomie dans la tradition de l’Eglise Orthodoxe*, in: *Kanon VI* (1983), 19-38; Heribert MÜLLER, *Oikonomia und Aequitas canonica*, in: *Atti del congresso internazionale Incontro fra canonici d’Oriente e d’Occidente*, a cura di Raffaele Coppola, Bari 1994, 293-315; Radko POPTODOROV, *Economy in the Orthodox Tradition and Practice of the Slavic Churches*, in: *Kanon VI* (1983), 51-56; Heinrich J. F. REINHARDT, *Das orthodoxe Prinzip der „Oikonomia” als Anfrage an das katholische Kirchenrecht*, in: *Iuri Canonico Promovendo. Festschrift für Heribert Schmitz zum 65. Geburtstag*, hrsg. von Winfried Aymans – Karl-Theodor Geringer, Regensburg 1994, 585-602; Panteleimon RODOPOULOS, *Oikonomia nach orthodoxem Kirchenrecht*, in: *ÖAKR*, 36 (1986), 223-231; Thomas SCHÜLLER, *Die Barmherzigkeit als Prinzip der Rechtsapplikation in der Kirche im Dienste der salus animarum. Ein kanonistischer Beitrag zu Methodenproblemen der Kirchenrechtstheorie*, Würzburg 1992; Liviu STAN, *Iconomie și intercomuniune*, in: *Ortodoxia*, XXII (1970), No. 1, 5-19; Ivan ŽUŽEK, *L’conomie dans les travaux de la Commission Pontificale pour la revision du Code de droit canonique oriental*, in: *Kanon VI* (1983), 66-86.

There are also recent approaches on Oikonomia. See Florian SCHUPPE, *Die pastorale Herausforderung – Orthodoxes Leben zwischen Akribeia und Oikonomia*, Würzburg 2006; Paul M. ZULEHNER, *Gott ist größer als unser Herz - Eine Pastoral des Erbarmens*, Ostfildern 2006, 172-180.

ecclesiastical organs - rejected or minimized without convulsions many anti-canonical innovations or undisciplined deeds.

Unlike the Western Church, Orthodoxy has not formulated its legislation and canonical discipline according to the rigid judicial pattern of the classical Roman law<sup>93</sup>, but to the Byzantine law, at the basis of which was the Roman law of the sixth century, that is Emperor Justinian's whole compilation and the work of the other Christian Byzantine emperors. Even in the conditions of the so-called "Byzantine symphony state-Church", the emperors' attempts to legislate in the Church had to go through the fire trial of synodality; what was left valid in the Church was only what the synods recorded *expressis verbis* in their decisions.<sup>94</sup>

The Orthodox canons have no much to do with the strict judicialism of the civil laws, they were not elaborated and are not applied in the same way as those laws. The canons are not applied literally but according to (canonical) Oikonomia, for the purpose of man's spiritual healing, which is the meaning of Christ's embodiment and resurrection as part of the divine healing Oikonomia. Canonical Oikonomia and not judicial precision is intrinsic to Orthodox canon law. Andrei Şaguna does not use in "Compendium" or in other canonistical work the term "Oikonomia" but the analogy of the body-soul relationship in order to explain the difference between civil and canon

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<sup>93</sup> It is not only the Latin language that the Catholic canon law has in common with the classic Roman Law, but it also is formal and textual embossed from the Roman Law. The influence of the Roman Law leaves itself still clearly read e.g. at the construction of the Codex Iuris Canonici of 1917 (CIC 1917). The classic threesome-scheme - persons law, matters law, procedural law - is supplemented through a preceding book about general norms and an attached fifth book with ecclesiastical criminal law. See Albert GAUTHIER, Roman Law and its Contribution to the Development of Canon Law, Ottawa 1996 (=Le droit romain et son apport à l'édification du droit canonique, Ottawa 1996).

On the other hand, one cannot ignore that the Catholic canon law carried forward in the history values of the Roman Law, contributing itself to the development of the modern legal thinking. Cf. Jürgen HABERMAS Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaates, Frankfurt am Main 1992.

<sup>94</sup> In this respect, Andrei Şaguna's canonistical work is a good example of differentiating the Orthodox canon law from interferences from outside the Church. As we have shown when describing "Enchiridion", he detached himself from the Romanian tradition of nomocanons or law codes (mixed collections of Church and state laws); when he took position in different ecclesiastical issues of his time, he did not hesitate to denounce the usage of certain state legal provisions or Byzantine customs as anti-canonical, in order to justify some deviations from the Orthodox canon law and Tradition. See A. Baronu de SIAGUN`A, Compendiu, 264-268; A. Baron de SCHAGUNA, Anthonismos oder berechtigende Erörterung, 70-71.

law.<sup>95</sup> The canon is different from the civil law as the soul is different from the body. If the law has mainly a punitive character, going as far as the capital punishment, the canon has a corrective character “*shall punish even the vilest sinner with a view to make him come back, which means repent and be alive*”<sup>96</sup>.

The rejection of the excessive judicialism borrowed from civil law and of the arbitrary measures (be they patriarchal or imperial) which did not comply with the canonical Code of the first millennium, besides the maintaining of the spiritual freedom in the divine-human institution of the Church protected the Orthodox Church from the extreme Western methods of maintaining “the discipline of faith”<sup>97</sup>.

These two elements specific to the Orthodox canon law: its elaboration within ecumenical synodality and its appliance in an economic, flexible way confer it a special individuality which, old-fashioned as it may seem, protected it from radical denials, fluctuations and synopes, ensured its continuity and, even more, proves it to be useful to the contemporary rigid world, which sees the faith itself in a technical way.

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<sup>95</sup> The relationship body-soul is one used in “Compendium” to describe the relationship state-Church, too. See the chapter VI.2.3.3 herein.

<sup>96</sup> A. Baronu de SIAGUN’A, Compendiu, 309.

<sup>97</sup> See Rainer DECKER, *Die Päpste und die Hexen. Aus den geheimen Akten der Inquisition*, Darmstadt 2003; Peter GODMAN, *Die geheime Inquisition. Aus den verbotenen Archiven des Vatikans*, München 2001; Uwe NEUMAHN, *Inquisition und Wahrheit. Der Kampf um den reinen Glauben. Von Peter Abaelard und Bernhard von Clairvaux bis Hans Küng und Joseph Ratzinger*, Stuttgart 2005; Edward PETERS, *Heresy and authority in medieval Europe: documents in translation*, Philadelphia 1980; Gerd SCHWERHOFF, *Die Inquisition. Ketzerverfolgung im Mittelalter und Neuzeit*, München 2004; Peter SEGL (Hrsg.), *Die Anfänge der Inquisition im Mittelalter. Mit einem Ausblick auf das 20. Jahrhundert und einem Beitrag über religiöse Intoleranz im nichtchristlichen Bereich*, Köln 1993; Peter WATSON, *Ideen. Eine Kulturgeschichte von der Entdeckung des Feuers bis zur Moderne*, München 2006; Hubert WOLF, *Index. Der Vatikan und die verbotenen Bücher*, München 2006.



## V.2 Andrei Şaguna's attempts at church organization preceding "The Organic Statute"; The "Project of Regulation"

As it was remarked by a Romanian scholar "the main feature of Andrei Şaguna's personality is, undoubtedly, his capacity to organize and reform, which places him among the great ecclesiastical leaders"<sup>98</sup>. The problem of church organization preoccupied him from the very beginning of his ministry in Transylvania. The evidence is his plan to organize and summon a mixed eparchial synod (made up of both clergy's and laymen's representatives) in 1848, several months after his consecration as bishop.<sup>99</sup> Although this project failed, he continued to take measures with a view to church organization, even during the Neoabsolutist era.<sup>100</sup>

Bishop Andrei Şaguna prepared his first detailed plan of church organization in 1849, as we can see from a petition addressed to the government in 1854.<sup>101</sup> A second such plan was forwarded on November 16, 1850, on the occasion of the conference of the Orthodox bishops of the monarchy. However, neither of the two attempts contains the systematic description of a church organization or constitution in the precise meaning of the word, but they limit themselves only to the composition of the consistory (the eparchial administration).

Before Andrei Şaguna's project of church constitution, there was such a project devised by August Treboniu Laurian<sup>102</sup> to be submitted to the first mixed eparchial synod of 1850. But it was not taken into consideration by that synod: "The creation of the [mixed] eparchial synod after principles corresponding to the eparchy's wish and the spirit of time is postponed until the Metropolitanate is restored; until then, our Eparchy can decide on the organization of the eparchial synod precisely according to the holy canons of the Eastern Church."<sup>103</sup> As it was shown, at the beginning of Andrei Şaguna's episcopacy his priority was the legal recognition of the Transylvanian

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<sup>98</sup> A. CONSTANTINESCU, *Dreptul canonic în opera lui Andrei Şaguna*, 872.

<sup>99</sup> See the chapter III.1.5 herein.

<sup>100</sup> See the chapters III.2.5 and III.2.6 herein.

<sup>101</sup> Cf. II. PUŞCARIU, *Metropolia, colecția de acte*, 119.

<sup>102</sup> See this Project of church constitution at I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 299-311.

<sup>103</sup> *Actele Soboarelor...1850 și 1860*, 43.

Orthodox Church and the reestablishment of the Romanian Orthodox Metropolitanate: “he conditioned the internal organization of the Church on the solution given to its legal external situation by the political government.”<sup>104</sup>

When the first signals in favour of the reestablishment of the Metropolitanate were clear, the bishop presented to the mixed synod of 1864 a provisional project drawn up by himself. This project, entitled “Project of Regulation for the Organization of Affairs Related to Romanian Churches, Schools and Establishments of Greek-Eastern Religion in the Austrian Empire”<sup>105</sup> will constitute the nucleus of the future church constitution of the Transylvanian Metropolitanate - “The Organic Statute”.

The “Project of Regulation” is made up of two hundred and twenty-five articles, grouped in twelve chapters (“Cuts”) and an introductory chapter (“General considerations”). The author makes some very important clarifications in the introduction, from which one can identify the principles that guided him in his work: canonicity, traditionalism and actuality.<sup>106</sup> In other words, “Şaguna wrote a truly and solid work of synthesis”<sup>107</sup>. Next, specifying that the project intended exclusively the organization of a metropolitanate<sup>108</sup>, he enumerated “the factors” of such a church unit as being the clergy and the people, organized in parishes, protopopiates, monasteries and eparchies.<sup>109</sup> Then follows the concise enunciation of the constitutional rights and obligations ensuing from being a member of the Church, respectively of the metropolitanate: the participation personally and by representatives in all the Church and school-related economic and foundational affairs, and the obligation to fulfil the tasks which condition the welfare of the Church.<sup>110</sup>

The principle of autonomy of every ecclesiastical unit belonging to the same category<sup>111</sup> is doubled, in order to maintain the unity, by the principle of dependence of

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<sup>104</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 208.

<sup>105</sup> See Andreiu Baronu de SIAGUNA, *Proiectu de unu Regulamentu pentru organisarea trebilor bisericesci, scolare, si fundamentale romane de Relegea greco-orientale in Statele austriace, Sibiu 1864*.

<sup>106</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, 3-4.

<sup>107</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 211.

<sup>108</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §1.

<sup>109</sup> *Ibid.*, §2.

<sup>110</sup> *Ibid.*, §3.

<sup>111</sup> *Ibid.*, §5.

one category on the other, through representation<sup>112</sup>. This system of interdependence through representation of the Church's units is explained by the Pauline doctrine in Corinthians I, chapter 12.<sup>113</sup>

Apart from the organic parts of the metropolitanate (parishes, protopriates, monasteries and eparchies)<sup>114</sup> enumerated in §2, there is a further reference to the bishops' synod, as a distinct organ<sup>115</sup>.

In order to support the dogmatic unity between the Romanian and Serbian Orthodox Churches in the Austrian Empire, a common synod of the Romanian and Serbian Metropolitanates had to take place, composed of all the hierarchs of both Metropolitanates.<sup>116</sup> The synod should be held every six years or oftener, alternatively, at the residences of the two metropolitans who would preside over the meetings together. The debates and the minutes had to be bilingual, in Romanian and Serbian.<sup>117</sup>

The "Project" stipulated the monarch's right to acknowledge the elected metropolitan and bishops and the right of "supreme inspection".<sup>118</sup>

In the mixed church assemblies, called synods<sup>119</sup>, Andrei Şaguna insisted on the leading position of the clergy at all levels, as a sure corrective factor against the lay exaggerations in discussing and solving the problems of strictly Church-related nature.

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<sup>112</sup> Ibid., §6.

<sup>113</sup> See the footnote at §6 from the "Project of Regulation". Cf. 1 Corinthians 12.20-26: "As it is, there are many parts, yet one body. The eye cannot say to the hand, 'I have no need of you', nor again the head to the feet, 'I have no need of you.' On the contrary, the parts of the body which seem to be weaker are indispensable, and those parts of the body which we think less honorable we invest with the greater honor, and our unpresentable parts are treated with greater modesty, which our more presentable parts do not require. But God has so composed the body, giving the greater honor to the inferior part, that there may be no discord in the body, but that the members may have the same care for one another. If one member suffers, all suffer together; if one member is honored, all rejoice together."

<sup>114</sup> At length on the organic ecclesiology reflected in Andrei Şaguna's canonical works see the chapter V.4 herein.

<sup>115</sup> Cf. A. Baronu de SIAGUNA, Proiectu de unu Regulamentu, §7.

<sup>116</sup> Ibid., §15-§16.

<sup>117</sup> Ibid., §213-§219.

<sup>118</sup> Ibid., §17.

<sup>119</sup> Details on these mixed synods can be found in the chapters VI.4 and VII.1 herein.

From all these “we can conclude that the original project of church constitution devised by Metropolitan Șaguna is based on a clear canonical foundation. And its originality - indeed surprising - is given by bringing together harmoniously the hierarchy and the believers within a church synodality derived from the elective system based on people’s vote.”<sup>120</sup>

However, the mixed synod of 1864 “completely disfigured the Project”<sup>121</sup>. Among other things, it modified Andrei Șaguna’s provisions on the members of the parish synod, the manner of appointing the protopope, it created new organs, and - which was the most serious - it removed the bishop’s authority in relationships with the decisions of the consistory. Apart from the dogmatic and spiritual matters, in which the bishop had total power, the consistory could decide in any other matters with majority vote, without needing the bishop’s approval for its decision. The elective system was modified too, the unelected members being introduced next to the elected ones, almost in an equal proportion.<sup>122</sup>

The synod decided to forward the emperor for ratification the regulation resulting from the modification of the “Project of Regulation” but Bishop Andrei did not comply with this decision.<sup>123</sup> Moreover, although it was conceived for the metropolitanate, as §1 stipulated, after the amendments made by the synod, the applicability of the regulation was limited only to the Eparchy of Sibiu: “*From my project, everything concerning the organizing of a metropolitanate was left out, for not to preoccupy the opinion of a metropolitan constituent synod, and thus we limited us to organize our Church of Transylvania like an eparchy.*”<sup>124</sup> Aware of the non-canonicity of some of the amendments, but also of the temporary situation as long as the metropolitanate had not been officially re-established, the bishop did not strive to impose his opinion, as he did four years later<sup>125</sup>, when the final church constitution was getting ready to be submitted to be ratified by the state authority.

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<sup>120</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 235.

<sup>121</sup> *Ibid.*, 235.

<sup>122</sup> About all the amendments made by the mixed synod of 1864 to Andrei Șaguna’s “Project” see I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 237-240.

<sup>123</sup> Cf. *ibid.*, 240.

<sup>124</sup> Andrei Șaguna’s letter to A. Mocsonyi, dated Sibiu, April 6/18, 1864, in: *Spicuri și fragmente din corespondența lui Șaguna*, 485-486 here 486.

<sup>125</sup> See the chapter IV.4.1 herein.

### V.3 “The Organic Statute” and its differences from the “Project of Regulation”

#### V.3.1 “The Organic Statute” - the work of the church congress of 1868

Although in practice the regulation of the mixed synod was provisory used in the parishes and protopopiates of the Eparchy of Sibiu, between 1864 and 1868<sup>126</sup>, Metropolitan Andrei submitted in 1868 his original “Project of Regulation”, not its modified form by the mixed synod of 1864, to be adopted by the church congress.

Therefore, the church congress had to analyse the project devised by Andrei Şaguna. The commission delegated by the members of the congress to study this project amended it this time too<sup>127</sup>, finally resulting the church constitution of the Transylvanian Metropolitanate known as “The Organic Statute”<sup>128</sup>.

“The Organic Statute” is structured in hundred and seventy-six articles, grouped in five chapters: I. The parish, II. The protopopiate, III. The monasteries, IV. The eparchy and V. The metropolitanate. The regulation of the laymen’s participation in exercising the Church power - the key point of the church organization conceived by Andrei Şaguna - is its centre of gravity.

**The parish** meant a number of families high enough to possess the material and moral means to support one or more churches, schools and cemeteries, together with the necessary personnel.<sup>129</sup> The affairs of every parish are managed by the parish synod, the parish committee and the parish trusteeship.<sup>130</sup>

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<sup>126</sup> Cf. II. PUŞCARIU, *Metropolia*, 168.

<sup>127</sup> At length on these changes see I. MATEIU, *Contribuţiuni la istoria dreptului bisericesc*, 247-263.

<sup>128</sup> See Statutul organic al Bisericeii Greco-Orientale Române din Ungaria și Transilvania, Sibiu 1881 (= *Die Verfassung der griechisch-orientalisch-romanischen Kirche in Ungarn und Siebenbürgen*, in: *AfkKR* 25 (1871), 235-276).

<sup>129</sup> Statutul organic, §1.

<sup>130</sup> *Ibid.*, §5.

**The parish synod**<sup>131</sup> (§6-§16) is the assembly of all the parishioners of full age, self dependent, morally irreproachable and who do their duty toward the parish. The synod elects the rector, the chaplain, the deacon, the trustees and the members of the parish committee, the delegates in the eparchial synod and the members of the teaching staff of the parish schools. It also has to examine and approve the projects of the parish committee referring to the construction, maintenance and equipment of the parish buildings - the church, the school, the parish house -, the financial support for the parish itself and for the church personnel belonging to it - priest, chaplain, deacon, teachers, primary school teachers etc. The president of this synod is the rector, and the ordinary meetings are annual, in January, but it can be summoned extraordinarily whenever it is considered necessary.

**The parish committee** (§17-§23) is composed of at most thirty members - according to the parish size -, being elected by the parish synod for three years with the right of re-election. The close relatives shall not be members of the committee at the same time. The committee represents the parish in its relationships with the third parties, it manages the property of the church, foundations and school, it maintains the buildings in good shape, it watches over the morality and religiousness of the parishioners and decides on punishment of small offences, it takes good care of the charitable work, the parish library etc. The committee's ordinary meetings are biannual, in July and December.

**The parish trusteeship** (§24-§28) is composed of at most four members, elected by the parish synod from the men of the highest moral standards in the parish, for a period of three years with the right of re-election. Its role is to register and keep the fortune of the church, school and foundations and to manage it according to the decisions of the synod and parish committee.

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<sup>131</sup> According to the "Project of Regulation" and "The Organic Statute" the word "synod" denominates both the mixed ecclesiastical bodies - composed of laymen and clergymen - and the bishops' synod - composed exclusively of bishops. In the current legislation of the Romanian Orthodox Church, the term "synod" is not used anymore for the mixed ecclesiastical bodies, the term "assembly" being preferred.

**The protopopiate (protopresbyterate)**<sup>132</sup> consists of several parishes, and its affairs are organized and managed by the protopopiate see, the protopopiate synod, the protopopiate committee and the protopopiate trusteeship.

**The protopopiate see** (§31-§37) consists of the protopope or his substitute as president, six rectors as members, a matrimonial defender and a notary (a secretary). It is the first instance judiciary forum in the Metropolitanate. Its attributions are to supervise the priests' behaviour, to judge their misconduct when the consistory conferred it this duty, to settle and eventually take decisions in the controversies concerning the engagement and marriage, to verify and approve the elections of the church personnel in the parishes, to check the good order of the civil registers. The ordinary meetings of the protopopiate see are monthly.

**The protopopiate synod** (§38-§55) is the representation of the clergy and faithful in the protopopiate, and consists of twenty-four or thirty-six members - according to the number of the faithful in the protopopiate, under or over 20,000 -, one third priests and two thirds laymen. The priests are elected in the priests' councils, and the laymen in the parish synods without the priests' vote. The members are elected for a period of three years with the right of re-election. Its attributions are to supervise the activity of the churches, schools and foundations all over the protopopiate, and to elect the protopope in case of vacancy. It gathers ordinary once a year, at the beginning of February.

**The protopopiate committee** (§56-§63) composed of six or twelve members - according to the number of the faithful in the protopopiate, under or over 20,000 -, one third priests and two thirds laymen, is elected by the protopopiate synod for a period of three years with the right of re-election and gathers four times a year, in January, April, July and October, having attributions within the protopopiate similar to the parish committee.

**The protopopiate trusteeship** (§64-§65) has four members and two substitutes, elected in the same way as the parish trustees and having similar attributions to it.

**The eparchy** meant the union of several protopopiates and monasteries under the leadership of an eparchial bishop. The eparchial affairs are conducted by the eparchial synod and the consistory. In Transylvania and Hungary there were three such

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<sup>132</sup> It is the Romanian Orthodox version of the Roman Catholic deanship today.

Romanian Orthodox Eparchies until after the First World War, those of Sibiu, Arad, and Caransebeș.

**The eparchial synod** (§87-§96) is the representation of the eparchy composed of sixty members, in the proportion of one third priests and two thirds laymen. Its president is the bishop. The synod's attributions are, apart from the election of the bishop in the case of vacancy of the episcopal see, similar to the attributions of the parish and protopopiate synods. It held an ordinary meeting once a year, on the first Sunday after Easter (St Thomas' Sunday), and an extraordinary one whenever necessary.

**The election of the bishop** (§97-§109) is made by the eparchial synod, under the presidency of the metropolitan or one of his delegates, after which the canonicity of the election has to be controlled by the bishops' synod and submitted to the monarch for confirmation. If the emperor confirmed the choice, the newly-elected one took an oath of allegiance before him and then was consecrated as bishop according to the Church rule.

**The eparchial consistory** (§110-§120) is the permanent organ of administration and justice in the matters concerning the churches, schools and foundations within the eparchy. The members of the consistory (also called consistorial assessors) are partly ordinary - paid with salary -, partly honorary, and the president of the consistory is the bishop. The consistory is divided into three senates: the church, school and trusteeship senate; the members of the first senate are elected for life, from among the priests (only the matrimonial defender could be a layman) by the eparchial synod. The other two senates of the consistory are mixed, in the proportion of one third priests and two thirds laymen, being elected for three years with the right of re-election. The competences of each senate are related to its name.<sup>133</sup> The number of the consistorial members has to be decided by the eparchial synod. The election of the church senate's members has to be validated by the bishop, respectively the metropolitan. The bishop can appoint a vicar of him from among the priests who are consistorial assessors.

**The metropolitanate** incorporates all the eparchies of the metropolitan province. Its affairs are carried out by the church national congress - the name given to the mixed

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<sup>133</sup> See Statutul organic, §121-§142.



metropolitan synod conceived by Andrei Şaguna -, the metropolitan consistory, and the bishops' synod.

**The church national congress** (§145-§154) is the representation of the entire metropolitan province, consisting of ninety delegates, thirty for each eparchy, one third priests and two thirds laymen, next to the metropolitan as a president and all the bishops. The congress held meetings every three years, on 1/13 October. Its attributions are: to promote and defend the religious freedom and autonomy of the Church; the administration of all the church, school, foundation-related affairs all over the Metropolitanate; the election of the metropolitan and of the assessors of the metropolitan consistory.

For **the metropolitan's election** it is stipulated an elective body composed of hundred and twenty members, sixty from the Eparchy of Sibiu and sixty from the other two eparchies; they are elected according to the regulations in the "Statute" (§155-§157). The bishops have no right to take part in the election of the metropolitan unless they are delegates of the congress in the special elective body.

**The metropolitan consistory** (§158-§170) consists of the metropolitan as a president, the two suffragan bishops, and honorary assessors elected by the church congress. It is similar in its organization (three senates) and attributions to the eparchial consistory, being the supreme administrative and judiciary organ for the entire metropolitan province.

**The bishops' synod** (§171-§174) is composed of the metropolitan and the two suffragan bishops and has in its competence, besides the defence of the Church autonomy, the spiritual and dogmatic issues: it does the canonical examination of the new-elected eparchial bishops, gives solutions to every dogmatic, sacramental and ritual doubts, takes decisions on the right pastoral care of the faithful and the good functioning of the theological and confessional schools.

### V.3.2 The amendments made by the congress to Andrei Şaguna's "Project"

The general organizational frames established by Andrei Şaguna were maintained by the commission appointed by the members of the congress to study the "Project of Regulation". The parish, the protopopiate, the monastery and the eparchy continued to

be recognized as organic parts of the metropolitan province. However, the bishops' synod was eliminated from among the organic parts, this being "a denial of the hierarchical principle laid by Şaguna at the base of the ecclesiastical organization"<sup>134</sup>. Other changes concern the form, such as: the removal of the canonical quotations from Andrei Şaguna's text; another form of the text; the reduction of the representative and executive bodies' mandate from six to three years; the principle of direct election (according to the "Project" the clergy elect their delegates directly, and the lay people indirectly); the manner of constituting the protopopiate see.

A major structural change was at the level of the eparchial organization, the consistory being the "touchstone" of the members of the congress. Andrei Şaguna had drafted in "Project" a priests' (presbyters) synedrion<sup>135</sup>, as a consultative organ constituted by the bishop, by way of appointment. But the congress did not accept this conception and wanted, on the one hand a mixed composition - clergy and laymen -, and on the other hand the election of the consistorial members by the eparchial synod. In addition, the role of the priests' synedrion as a consultative body for the bishop was replaced with that of representative and executive organ of the eparchy. Moreover, the consistorial members had the decisive vote in taking decisions, the bishop being unable to impose his will over the conclusions of the consistory.

After heated debates between some consistorial members and the metropolitan<sup>136</sup>, the latter gave in and a compromise solution was reached: the consistory has to consist of three senates - a church senate (composed only of clergy), a school senate, and a trusteeship one, both last being mixed (one third priests and two thirds laymen). All the consistorial members were elected by the eparchial synod, the bishop having the only role of acknowledging them. On the metropolitanate level, where the "Project" had not considered any special executive organ, because the arch-eparchial organs were meant to carry out the Metropolitanate's tasks as well, the congress imposed a separate consistorial organization, similar to the one in the eparchy.

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<sup>134</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 247.

<sup>135</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §116.

<sup>136</sup> Cf. *Protocolul Congresului Național Bisericesc...1868*, 75 et seqq. See also the chapter IV.4.1 herein.

Other amendments are also important: for instance, Andrei Şaguna had stipulated in the “Project” that the elected bishop had to be a monk at the moment of the election and recruited from among the ecclesiastical officials all over the metropolitan province<sup>137</sup>; the congress rejected both conditions<sup>138</sup>. Then the “Project” took into consideration limited attributions for the mixed metropolitan synod<sup>139</sup>, among which the election of the metropolitan was the main one, while the congress, changing the name of this synod into church national congress raised it to the rank of supreme legislative representation of the metropolitan province. Moreover, according to §155 of “The Organic Statute” the bishops themselves were excluded from voting the new metropolitan unless they were delegates of the congress in the special elective body.

The bishops’ synod got the hardest strike, because all its attributions as the highest organ of the Metropolitanate were taken away, with the exception of the dogmatic ones and those related to the defence of the Church autonomy. Planned by Andrei Şaguna as the highest organic part of the Metropolitanate and endowed with supreme leadership attributions, it remained only a “canonical ornament”. The congress took the legislative power, the judicial power was given to the metropolitan consistory, and the representation of the Church in the external relationships was given to the consistory too. These provisions practically aimed to attack the hierarchical-synodal character<sup>140</sup> of the church constitution and through it of the Church itself, because they tried to impose the mixed laicizing principle.

Ioan Mateiu made the following concluding remark: “Making a scientific comparison between the Metropolitan Şaguna’s original ‘Project’ of church constitution and ‘The Organic Statute’ voted by the national church congress, we draw the sure conclusion that these two works are fundamentally different from one another. [...] Şaguna - rightly from his bishop’s position - planned to ensure the Church autonomy on hierarchical basis, according to the Eastern Church’s canons; however, the ecclesiastical representation - the congress - after hard and intensive controversies, reached a compromise between the old hierarchical system and the modern

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<sup>137</sup> Cf. A. Baronu de SIAGUNA, Proiectu de unu Regulamentu, §100.

<sup>138</sup> Cf. Statutul organic, §97.

<sup>139</sup> Cf. A. Baronu de SIAGUNA, Proiectu de unu Regulamentu, §193-§202.

<sup>140</sup> At length on the hierarchical-synodal principle see the chapter VI.3 herein.

constitutional one, and it built ‘The Organic Statute’ on this basis. [...] ‘The Organic Statute’ is the arbitrary work of the church national congress of 1868 which in his soul Andrei Şaguna never approved of. If, despite all this, he formally consented to the promulgation of ‘The Organic Statute’, the cause of this must be found in his political intuition that warned him that, by delaying the creation of the church constitution, he might not obtain any approval from the Hungarian Government which was so hostile to the Romanian people’s interests in national renaissance.”<sup>141</sup>

The political goals which could not be filled in the society were moved by some congress lay members in the church field: “Many trustworthy men and great politicians participated in the national church congress of 1868 (in the same way, many great people can be found today in the representative corporations of our Church). They brought along their experiences and especially their deceptions accumulated in the field of political constitutional activity and, without thinking whether these things would be beneficial or detrimental to our religious and cultural life, they tried and succeeded in turning them to good account in the field of their ecclesiastical constitutional activity.”<sup>142</sup>

“The Organic Statute” was not sanctioned in the original form established by the congress of 1868, but with the amendments made by the Hungarian Ministry of Public Worship<sup>143</sup>, amendments which altered, among other things, the Church’s right of autonomy concerning the confessional schools.

Despite the too radical opinion that “The Organic Statute” “is neither in form nor in its essential parts Şaguna’s work, but the work of the church congress of 1868”<sup>144</sup> and that “a big and essential difference was between the cardinal institutions imagined by Şaguna and those created by the congress”<sup>145</sup>, the church constitution of 1868 has been known as “Şaguna’s Statute” to this day in the Romanian Church and not only there.

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<sup>141</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 256 et seqq.

<sup>142</sup> I. LUPAŞ, *Interpretarea &&-ilor 18, 40, 88 și 150 din „Statutul organic”*, 30-31.

<sup>143</sup> See the chapter IV.4.1 herein.

<sup>144</sup> P. COSMA, *Statutul organic*, 1011. This opinion belonging to Partenie Cosma, the secretary of the church congress of 1868, was later adopted and developed by Ioan Mateiu.

<sup>145</sup> *Ibid.*, 1011.

### V.3.3 The deviations of “The Organic Statute” from Andrei Șaguna’s canonical conception and implicitly from canonicity

The main canonical problem of “The Organic Statute” was the one originating in the congress’ attempts at undermining the hierarchical-synodal character of the Transylvanian Orthodox Church, by exaggerating the role of the mixed bodies, especially the church congress but also the consistory. This was, in fact, the attempt made by some of intelligentsia of the time to transfer their political failures to the church organization.<sup>146</sup>

Andrei Șaguna’s “Project of Regulation” imagined the following mixed corporations: for each parish a parish synod composed of all the good Christians over 24 years old<sup>147</sup>; the protopopiate synod composed of one third priests and two thirds laymen, constituted by election<sup>148</sup>; the eparchial synod composed of twenty priests and forty laymen, all elected<sup>149</sup>; the arch-eparchial synod, with the same structure as the eparchial synod<sup>150</sup>; the metropolitan synod composed next to all of the bishops of thirty clergymen and sixty laymen, representing all eparchies<sup>151</sup>.

The main question concerning the above-mentioned mixed corporations is how canonical this organization is and how suited it is to the spirit of the Orthodox Church.<sup>152</sup> As the canonist Liviu Stan stated, there is no doubt about the legitimacy of parish and protopopiate mixed synods or assemblies.<sup>153</sup> The controversies were over the eparchial and metropolitan synods.

Bishop Andrei gave the mixed eparchial synod the task of “*ruling and checking over the church-economic, school and foundational objects of the entire eparchy*”<sup>154</sup>. By

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<sup>146</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 246.

<sup>147</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §25.

<sup>148</sup> *Ibid.*, §60-§61

<sup>149</sup> *Ibid.*, §123.

<sup>150</sup> *Ibid.*, §154.

<sup>151</sup> *Ibid.*, §193-§194.

<sup>152</sup> The competent answer to this question was offered by canonist Liviu Stan, in his work “The Laymen in the Church” (“Mirenii în biserică”), which is accessible only to readers of Romanian. That is why in this thesis there were adopted many references from his argumentation.

<sup>153</sup> Cf. L. STAN, *Mirenii în biserică*, 194-195.

<sup>154</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §123.

this, nothing of what was purely spiritual was entrusted to this synod and, from this point of view this was no deviation from the Orthodox canons. The problem here was the question whether the bishop was obliged to respect all the decisions voted by a majority of synodal members. Of course, the synod's decisions, even the majority ones, cannot be obligatory for the bishop. This is not clearly mentioned in the "Project", but the sovereignty of the bishop in his own eparchy was clearly stipulated: "*The bishop is concerned with all those issues related to his eparchy*"<sup>155</sup>. In this way, "the bishop being sovereign in his eparchy, the eparchial synod cannot impose him any decision against his own will, but on the other hand he cannot refuse to accept a decision of the synod at whim, but only bringing solid arguments."<sup>156</sup>

Therefore, the mixed eparchial synod appears, in the light of Andrei Şaguna's canonical conception, in principle as a consultative forum compare to the sovereign power of the bishop. The episcopal character of the Church was untouched and, at the same time, co-operation in the form of mixed synodality was happily achieved, by this being proven, apart from a legal spirit, a deep understanding and knowledge of the Orthodox Church's institutions and their functions.

The eparchial consistory had, in the "Project of Regulation", the same consultative role as the eparchial mixed synod.<sup>157</sup>

The mixed metropolitan synod get from Andrei Şaguna the same attributions as the eparchial one, but extended to the entire metropolitanate, not just to an eparchy. Again, the metropolitan synod's decisions did not have an obligatory character for the bishops because "*the bishops' synod is the supreme authority in the Church*"<sup>158</sup>. Therefore, the metropolitan synod was essentially a consultative forum beside the bishops' synod - the highest authority in every local Orthodox Church.

The conclusion of Liviu Stan is: "Şaguna's conception on the mixed synods, exposed in his 1864 project, cannot be suspected of any deviation from the spirit of the Holy Canons and the Tradition of the Orthodox Church."<sup>159</sup>

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<sup>155</sup> Ibid., §99.

<sup>156</sup> L. STAN, *Mirenii în biserică*, 195.

<sup>157</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §119.

<sup>158</sup> Ibid., §211.

<sup>159</sup> L. STAN, *Mirenii în biserică*, 196. On the mixed synodality and its canonicity see the chapter VI.5.4 herein.

However, through “The Organic Statute” of 1868, because of some shortcomings one may say the hierarchical-synodal character of the Church was affected. The bishops’ synod was no longer regarded - as Andrei Şaguna had specified - as the Metropolitanate’s highest authority in all the Church issues, but only in the dogmatic and spiritual ones<sup>160</sup>, whereas in the others the church national congress (the formerly mixed metropolitan synod) was the supreme authority. This consisted of thirty clergymen apart from the metropolitan and the bishops, and sixty laymen, the bishops being considered of the same rank as the other members of the congress.<sup>161</sup> Also, the bishops’ authority, their canonical power was made dependent on the mixed eparchial synod’s authority, made up of twenty priests and forty laymen<sup>162</sup>, because it is not anymore stipulated that the bishop has the right to “deal with all those issues related to his eparchy”, like in the “Project of Regulation”, §99. Formally, both the church congress and the mixed eparchial synod became independent bodies that could make decisions against the bishops’ will.

But, in this case, like in many others, the old practice of the Church was stronger than the new theory, the hierarchical principle being unharmed in the Transylvanian Orthodox Church: “in practice, the bishops’ will very rarely came into conflict with that of these mixed synods stipulated by ‘The Organic Statute’; so that, despite the lack of some provisions contained in the ‘Project’ that might give the impression that ‘The Organic Statute’ formally prejudiced the hierarchical-synodal character of the Transylvanian Church, in reality the practice of the Church life did not prejudice it, but it helped define better and even strengthen this character of the Church. The legislative shortcoming was compensated by the canonicity of the functioning of some corporations or mixed synods, which, if judged only based on the text in ‘The Organic Statute’, without understanding Şaguna’s patristic spirit, certainly do not seem to be in total agreement with the canons. Never ever has the bishops’ will been ignored without valuable reasons, but they remained in fact the supreme instance in all the ecclesiastical matters. Şaguna’s fight [for canonicity] did not end by the formal adoption of some mixed synods as strictly canonical as he had wished. However, the way in which the

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<sup>160</sup> Cf. Statutul organic, §171.

<sup>161</sup> Ibid., §145-§146.

<sup>162</sup> Ibid., §87.

new synods were constituted and functioned is in agreement with Şaguna's superior canonical conception and the practice of the Transylvanian Church, the practice of the big synod."<sup>163</sup>

It is very true that Andrei Şaguna, for the sake of seeing his eparchy solidly organized and protected from the political fluctuations of the worldly government, made concessions to the congress, equal to sacrificing parts of his canonical convictions, conception, and doctrine. But even this fact "proves his historical position and importance more than anything else. [...] As a legislator Şaguna was so wise and cautious that, after a hard mental fight, he decided to make sacrifices to the edifice [the church constitution] required equally by both the rightful conscience of his believers and the spirit of the time."<sup>164</sup>

The following conclusion seems to be the right one: "If 'The Organic Statute' cannot be considered a perfect law, the mortals not being able to create perfect things, it is still a very important ecclesiastical law that can tend towards perfection. We have the duty to try to promote this tendency from all our powers and as much as we can."<sup>165</sup>

#### **V.4 The Orthodox ecclesiology reflected in Andrei Şaguna's canonical works and ecclesiastical organization**

Unlike the Orthodox ecclesiology of the Slavic catechisms of his time<sup>166</sup>, rather pneumatological than christological and focusing especially on the hierocratic aspect of the Church, Andrei Şaguna laid emphasis on the christocentric dimension of the Church, as mystical body whose head is Jesus Christ Himself.<sup>167</sup>

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<sup>163</sup> L. STAN, *Mirenii în biserică*, 197. On "the big synod" see the chapter VII.1 herein.

<sup>164</sup> I. LUPAŞ, *Mitropolitul Şaguna ca restaurator și legislator al Bisericii Ortodoxe Române*, 12-13.

<sup>165</sup> I. LUPAŞ, *Interpretarea &&-ilor 18, 40, 88 și 150 din „Statutul organic”*, 32.

<sup>166</sup> After the fall of Constantinople (1453) Russia - and thereby the Slavic Orthodoxy - took the role of gravity factor in the Orthodox world, implicitly in the area of theological sciences. The Russian Orthodox Church took a special role and influenced a lot beginning with the seventeenth century the life of the Slavic Orthodox Churches of the Balkan Peninsula. Cf. A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 15-16, 43; George A. MALONEY, *A History of the Orthodox Theology since 1453*, Massachusetts 1976, 11-87; T. WARE, *The Orthodox Church*, 13.

<sup>167</sup> Cf. J. SCHNEIDER, *Der Hermannstädter Metropolit*, 220-221.



The systematization of the Orthodox ecclesiology appears the most comprehensively presented in “Compendium”. At the beginning of the first part of the “Compendium” - the internal canon law - Andrei Şaguna defines the Church as such: “ *The Church, from the viewpoint of the canon law is the sum of those individuals who have accepted our Lord Jesus Christ, one faith, one baptism, one God and Father of us all (Ephesians 4.4-6)*<sup>168</sup>, so that by confessing and fulfilling the teachings and the new edifice of Christ’s law (Hebrew 7.23-24)<sup>169</sup> they could be redeemed from the old law and receive the inheritance as sons. (Galatians 4.4-5)<sup>170</sup> [...] *That Christ is the Head of the Church and the Church is Christ’s Body we are assured of this by the Holy Bible.*”<sup>171</sup> Therefore, the Church is the mystical body whose head is Jesus Christ Himself. The argument for the definition given above to the Church is the Paulin doctrine, extensively quoted in “Compendium” (Ephesians 1.22-23, Colossians 1.24, Colossians 1.18, Ephesians 4. 15, Colossians 2.9-10).<sup>172</sup> Then this first part of the book includes explanations about the dogmatic, symbolic, axiomatic, liturgical and ritual teachings, and in the third chapter about “*the organism and constitution of the Church*”<sup>173</sup>. After clarifying briefly the canonical aspects of the two fundamentals of the Church in the Orthodox comprehension - the apostolic faith and the Holy Sacraments - Andrei Şaguna went on to describe the social, external organization of the Church because: “*As one cannot deny the existence of the Church and its Head, one cannot either doubt about or neglect the existence of the Church’s organism, without severely affecting the body of the Church itself ...*”<sup>174</sup>

<sup>168</sup> Ephesians 4.4-6: “There is one body and one Spirit, just as you were called to the one hope that belongs to your call, one Lord, one faith, one baptism, one God and Father of us all, who is above all and through all and in all.”

<sup>169</sup> Hebrew 7.23-24: “The former priests were many in number, because they were prevented by death from continuing in office; but he [Jesus Christ] holds his priesthood permanently, because he continues for ever.”

<sup>170</sup> Galatians 4.4-5: “But when the time had fully come, God sent forth his Son, born of woman, born under the law, to redeem those who were under the law, so that we might receive adoption as sons.”

<sup>171</sup> A. Baronu de SIAGUN`A, Compendiu, 19-21.

<sup>172</sup> Cf. Ephesians 1.22-23: “and he has put all things under his feet and has made him the head over all things for the church, which is his body, the fulness of him who fills all in all”; Colossians 1.24: “Now I rejoice in my sufferings for your sake, and in my flesh I complete what is lacking in Christ’s afflictions for the sake of his body, that is, the church...”; Colossians 1.18: “He is the head of the body, the church; he is the beginning, the first-born from the dead, that in everything he might be pre-eminent”; Ephesians 4. 15: “Rather, speaking the truth in love, we are to grow up in every way into him who is the head, into Christ...”; Colossians 2.9-10: “For in him the whole fulness of deity dwells bodily, and you have come to fulness of life in him, who is the head of all rule and authority.”

<sup>173</sup> A. Baronu de SIAGUN`A, Compendiu, 88.

<sup>174</sup> Ibid., 88.

Concerning this second aspect of organism<sup>175</sup> or social institution, the Church has a strictly human, visible configuration, namely: personal elements and social elements.

*“The personal elements of the Church organism refer to all the members of the Church body irrespective of the nationality or position which they occupy in the Church ...”*<sup>176</sup>

Therefore, all the faithful irrespective of nationality or social position are, in Andrei Şaguna’s understanding, elements of the social organism of the Church.

*“The social elements of the Church organism are: the parishes, the monasteries, the protopopiates, the eparchies, the metropolitanates and the patriarchates, into which the universal Church is dismembered; still, because these parts are connected to one another, there is a most natural harmony between them.”*<sup>177</sup>

Corresponding to the definition of the Church - on the one hand as a mystical body, articulated on the faith and Holy Sacraments and which preserve the same value and are unchanged; on the other hand as a social, visible, and **in some degree** changing body - the functions of the individual members (“the personal elements”) of the Church are divided by Andrei Şaguna into: abstract ones - for the enlightenment and absolution of one’s own soul and the souls of those everyone is responsible for; and concrete ones - economic, administrative, or of a different nature responsibilities within the ecclesial body, specific to each category. Although not all “the personal elements” have the same position and role within the Church, no member of the Church is absolved from responsibilities, both abstract and concrete.<sup>178</sup> Confronted himself with *“the multitude of things that come upon me and the scarcity of people to help me”*<sup>179</sup>, Andrei Şaguna understood very well, since the beginning of his activity in Transylvania, the necessity and role of the involvement of the laymen, of all the faithful in the affairs of the Church: *“All shall be done, but in time and with help from the community; and, in order to achieve the goal, we have to be apostles of the animation of a sense of community*

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<sup>175</sup> On “organism” in the philosophical-political discourse of the nineteenth century see J. SCHNEIDER, *Der Hermannstädter Metropolit*, 176-181.

<sup>176</sup> A. Baronu de SIAGUN`A, *Compendiu*, 90.

<sup>177</sup> *Ibid.*, 90.

<sup>178</sup> *Ibid.*, 93-94.

<sup>179</sup> Andrei Şaguna’s letter to Protopope Meletie Drăghici from Timișoara, dated Sibiu, January 9, 1858, in: T. BODOGAE, *Dintr-o corespondență timișoreană*, 34-35 here 34; Cf. also A. ŞAGUNA, *Corespondența I/1*, 200-201.

*into the Christians, for to use them in times of need.*”<sup>180</sup> Because God’s gifts for winning the Heavenly Kingdom are meant for all the members of the Church, “*who only in this way will be attracted to the Christian religion, if they have the chance to participate in the Church affairs after the practice Christ established and the Apostles continued ...*”<sup>181</sup>

Two verbal constructions are to be noticed when it comes to defining the personal and social elements: “all the members of the Church body irrespective of the nationality or position which they occupy in the Church” and “the universal Church”.

These undoubtedly prove that Andrei Şaguna’s thinking was not marked in any way by the doctrine of exacerbated nationalism, which was so characteristic to the nineteenth century, especially in the Central Europe and Balkans. The Phyletism<sup>182</sup>, the error of tailoring the ecclesiastical institution to the tight measurements of one nation, was unfamiliar to him. Ever since 1849, when he initiated the first steps with a view to revive the Transylvanian Orthodox Romanian Metropolitanate, the bishop had declared himself against the Serbian ethnophyletism, similar to the Greek one: “*God’s Church being one and belonging to both Romanians and Serbians, it should be a mother who, irrespective of nationality, should embrace her children and be common, one, holy, universal and apostolic Church, without privileges for the Serbian nation; for, if the Serbian nation wants that, it will be against the Church’s canons and will fall into that very sin for which it wanted to do away with the Greek hierarchy appointing only Greeks as priests, bishops, metropolitans and archbishops.*”<sup>183</sup> Then, among his demands concerning the Orthodox Church in the Austrian Empire, presented to the Viennese Ministry of the Interior on November 16, 1850, during the conference of the

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<sup>180</sup> Andrei Şaguna’s letter to Protopope Meletie Drăghici from Timișoara, dated Sibiu, February 26, 1858, in: T. BODOGAE, *Dintr-o corespondență timișoreană*, 35-36 here 36; Cf. also A. ŞAGUNA, *Corespondența I/1*, 201-202.

<sup>181</sup> A. Baronu de SIAGUN`A, *Compendiu*, 5.

<sup>182</sup> The term phyletism (from Greek noun φυλή = race, tribe) describes a phenomenon which deepened in the nineteenth century, especially in the Patriarchate of Constantinople’s area, meaning the organisation of the Church along ethnic (racial) lines. The Holy and Great pan-Orthodox Synod which met in Istanbul (formerly Constantinople) in 1872 condemned phyletism - the national or ethnic principle in church organization. Phyletism, however, should not be confused with patriotism (which was known at that time as φιλοπατρία) as the latter simply means devotion and loyalty to one’s nation and/or culture.

Cf. Nikolaus THON, *Neuzeitliche Kirchengeschichte*, 3. Ostkirchen, in: EKL, Bd. 3, 729 et seqq. here 730; T. WARE, *The Orthodox Church*, 98.

<sup>183</sup> “Andrei Şaguna către Eugen Hacman” (“Andrei Şaguna to Eugen Hacman”), dated Olmütz, April 18, 1849, in: A. ŞAGUNA, *Corespondența I/1*, 292-294 here 293-294.

Orthodox bishops of the monarchy in 1850-1851, there was also the normalization of the connections of the Orthodox Church in the Austrian Empire with the Patriarchate of Constantinople, as the supreme instance to which this Church canonically belonged: *“In Erwägung dessen, daß nach den kanonischen Satzungen der orientalischen Kirche, die morgenländische Kirche aus Österreich zu dem Patriarchate in Konstantinopel gehört, mithin ist der Stuhl dieses Patriarchates die oberste Instanz in den Kirchenangelegenheiten für die heilige Kirche und ihre Christen; - möge es unserer Hierarchie in Österreich gestattet sein, in von der Kirche vorgeschriebenen Fällen sich an den genannten Patriarchalstuhl zu Konstantinopel im Wege des k. k. Ministeriums des Äußern zu wenden.”*<sup>184</sup>

The Orthodox theory of pentarchy<sup>185</sup> is very clearly expressed in “Anthorismos”. For Andrei Şaguna, the superior canonical authority of the Orthodox Church in the Austrian Empire was and had to remain the Patriarchate of Constantinople. When the clergy of Bukovina brought the argument that a patriarch of all the Orthodox people in the Austrian Empire could become despotic and hard to control, that is why a stately authority meant to censor him was necessary<sup>186</sup>, the bishop replied acidly: *“Fivol und ganz überflüßig finde ich auch jene Worte unserer Brüder aus der Bukovina, wo sie sagen: ‘daß der Patriarch Österreichs ein Mensch sei, der fehlen kann, und wer soll ihn dann richten? Denn es ist nicht kanonisch, einen Patriarchen vor eine Synode zu stellen,*

<sup>184</sup> “Propunerile episcopului Şaguna prezentate ministrului pentru conferinţele episcopesci dela Viena” (“Bishop Şaguna’s suggestions presented to the minister for the bishops’ conferences of Vienna”), November 16, 1850, in: II. PUŞCARIU, *Metropolia, colecţia de acte*, 73-87 here 76.

<sup>185</sup> “Das Konzil von Chalkedon von 8.10.451 war die Geburtsstunde der klassischen Pentarchie, welche bald der juristischen Fixierung bedurfte, die sie durch die Novellen des Kaisers Justinian (527-565) tatsächlich erhalten hatte. In diesen Gesetzestexten kam die Pentarchieidee – noch nicht die Pentarchietheorie – zum Ausdruck, welche bereits mit der Entstehung der Pentarchie einhergegangen war und bei den Kirchenhistorikern Sokrates und Sozomenos ihren ersten literarischen Niederschlag gefunden hatte. Seit 380 konnten wir daher eine unklassische seit 451 dagegen die klassische Pentarchietheorie feststellen. [...] Die Pentarchieidee beinhaltet gegen Ende des 7. Jahrhunderts das Bekenntnis, dass die Kirchenleitung in den Händen der fünf Patriarchate liegt. [...] Gerade im späten 11. und 12. Jh. stand die Pentarchie bei den Byzantinern in hohem Ansehen. [...] Mit der Erhebung Moskaus zum Patriarchat im Jahre 1593 entstand eine neue Variante der Pentarchietheorie. [...] Die Pentarchietheorie verlor seit dem 17. Jh. immer mehr auf Bedeutung. [...] Durch die Entstehung der Patriarchate auf dem Balkan und die Gründung der autokephalen Kirche Griechenlands war die Pentarchietheorie bedeutungslos geworden. [...] Nicht nur der Osten, auch der Westen hatte im Laufe der Geschichte eine eigene Auffassung über die Pentarchie entwickelt. Ihre Ausformung hängt von der Einstellung zum päpstlichen Primat ab.” F. R. GAHBAUER, *Die Pentarchietheorie*, 417-424.

See also J. BINNS, *An Introduction to the Christian Orthodox Churches*, 10 et seqq.

<sup>186</sup> “[...] so wäre es doch nicht gut einen einzigen Patriarchen ohne seines Gleichen im Staate zu haben, denn sonst artet er aus, und wird zu einem absoluten Kirchenfürsten, wo dann die Kirchenverfassung bloß ein tochter Buchstabe bleibt und auch der Staat einem so mächtigen Kirchenfürsten gegenüber seine Verlegenheit hat.” A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 60-61.

wo nicht seines Gleichen wenigstens den Vorsitz führen!’ *Gehet Brüder, ihr konntet aus der Stellung unserer Kirche in Österreich erkennen, daß wir hier keinen Patriarchen haben können, warum habt ihr euch also in Negationen eingelassen!*”<sup>187</sup> The Serbian patriarch of Karlowitz (named in this way after the 1848 revolution, by the Court, out of political interests<sup>188</sup>) was not and could not be, canonically speaking, the representative of the Patriarchate of Constantinople: “*Wir halten es nicht dafür [daß der serbische Patriarch der Stellvertreter des konstantinopolitanischen Patriarches wäre], denn wir kennen weder die Art und Weise, noch die Zeit, wann dieses geschehen wäre; auch von einer Verhandlung in dieser Beziehung wissen wir Nichts. Ueber das steht fest, daß Se. Majestät auf die Bitte der serbischen Nation die Erneuerung des Titels eines serbischen Patriarchen gestattet haben und daß dieser sich jetzt ‘Patriarch aller Serben, Bulgaren und ganz Illyriens’ schreibt, aus welchem Titel man ersieht, daß der serbische Patriarch sich selbst nicht den Stellvertreter des constantinopolitanischen Patriarchen nennt.*”<sup>189</sup> Moreover, he insisted on reminding the same people of Bukovina, “worried” by the possibility of a despotic patriarch and consequently, anxious to involve the state as a “guardian”, that in the Orthodox Church - a Church par excellence synodal - nobody, be it a patriarch, could be above the canons: “*Wir können uns nicht genug wundern über diese Behauptung unserer Brüder aus der Bukovina. [...] so sind wir doch gezwungen die Argumente unserer Brüder zu mißbilligen, weil sie als Theologen und Kanonisten aus der Theorie und Praxis unserer Kirche wissen müssen, daß bei uns ein Patriarch nicht über den Kanones steht, und daß alle jene Patriarchen ihres Amtes entsetzt worden sind, welche sich über die Kanones erhoben und ihren Beruf mit Leidenschaft und mit Verletzung der Kanones zu erfüllen suchten. Daher muß uns dieser auf den Institutionen unserer Kirche gegründete Umstand nur ermuntern zu verlangen, daß die Freiheit der Kirche und die Verbindung unserer Metropolen in Österreich mit dem Patriarchen aus Constantinopel wiederhergestellt werde, denn so lange sie kanonisch und legal bleibt, bringt sie der Kirche und dem Staate Vortheile; wie aber diese Verbindung von der einen oder andern Seite her ausarten würde, so verliert der schuldige Theil seine Würde, denn bei uns wird keinem Hierarchen der Charakter der Infallibilität zugesprochen. In unserer*

<sup>187</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 67.

<sup>188</sup> Cf. II. PUŞCARIU, *Metropolia*, 40, 54.

<sup>189</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 100.

*Orthodoxie vindicirt man nur der ökumenischen Synode den Charakter der Infallibilität und keinem andern.*<sup>190</sup>

Ten years before publishing the “Compendium”, Andrei Şaguna wrote to a Romanian Orthodox bishop across the Carpathians, Calinic of Râmnic: *“for Christianity is the great Body of Christ, Who is its Head, and the bishoprics have been created just to organize well and lead this great spiritual body, and they are connected together by one and the same faith, one and the same baptism and by receiving through Eucharist the same body and blood of our Saviour.”*<sup>191</sup>

According to here mentioned Orthodox ecclesiology, Bishop Andrei Şaguna considered himself responsible for his eparchy, but also equally for the entire Orthodox Church.<sup>192</sup> When he received the circular letter from the first Greek Catholic Metropolitan of Blaj Alexandru Sterca Şuluţiu, the Orthodox bishop sent a protest to the government, feeling himself *“obliged to protest solemnly, both on the part of my eparchy, [...] and of the Eastern Ecumenical Church.”*<sup>193</sup> The same double responsibility as a bishop is proven by the interest and involvement in the Church-related problems of the Romanians across the Carpathians<sup>194</sup>, as well as the interest manifested in the situation of other local Churches. In 1870, around Christmas, he was interested in the issue of the Bulgarian Orthodox Church and the position of the Ecumenical Patriarchate, which he firmly condemned: *“I remember reading in German newspapers that the patriarch of Constantinople intends to summon an ecumenical synod to settle the dispute between the Patriarchate and the Bulgarian faithful on the appointment of the hierarchs. I can see no blessed or canonical cause in this ambition of the Patriarchate, because there*

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<sup>190</sup> Ibid., 66-67.

<sup>191</sup> “Andrei Şaguna către Calinic de Râmnic” (“Andrei Şaguna to Calinic of Râmnic”), dated Sibiu, March 13, 1858, in: A. ŞAGUNA, Corespondenţa I/1, 271-272 here 271.

<sup>192</sup> The Catholicism defines the ecclesiality of a bishop and his community through the communion with the first bishop - that of Rome. Cf. Lumen Gentium 22, 23; Thomas STUBENRAUCH, Der Papst als Primus inter pares und höchste Autorität in der katholischen Kirche, in: S. DEMEL, L. MÜLLER (Hrsg.), Krönung oder Entwertung des Konzils?, 74-103 here 76 et seqq.

The Orthodoxy subordinates the first bishop’s ecclesiality, even in his leading position, to his communion with all of the bishops, in the unity of God’s people, the only sign of the presence of the infallible Truth. By sharing the eucharistical community, which takes place during every liturgical assembly, every local Church is in mutual communion with the other Churches and they all form together the One, Universal Church. Every bishop, in communion with the others, is responsible for the entire Christ’s Church. Cf. N. V. DURĂ, Intercomuniune sau comuniune sacramentală?, 23; T. WARE, The Orthodox Church, 21-22; J. ZIZIOULAS, Being as Communion, 247 et seqq.

<sup>193</sup> Andrei Şaguna’s protest against Alexandru Sterca Şuluţiu’s circular letter of April 9/21, 1855, dated May 24, 1855, in: N. POPEA, Archiepiscopul şi Metropolitul, 110-111.

<sup>194</sup> See the chapter III.2.8 herein.

are regulating canons about that, which the patriarch does not respect and the Bulgarian people are dissatisfied with this abuse of the Patriarchate; the situation is very easy to work out if the Patriarchate respects and observes the canons and their interpretations from 'Pedalion', otherwise this shall be a source of shame for the Patriarchate in front of the Orthodox Church."<sup>195</sup> In a letter to Metropolitan Nifon of Wallachia, Bishop Andrei Şaguna expressed his concern about the centrifugal and non-unitary tendencies of the Orthodox episcopate: "*The more the highest leader of our Church [the ecumenical patriarch] is unable to devote his power to his highest mission [...] the bigger would be the duty of all the leaders of this Church to understand each other and work in harmony to strengthen the spirit that strengthens the Christianity and to protect it from all the threatening dangers.*"<sup>196</sup>

As the editors of the first volume which collects a part of Andrei Şaguna's correspondence state: "The letter exchanges of the bishop of Sibiu with the hierarchy

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<sup>195</sup> "Andrei Şaguna către Calinic Mitropolitul Moldovei și Sucevei" ("Andrei Şaguna to Metropolitan Calinic of Moldavia and Suceava"), dated Sibiu, December 27, 1870, in: A. ŞAGUNA, Corespondența I/1, 253-254 here 254.

The millet system applied after 1453 to all Christians within the Ottoman Empire, according to which the patriarch of Constantinople was not only the spiritual head of the Greek Orthodox Church, but the civil head of the Greek nation - the ethnarch (εθνάρχη) or millet-bashi - made possible the survival of the Greek nation as a distinctive unit through four centuries of alien rule. But it led to a sad confusion between Orthodoxy and nationalism. With their civil and political life organized completely around the Church, it became all but impossible for the Greeks to distinguish between Church and nation; to the Greeks of the Turkish Empire "Hellenism" and Orthodoxy became inextricably intertwined, far more so than they had ever been in the Byzantine Empire. The Greek nationalism or pan-Hellenism used Orthodoxy to serve its aspirations, especially beginning with the sixteenth century, after the patriarch of Constantinople took on the position and rights of an ethnarch (national leader) over all Eastern Christian peoples. Especially in the seventeenth and eighteenth centuries, the non-Greeks Orthodox Christians of Balkan Peninsula (Bulgarians, Serbs, Romanians) were governed by Greek bishops and were often prevented from worshipping in Slavonic, respectively in Romanian. This enforced policy of Hellenization was rejected in the nineteenth century by Bulgarians, who began to claim not only a native clergy but also equal representation on the higher echelons of the Christian millet - i.e., the offices of the patriarchate. These claims were met with firm resistance by the Greeks. The alternative was a national Bulgarian Church, which was created by a sultan's firman (decree) in 1870. The new Church was to be governed by its own Bulgarian exarch, who resided in Constantinople and governed all the Bulgarians who recognized him. The new situation was un-canonical, because it sanctioned the existence of two separate ecclesiastical structures on the same territory. In the Holy and Great pan-Orthodox Synod convened in 1872 by Ecumenical Patriarch Anthimus VI in Constantinople, which included the Greek patriarchs of Alexandria and Jerusalem, too, was condemned "phyletism"- the national or ethnic principle in church organization - and the Bulgarians were excommunicated. This schism lasted until 1945, when reconciliation took place with full recognition of Bulgarian autocephaly within the limits of the Bulgarian state. Cf. T. WARE, *The Orthodox Church*, 98; J. BINNS, *An Introduction to the Christian Orthodox Churches*, 12-13.

<sup>196</sup> "Andrei Şaguna către Mitropolitul Nifon din Țara Românească" ("Andrei Şaguna to Metropolitan Nifon of Wallachia"), dated Sibiu, February 23, 1856, in: A. ŞAGUNA, Corespondența I/1, 284-286 here 284-285.

from the Principalities and then from Romania reveal a vast vision on the Eastern Orthodoxy in general and the national Churches that belonged to it, which was based on canons and the institutions of the Holy Fathers. [...] He defended the canonicity and ecclesiology of the Orthodox Church whenever it was necessary; he promoted coordination between the Churches of the same faith.”<sup>197</sup>

It is also very important to underline the fact that Andrei Şaguna understood and organized the social body of the Church in a tight connection with its mystical, sacramental substratum. The Holy Sacraments, especially the Eucharist give cohesion and life to the social body of the Church; without them, this social body loses its quality, it does not belong to the Church, but to society like any other social or political structure. The Eucharist, the communion with Christ - the Head of the Church - and the get-together within Eucharistic Christ are the things which define and outline the social body of the Church: *“Therefore, my beloved ones! This synod will be held at our bishopric, in Sibiu. A holy and great thing is going to happen, and, in order to begin and end this holy and great thing successfully, before the opening of the assembly we should not fail to kneel for mercy in front of God Almighty, so that He would enlighten our mind and spirit and give us a pure heart and brotherly love in our sessions, which is to send us His Holy Spirit, because this synod shall gather in His name and to the glory of His name; likewise we should thank God at the end of the synod, because he entrusted us to accomplish such a holy and great thing for the well-being of our Church and people. For this, all our clergy shall pray for eight days and call the Holy Spirit, according to the liturgical rule written here [...]. On the opening day of the synod the Holy Liturgy will be celebrate at our bishopric by several priests and deacons together with me, and all the members of the church [assembly] will receive the Eucharist, for the communion of their faith and the share of the Holy Spirit and for the dwelling of our God, Jesus Christ, in the hearts of the members of that synod.”*<sup>198</sup> In the provisions of both the “Project of Regulation” and “The Organic Statute” the mixed church assemblies were preceded by the participation of all the members in the Holy

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<sup>197</sup> Introductory study at A. ŞAGUNA, Corespondența I/1, 50.

<sup>198</sup> Andrei Şaguna’s circular letter No. 110/1850, in: Gh. TULBURE, Mitropolitul Şaguna, 402-404 here 403-404.



Liturgy<sup>199</sup>, the source of the good decisions in the Church being the communion within the Eucharistic Christ, not the simple democratic meeting of the representatives of the clergy and laymen. Moreover, in some cases, especially when a new bishop or metropolitan was elected, the assemblies had to be preceded, apart from the Holy Liturgy in the morning of the election, by the vigil of the Pentecost.<sup>200</sup> Although, by comparison, in the “Project of Regulation” the mystical presence of the Holy Trinity in the acts of decision of the mixed synods is more relevant, Andrei Şaguna’s mystical spirit could not be effaced from “The Organic Statute” either.

These were the coordinates of the Orthodox ecclesiology on which the thought and actions of the bishop of the poorest eparchy in the Austrian Empire were structured. The key of his exceptional achievements was the responsibility shared by all the faithful, their personal and collective co-ordination through organizational mechanisms meant to work impeccably. In the clericalism context of the Church of the time, Andrei Şaguna insisted on creating the chance for all members of the Church to actively participate in its life, in order to advance it throughout the history as a divine-human vigorous, credible institution: *“There is no doubt that the external vitality of the Church is conditioned by the smooth working of all the personal and social elements of the Church organism, for the body whose vital parts are neglected and uncultivated or sentenced to passivity, and for that reason they are hindered in their functions, that body’s life is numb and morbid and prone to sickness; that is why it is necessary that the organic elements of the Church should not only be undisturbed by all sides, but they all should be free to work and co-operate in harmony for their own mutual support, advancement and prosperity. The vitality of the Church from the side of its Head is immortal and guaranteed for eternity [...]; but that the external vitality of the Church can be easily damaged from one reason or another, we can make sure all the more looking at the external icon of the Church, which today presents it to us like a neglected vineyard and a stuck fountain which does not bear too much fruit compared with the*

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<sup>199</sup> See A. Baronu de SIAGUNA, Proiectu de unu Regulamentu: §27, §76, §103, §131, §139; Statutul organic: §8, §52, §93, §100, §157.

<sup>200</sup> See A. Baronu de SIAGUNA, Proiectu de unu Regulamentu: §103, §131, §139; Statutul organic: §100, §157.

Vespers continuing with the following day’s matins is called vigil and is a religious service of special mystical intensity which is officiated at night or in the evening, on the eve of a holy day in the Orthodox Church.

*richness of the vineyard, nor does it give enough water compared to its rich spring. The source of this evil is the absolutism transplanted from the civil territory to the ecclesiastical one, which hinders, with a petrified heart, the vitality of the elements of the Church organism and strips them of any activity.”<sup>201</sup>*

As a German Protestant theologian recently wrote: “Im ‘Organischen Statut’ realisierte Şaguna im gesamteuropäischen Kontext schon 1868 eine biblisch und kanonisch verantwortete Kirchenverfassung, durch die die Mitwirkung der Laien an der Leitung und Verwaltung der Kirche geregelt wurde, während dieser Prozeß in Rußland erst 1918 auf dem Landeskonzil in Moskau zum vorläufigen Abschluß kam.“<sup>202</sup>

It is useless to mention that the same process was even more delayed in the Roman Church, and it took place about hundred years after Andrei Şaguna.

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<sup>201</sup> A. Baronu de SIAGUN`A, Compendiu, 91.

<sup>202</sup> J. SCHNEIDER, Der Hermannstädter Metropolit, 199.

## VI. THE CANONICAL PRINCIPLES OF ANDREI ŞAGUNA'S ECCLESIASTICAL ORGANIZATION

The main canonical principles which are clearly expressed in Andrei Şaguna's works are the following: the canonicity principle; the church autonomy (internal and external); the hierarchical-synodal principle; the participation of the laymen in exercising the Church power, named also the organic or ecclesiastical constitutional principle.

### VI.1 The canonicity principle

One of the Bishop Andrei's high desires was to bring the institutions of the Church into conformity with the canons.<sup>1</sup> In the context of the problems which the Austrian Empire was confronted in the middle of the nineteenth century with, and its attempts to ensure the stability and strengthen the centralization by all means, even by subordinating the ecclesiastical institutions<sup>2</sup>, Andrei Şaguna conceived the organization of the Orthodox Church in strict canonical limits, opposing himself strongly to the political interferences, because of which the Transylvanian Orthodox Metropolitanate had suffered so much in its past.

The systematic and vigorous effort to impose the canonicity is all the more laudable as there were serious anti-canonical precedents in the Orthodox world of the time; moreover, not only the political leaders availed themselves of the un-canonical things, but sometimes the Orthodox leaders too, either from ignorance or dishonesty. Andrei Şaguna was faced with these abnormalities and fought to destroy them, opposing the canonicity to such people, out of the conviction that "*bei der Organisierung der kirchlichen Angelegenheiten kann nichts gefährlicher sein als die Zugrundlegung antikanonischer Beispiele.*"<sup>3</sup> His attitude was a providential one, especially if we consider the results of his ecclesiastical organization still visible in the Romanian Orthodox Church.

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<sup>1</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 218.

<sup>2</sup> See the chapter III.2 herein.

<sup>3</sup> A. Baron de SCHAGUNA, *Authorismos oder berichtigende Erörterung*, 36.

The most obvious expressions of the canonicity principle are, apart from the reestablishment of the Transylvanian Metropolitanate<sup>4</sup>, some major actions of the Bishop Andrei directed, practically, against the political power's attempts to subordinate the Orthodox Church: a) the criticism of the consistorial system<sup>5</sup>; b) the rejection of the establishment by the state of a new, un-canonical Orthodox Metropolitanate of Bukovina; c) the opposition toward the initiative of introducing caesaropapism of Russian type in the organization of the Orthodox Church of the Austrian Empire.

#### VI.1.1 The criticism of the consistorial system<sup>6</sup>

The institution of the Orthodox eparchial consistory emerged from Emperor Joseph II's ecclesiastical policy. He was of the opinion that the monarch had the exclusive right of ruling over the state, and also over the Church in all the issues that are of human but not divine origin. According to this conception the state ecclesiastical law (Staatskirchenrecht) was founded, by which the Church was deprived of its liberty and it was imposed an organization which was foreign to the Church's nature and historical evolution. In the Austrian Monarchy, both the Roman Catholics and Protestants had

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<sup>4</sup> "Für ihn war die kanonische Errichtung der Metropole keine Emanzipation von der Karlowitzer serbischen Hierarchie, sondern eine Wiederherstellung eines kanonischen Zustandes in Gemeinschaft mit der Karlowitzer Hierarchie." J. SCHNEIDER, *Der Hermannstädter Metropolit*, 66.

<sup>5</sup> Andrei Şaguna's criticism of the consistorial system, which he considered to be an un-canonical innovation in the Orthodox Church, invalidates affirmation such as: "Als administratives Vorbild dient ihm vor allem das Konsistorialsystem der Karlowitzer Metropole..." J. SCHNEIDER, *Der Hermannstädter Metropolit*, 47.

<sup>6</sup> The consistorial church constitution is the oldest form of the Protestant constitutions, appeared on the German and central European territories. The so-called consistorial type of the church organization/constitution was established by Luther and Melanchthon. Luther himself appointed in 1542 a consistorial court composed in part of theologians and in part of canon lawyers, and it was thus that the Wittenberg ecclesiastical consistory was formed. Other principalities adopted the model, so that the institution became common throughout the Lutheran Churches. There are other two kinds of Protestant constitutions, namely the presbyterial-synodal constitution and a hybrid form between the consistorial one and the synodal one. Cf. F. H. VERING, *Lehrbuch* <sup>3</sup>1893, 663 et seqq.

consistories<sup>7</sup> and the consistorial system was imposed to the Serbian Orthodox<sup>8</sup> too. Thus, ever since 1779, the Aulic Councillor József Izdenczy devised the *Benignum Rescriptum Declaratorium Illyricae Nationis*<sup>9</sup>, which was to be the fundamental law of the Serbian Church in Hungary, Croatia, Slavonia and the Serbian territory of Banat, until 1868. This law was completed in 1782 with *Systema Consistoriale*<sup>10</sup> that regulated the organization and functioning of the mixed eparchial consistories.

Although the consistories had existed on the Serbian territories since the middle of the eighteenth century, they legally became institutions only by the enforcement of the above-mentioned acts, in which their roles and attributions were specified. According to the *Systema consistoriale* of 1782, the eparchial consistory comprised the bishop, two monks, two protopopes, two priests, one notary, one legal expert and one translator. All members had equal voting rights and the decisions were made by absolute majority.

Even though created for the Serbians from the Austrian Monarchy, the consistorial system was nevertheless imposed the Romanian Orthodox Church of Transylvania and Bukovina.<sup>11</sup>

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<sup>7</sup> “Josef II. hatte den A-Katholiken zwar die beschränkte Religionsfreiheit gewährt, war aber keineswegs gesonnen, ihren Institutionen die Freiheit des Handelns zu geben. Vielmehr hat er ein System staatlicher Beaufsichtigung und Leitung bis in geistliche Angelegenheiten hinein etabliert. Dabei ist erstaunlich, wie ähnlich die Anweisungen und konkreten Verhaltensweisen der Behörden gegenüber den Einrichtungen der dominanten katholischen Religion und denen der A-Katholiken gewesen sind. Der Bischof von St. Pölten klagte damals etwa, dass er faktisch dem Kreisamt gegenüber weisungsgebunden sei - in den Instruktionen für die Superintendenten war diese Weisungsgebundenheit festgeschrieben. Die Instruktion für die Tätigkeit des römisch-katholischen Konsistoriums in St. Pölten weist erhebliche Textpassagen auf, die sich fast gleichlautend auch in der Instruktion für die Konsistorien der A-Katholiken finden.

Freilich, die Abhängigkeit der kirchenleitenden oder eher kirchenbeaufsichtigenden Organe der Protestanten vom Kaiser war direkter und deutlicher, als das bei den Institutionen der katholischen Kirche der Fall war.” Gustav REINGRABNER, *Um Glaube und Freiheit. Eine kleine Rechtsgeschichte der Evangelischen in Österreich und ihrer Kirche*, Frankfurt am Main u.a. 2007, 86.

<sup>8</sup> “Durch verschiedene Ergänzungsbestimmungen wurden die Privilegien der Serben von der österreichischen Regierung immer mehr eingeschränkt. [...] 1729 und 1734 wurden durch ein ‘Declaratorium’ und ein Erläuterungsreskript weitere Rechte eingeschränkt. In den Jahren 1770 und 1777 wurden schließlich zwei Regulamente erlassen, die das kirchliche Leben der Serben in Ungarn organisieren sollten.” Th. BREMER, *Ekklesiale Struktur*, 17.

<sup>9</sup> See the Latin and Romanian text of it, in: Ioan D. SUCIU, Radu CONSTANTINESCU, *Documente privitoare la istoria Mitropoliei Banatului*, vol. I, Timișoara 1980, 383-410 respectively 410-433.

“So verlangte das Dokument, daß Bischofssynoden vom Staat zu genehmigen seien und daß zu ihnen ein staatlicher Abgesandter, ein ‘Commissär’ zuzulassen sei.” Th. BREMER, *Ekklesiale Struktur*, 18.

<sup>10</sup> Cf. A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 45; II. PUȘCARIU, *Metropolia*, 24, 36; P. BRUSANOWSKI, *Reforma constituțională*, 56-58.

<sup>11</sup> Cf. I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 92-93; L. STAN, *Mirenii în biserică*, 186; P. BRUSANOWSKI, *Reforma constituțională*, 60-61.

The issue of the consistory within the Orthodox Church in general, and in Transylvania in particular, represented the object of many of Andrei Şaguna's appeals toward the state.<sup>12</sup>

In the report passed on to the Austrian Ministry of the Interior, on November 16, 1850<sup>13</sup>, Bishop Andrei demanded first of all a clarification on the admissibility of the consistory within the Orthodox Church and on the nature of this admissibility, due to the fact that it was an institution so different from the traditional Orthodox spirit. Consequently, the consistories could be accepted within this Church just as permanent committees of the eparchial synods, in order to support the bishop in the administration of his eparchy. Only the bishop could be entitled to lead the eparchy, being the possessor of the Church power and authority within his eparchy, as per 38 and 41 apostolic canons.<sup>14</sup> However, the bishop could ask for the opinion of the consistory in every matter he might consider. The activity of the consistory independent of the bishop's demands could be imagined only as that of a superior judiciary forum.

Thus, the consistory could only pursue its activities in direct and exclusive connection with the canons of the Orthodox Church, and with the necessities of this Church. A well-defined and organized consistory could not be imagined until the definite and clear settlement of the relationship between the Orthodox Church and the state, and between the Orthodox Church and the other Christian confessions.<sup>15</sup>

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<sup>12</sup> "Von Consistorien ist in der älteren Periode der orientalischen Kirche keine Spur vorhanden, sie sind also für die orientalische Kirche eine Geburt der neueren Zeit, und sie können nur in der Weise auf diese Anwendung finden, dass sie für permanente, zur Seite der Diöcesanbischöfe stehende Ausschüsse der Diöcesansynoden angesehen werden, die die Bischöfe in der Verwaltung der Diöcese unterstützen. Meine Diöcese hat wohl auch bis jetzt ein Consistorium besessen, welches aber nichts weniger als gut organisiert genannt zu werden verdient." "Propunerile episcopului Şaguna prezentate ministrului pentru conferințele episcopesci dela Viena" ("Bishop Şaguna's suggestions presented to the minister for the bishops' conferences of Vienna"), November 16, 1850, in: II. PUŞCARIU, *Metropolia, colecția de acte*, 73-87 here 78; "Die siebenbürgische Diöcese hat bisher ein Consistorium gehabt, welches aber nicht den Satzungen der Kirche gemäß, sondern nach politischem Zuschnitte eingerichtet war." "Gravamenul episcopului Şaguna la Împăratul contra ministrului, cerând între alte și reînființarea metropoliei românilor ortodocși" ("Bishop Şaguna's complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians"), in: II. PUŞCARIU, *Metropolia, colecția de acte*, 122-151 here 136.

<sup>13</sup> See "Propunerile episcopului Şaguna prezentate ministrului pentru conferințele episcopesci dela Viena" ("Bishop Şaguna's suggestions presented to the minister for the bishops' conferences of Vienna"), November 16, 1850, in: II. PUŞCARIU, *Metropolia, colecția de acte*, 73-87 here 78-79.

<sup>14</sup> According to ap. c. 38 the bishop has the care of all ecclesiastical matters and he manages them on the understanding that God is overseeing and supervising.

According to ap. c. 41 the bishop has authority over the property of the Church.

See the text of these canons in the annex XV herein.

<sup>15</sup> Cf. "Propunerile episcopului Şaguna" ("Bishop Şaguna's suggestions"), 79.

The same ideas and opinions were expressed by the bishop in his complaint to the emperor of December 1, 1855.<sup>16</sup>

A similar clear-cut opinion on the intrusion of the state in the leadership of the Orthodox Church by the presence of an imperial commissary within the debates of the consistory expressed Bishop Andrei towards the Minister Leo Thun, in 1857.<sup>17</sup> To minister's commentary that the Orthodox Church could not benefit from the same rights as the Latin Church - no centre of appeal being present and active at the moment nor canonists who would put an end to the bishop's greed, the presence of an imperial commissary being therefore so much needed as a guarantee for the state that the rules and laws are obeyed - Bishop Andrei Şaguna replied that the centre of the Orthodox Church is its teachings, the guarantee to the imperial authority is given by the canons and institutions of this Church, and the absolute ecclesiastical judge within the eparchy is the bishop himself, not the consistory; if someone wishes to dispute a ecclesiastical judiciary decision, one must address the superior ecclesiastical forum, but the bishop's decision in ecclesiastical matters could never be opposed by political factors, because the political authority could not be appeal forum for the religious problems. Likewise, the bishop's acts could not be submitted to the supervision of the government, as, in what concerns ecclesiastical problems, the bishop is responsible only in front of God.<sup>18</sup>

The non-canoncity of the consistorial organization within the Orthodox Church of Austrian Empire was sustained in 1861 in the polemic with some clergymen of Bukovina, in the work "Anthonismos". At least two reasons proved the non-canoncity: first, the consistorial assessors had, in fact, the same type of voting rights as the bishop, who should accept the majority's approval, even if the majority shared un-canoncity opinions; second, according to the *Systema consistoriale* of 1782 the matrimonial

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<sup>16</sup> See "Gravamenul episcopului Şaguna la Împăratul contra ministrului, cerând între alte și reînființarea metropoliei românilor ortodocși" ("Bishop Şaguna's complaint lodged to the emperor against the minister, asking among other things the reestablishment of the Metropolitanate of the Orthodox Romanians"), in: II. PUŞCARIU, *Metropolia, colecția de acte*, 122-151 here 136-137.

<sup>17</sup> See "Întâlnirea mea cu Excelența Sa dl ministru de culte la Viena în 7/19 Septembrie 1857" ("My meeting with His Excellency the minister of public worship, at Vienna, on September 7/19, 1857"), in: A. ŞAGUNA, *Memoriile*, 105-110.

<sup>18</sup> *Ibid.*, 105-107.

matters were forwarded to the superior appeal forum, even in the case when the involved parties had been satisfied with the judgment at first instance.<sup>19</sup>

Even the notion of “consistory” itself was shown as being foreign to Orthodoxy, which allowed only synods and permanent committees adjacent to the bishops, these committees replacing the general (mixed) synods whose frequent assembling was not necessary or feasible.<sup>20</sup> The supreme forum in all ecclesiastical matters was the eparchial bishop, as per 41 apostolic canon. The bishop is supposed to be advised by the permanent committee and to make decisions with responsibility only in front of God and of the metropolitan synod (patriarchal, respectively).

So he concluded: “*Out of these it is clear that we cannot have a consistory as in the conception of other confessions, and the eparchial bishop himself is the chairman of the decisional acts on all issues related to the ecclesiastical activities in the eparchy.*”<sup>21</sup>

As a consequence, the consistory in the Orthodox Church was totally different from other confessions’ consistories, in which cases they represented juridical entities with wide governing powers. That is why even the term “consistory” was not compatible with the Orthodox spirit and tradition; a correct term would have been “episcopal committee” or “permanent committee of the general (mixed) synod”. According to the canonical Orthodox norms the consistory could only be an advisory committee adjacent to the bishop, with powers from which it could not normally and independently benefit, but only on bishop’s demand. Its members were not allowed to be anything else but

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<sup>19</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 53: “Wir sind hier gezwungen zu gestehen, daß, wenn wir von streng kirchlichen Standpunkte unsere Consistorien in Österreich betrachten, wir nichts anderes sagen können als das, daß ihre ganze Organisation antikanonisch ist, dann unter vielen andern Unzulänglichkeiten und Abnormitäten, welche diese Organisation in sich birgt, erwähnen wir hier nur zwei, daß nämlich die Consistorialassessoren bei Berathungen ihre Meinungen wie es ihnen beliebte, abgeben, und der Bischof müsse sein Votum auf die Seite der Majorität werfen, wenn dieses auch gegen seine Ueberzeugung gewesen wäre! Hierauf ist es daselbst noch festgesetzt, daß die Eheangelegenheiten ihrer Natur nach appellabel sind, d.h. sie müssen auch dann dem Appellationsgerichte vorgelegt werden, wenn die streitenden Theile mit der Entscheidung der ersten Instanz zufrieden wären.”

<sup>20</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 53: “die Benennung ‘Consistorium’ in unserer Orthodoxen Kirche ist eine fremdartige; wir haben andere Institutionen in unserer Kirche, nämlich die allgemeinen Sinoden, und die Praxis von permanenten Comittees neben den Bischöfen, Metropoliten, Erzbischöfen, Eparchen und Patriarchen, welche permanente Comittees neben den αρχιερείς die Stelle der Sinoden vertreten, die nicht so oft abgehalten werden können, aber auch deren oftmalige Abhaltung nicht nothwendig ist als einmal im Jahre.”

<sup>21</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 54: “Hieraus versteht man deutlich, daß wir ein Consistorium im Sinne der Consistorien anderer Glaubensbekenntnisse nicht haben können und daß der Vorsitzende bei der Entscheidung aller Angelegenheiten, die zum Wirkungskreise einer Eparchie gehören, der Eparchialbischof selbst ist.”



clergymen, appointed by the bishop. The opinion expressed by the consistory could not oblige or limit in any way the bishop, who is the unique possessor of the plenary ecclesiastical power within his eparchy.

#### VI.1.2 The rejection of the establishment of the Metropolitanate of Bukovina

The establishment of a Metropolitanate in Bukovina, which would have been, in fact, on one hand the “price” paid by the Court to Bishop Eugeniu Hacman for his acceptance of the political plans - not only the Orthodox ones<sup>22</sup>-, and on the other hand the “Trojan Horse” through which the Court could penetrate in the internal affairs of the Orthodox Church in its attempt to imitate the Russian caesaropapism, was strongly opposed by Bishop Andrei Şaguna.

Under the circumstances that the Eparchy of Bukovina was by far not a poor one, on the contrary, and the Church’s fortunes and their income, known as “The Religious Fund”, were administrated by the state, it is clear why the Court was very interested in this Eparchy and that Bishop Eugeniu Hacman practically fought for the supremacy of the Court over the Church’s properties in Bukovina, more than for the Church’s rights. For to be sure of its control over this Orthodox Eparchy, the Court needed in no case such a metropolitan like Andrei Şaguna, who fought steadily for the rights of his Church, inclusive the right to administrate its fortunes.<sup>23</sup>

The reason for Bishop Andrei Şaguna’s opposition relied on the principle of canonicity, which should have been enforced and respected throughout all Orthodox Church’s canonical territories, if the Church still wanted to preserve its status as an apostolic Church. In “Anthonismos”, the bishop clarified to the people of Bukovina the reasons for his opposition against the establishment of a Metropolitanate of Bukovina, which reasons were not related in any way to his personal interests or to his deep desire of integrating the Eparchy of Bukovina within the Metropolitanate of Transylvania. Out of his respect for the truth and the canons, Bishop Andrei pointed out that a

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<sup>22</sup> About the flagrant discrepancy between Bishop Eugeniu Hacman’s opinions in 1849 and those in 1861, see A. Baron de SCHAGUNA, *Anthonismos oder berichtigende Erörterung*, 95-100.

<sup>23</sup> At length on “The Religious Fund” see the chapter VII.5 herein. See also the chapter III.3.2 herein; P. CIOBANU, *Fondul Bisericesc Ortodox Român din Bucovina*, 6-8.

Metropolitanate of Bukovina would have no rationale: *“ja, wir würden derartiges nicht einmal zu unternehmen wagen, wohl wissend, daß die Kirche Bukovinas ihre eigene wahre und kanonische Metropole hat, von welcher sie durch politische Maßregeln getrennt wurde, und die, wenn sie verhindert würde, sich an ihre kanonische Metropole zu halten wohl wissen wird, was zu thun sei, und wir fühlen uns keineswegs berechtigt, uns in fremde Angelegenheiten zu mischen, oder unsern Rath unaufgefordert aufzubringen.”*<sup>24</sup> The Eparchy of Bukovina was only the follower of the Eparchy of Rădăuți, a suffragan eparchy of the Metropolitanate of Moldavia until 1775, when Bukovina was added to the Habsburg Empire. After 1775 this eparchy moved its residence at Czernowitz and it was subordinated, by the same political decisions like in the case of Transylvania, the jurisdiction of the Metropolitanate of Karlowitz.<sup>25</sup> According to the Orthodox canonical provisions - canon 8 of the Third Ecumenical Council<sup>26</sup> - the Eparchy of Bukovina should have a fate similar to that of the Metropolitanate of Transylvania after 1700, namely to find itself under the temporary jurisdiction of the neighbouring metropolitanate, until the things came back to what they were before. In this case, the neighbouring metropolitanate entitled to take the Eparchy of Bukovina under its jurisdiction was the canonical Transylvanian Metropolitanate which Andrei Șaguna wanted to reactivate. If in the beginning Bishop Eugeniu Hacman of Bukovina agreed with the organizational formula proposed by Bishop Andrei Șaguna, later, taken away by the idea to be a metropolitan himself, he neglected the desire expressed by the lay representatives of Bukovina and opposed the incorporation of the Eparchy of Bukovina within the Metropolitanate of Transylvania.<sup>27</sup>

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<sup>24</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 27.

<sup>25</sup> On the history of the Church in Bukovina see Ion NISTOR, *Istoria bisericii din Bucovina*, București 1991; Peter PLANK, *Orthodoxe Kirche und Theologie in der Bukowina zur Zeit der Habsburgerherrschaft (1774-1918)*, in: *Blicke gen Osten. Festschrift für Friedrich Heyer zum 95. Geburtstag*, hrsg. von Martin Tamcke, Münster 2004, 169-184.

See also “Resoluțiune împărătească din 8 Decembre 1786, prin care eparchiile din Transilvania și Bucovina se pun cu cele disciplinare sub metropolia sârbescă din Carloviț” (“The imperial resolution from December 8, 1786, by which the Eparchies of Transylvania and Bukovina are under the Serbian Metropolitanate of Karlowitz, together with the disciplinary matters”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 1-2.

<sup>26</sup> According to c. 8 of the Third Ecumenical Council the rights (jurisdiction) of every province, formerly and from the beginning belonging to it, will be preserved clear and inviolable. No one of the bishops shall take hold of any other province that was not formerly and from the beginning in his jurisdiction, or was not held by his predecessors. If anyone has taken possession of any and has forcibly subjected it to his authority, he shall re-give it back to its rightful possessor.  
See the text of the canon in the annex XV herein.

<sup>27</sup> Cf. the chapters III.1.5, III.2.6 and VI.2.2.1 herein.

As a matter of course Bishop Andrei (and not only he) had properly understood that Bishop Eugeniu Hacman could be easily influenced and by this put in definite danger the Orthodoxy of Bukovina and of the entire monarchy, that is why the Transylvanian bishop insisted so much on keeping and preserving the strictest canonicity. The plan of the establishment by the political power of a Metropolitanate in Bukovina was a dangerous project for the Church as much as it, although un-canonical, was sustained by a few clergymen: *“ein Projekt, welches weder auf das kanonische noch auf das historische Recht Rücksicht nimmt, und aus allen diesen werthvollen religiösen Schätzen eine tabula rasa machen will, damit es als dann eine Hierarchie schaffe, welche sich in größerer Abnormität befinden soll, als die bisherige gewesen ist, weil jene Abnormität, welche eine politische Regierung in der Kirche schafft, kleiner und weniger schädlich ist, als jene, die der Klerus selbst in der Kirche hervorrufft.”*<sup>28</sup>

### VI.1.3 The opposition toward the introduction of the caesaropapism in the organization of the Orthodox Church in the Austrian Empire

As in Bukovina the Court had “bought” an ally of its subordination and control policy over the Orthodox Church, it is from there that the public demand of a reorganization of the Orthodoxy in the Austrian Empire on the caesaropapist model was launched, by the brochure of 1861 “The Wishes of the Orthodox Clergy of Bukovina concerning the Canonical Organization of the Eparchy and its Hierarchical Position within the Orthodox Church in Austria”<sup>29</sup>. This demand gave rise to a delightful polemical reply from the part of the Bishop Andrei, by “Anthonismos”<sup>30</sup>. The main idea of his answer was the strict maintenance of the canonicity principle in order not to fall in a dangerous religious relativism.

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<sup>28</sup> A. Baron de SCHAGUNA, *Anthonismos oder berichtigende Erörterung*, 117.

Finally, the Eparchy of Bukovina was raised at the rank of metropolitanate on January 23, 1873; it was given two suffragan Slavic eparchies in Dalmatia: Zara and Cattaro. In spite of his struggle and wish to be a metropolitan, Eugeniu Hacman was not enthroned, because he died on March 31, 1873. Cf. M. PĂCURARIU, *100 de ani de la reînființarea Mitropoliei Ardealului*, 828.

<sup>29</sup> See the chapter V.1.2 herein.

<sup>30</sup> See the report of this polemics in the chapter VI.2.3.2 herein.

It is remarkable the fact that, even though the political circles of Vienna could never reproach to Andrei Şaguna his lack of loyalty, they were forced to accept the fact that he was, above all, extremely devoted to the Orthodox Church: “In his campaign to re-establish the metropolis [Metropolitanate] he kept before him two principles: reliance upon the crown as the ultimate source of law, and respect for the dynasty as a guarantor of social stability and legal continuity. Belief in the divine right of the Habsburgs to rule had nothing to do with these feelings. Şaguna’s approach was a pragmatic one based upon a keen understanding of Rumanian historical development under Habsburg rule. Like every Rumanian leader of his day, he recognized the fact that the modest cultural and economic gains of the Rumanians - Orthodox and Uniate alike - had come as a result of the Court’s intervention on their behalf against the privileged estates of Transylvania.”<sup>31</sup> Nevertheless, that did not imply in any way that he did not realistically evaluate the Habsburgs’ motivations which were clearly in their advantage. This explains why he never abandoned any of the religious causes for which he fought in favour of political interests, which sacrifice Bishop Eugeniu Hacman of Bukovina clearly made.

Even though he courageously promoted the principle of canonicity in front of the political authorities permanently wanting to breach it in favour of their own interests, Andrei Şaguna knew that his fight was not totally efficient without the explicit emphasis put on this principle by the clergy and also by Orthodox faithful themselves. In “Anthonismos” he impelled the Bukovinian clergymen corrupted by the ideas of the caesaropapism: “*Brüder! Verachtet und verlasset ja nicht die schöne und liberale Constitution unserer Orthodoxie, und trachtet nicht für die kirchliche und geistliche Angelegenheiten den Bürokratismus einzuführen! Denn sonst würden wir uns gezwungen sehen, euren in Frage stehenden Wunsch als ein schädliches Experiment zu charakterisiren, welches zwar auf kurze Zeit die ersprießliche Wirkung der Constitution unserer Kirche hemmen, später aber von der Größe und Kraft jenes Fundamentes, worauf die h. Väter die Constitution unserer Kirche gebaut haben, dessen Eckstein Christus selbst ist, zerrinnen wird.*”<sup>32</sup>

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<sup>31</sup> K. HITCHINS, *Orthodoxy and Nationality*, 226.

<sup>32</sup> A. Baron de SCHAGUNA, *Anthonismos oder berichtigende Erörterung*, 58.

## VI.2 The autonomy of the Church

### VI.2.1 Notional clarifications

One of the main principles of the church organization, which Andrei Șaguna sustained in his canonical works, was that of the Church's autonomy: "One could say that above all, his purpose and main preoccupation was the idea of the complete emancipation of his eparchy from the chains of the political as well as the religious slavery, and its organization on solid, autonomous and independent grounds, in the sense of our canons and church laws."<sup>33</sup>

The natural development of the Transylvanian Orthodox Eparchy, still at the standards of the Middle Age at the date of Șaguna's involvement in its undertaking, was conditioned by its freedom "because not the reestablishment of the Metropolitanate was his dream, but the creation of a complete independent eparchy which would be able to develop itself according to the requirements of the modern times, the characteristics of the Romanian people, and the human nature imagined in a continuous progress."<sup>34</sup> Starting from the idea that the autonomy is "a principle of life derived from the divine essence of the Church"<sup>35</sup>, this was also mentioned in the revolutionary programme of Blaj, of May 3/15 1848.<sup>36</sup>

The wording of the above-mentioned demand of Blaj, directly related to Andrei Șaguna by the historians, is referring to the notion of "Church's autonomy" in both its present-day meanings: external autonomy and internal autonomy.

**The external autonomy** defines one of the possible solutions to the ancient problem of the relationship between Church and state. It is different from the solution that

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<sup>33</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 71.

<sup>34</sup> I. SLAVICI, *Dare de samă*, 44-45.

<sup>35</sup> I. MATEIU, *Mirenii și drepturile lor în Biserică*, 49.

<sup>36</sup> See the chapter III.1.2 herein. "The Romanian nation declares that the Romanian Church, regardless of denomination, is and shall remain free and independent of any other Church and shall enjoy the same rights and benefits [within the state] as the other Churches of Transylvania." ("Protocolul adunării generale a națiunii române din Transilvania, care s'a ținut la Blaj în anul Domnului 1848, Maiu 15/3" "The Protocol of the general meeting of the Romanian nation of Transylvania which was held at Blaj in the year of the Lord 1848, May 15/3"), point 2 of the decision of the second meeting of May 4/16, 1848, in: N. POPEA, *Memorialul*, 59. Cf. also K. HITCHINS, *Orthodoxy and Nationality*, 49.

dominated the entire Middle Age - more precisely, the monolithically unity Church-state - but also different from the radical separation solution offered by the French Revolution. The autonomy of the Church toward the state, the visionary idea and solution promoted and implemented by Bishop Andrei<sup>37</sup>, means “the canonical organization according to which the Church is autonomous, that is to say independent, or, more precisely, unaffiliated in all its religious matters, in relation to any other organization outside itself.”<sup>38</sup> The Church is supposed to clarify all issues that belong to its authority through its own bodies, by strictly preserving and pursuing its own organizational norms, the state thus recognising the Church’s existence, as a self-reliant institution, within the state’s own framework.

**The internal autonomy**, known under the name of “eparchial autonomy”<sup>39</sup> or “church administrative autonomy”, is the exclusivity right of every eparchial bishop (an auxiliary bishop does not enjoy this right) in his own eparchy; he exercises the Church

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<sup>37</sup> The visionary character of this solution is more clearly visible if it is analysed in the ecclesial context of the time. Thus, when Andrei Șaguna proposed, fought for and achieved the autonomy of his eparchy within the state, the Catholic Church took a firm position on the Middle Age barricades, Pope Pius IX calling the idea of separation between the state and the Church a mistake, in the point 55 of the annex “Syllabus errorum” to the Encyclical “Quanta cura” of December 8, 1864 (§VI. *Errores de societate civili tum in se tum in suis ad Ecclesiam relationibus spectata/Irrtümer über die bürgerliche Gesellschaft, sowohl in sich als auch in ihren Beziehungen zur Kirche betrachtet*: 55. “*Ecclesia a statu statusque ab Ecclesia seiungendus est./Die Kirche ist vom Staat und der Staat von der Kirche zu trennen.*” H. DENZIGER, *Enchiridion symbolorum*, 806).

<sup>38</sup> L. STAN, *Legislația Bisericii Ortodoxe Române în timpul arhipăstoririi Prea Fericitului Părinte Patriarh Justinian*, 285.

<sup>39</sup> Details on the eparchial autonomy, and also on the autonomy of the other administrative ecclesiastical units (metropolitanates, parishes, monasteries, and other church-related institutions and establishments) see at L. STAN, *Despre autonomia bisericească*, 379-389.

The principle of eparchial autonomy, of the sovereignty of any eparchial bishop in his eparchy, within the synodal structure and without removing the hierarchical order, represents a major difference between Orthodoxy and Roman Catholicism. The only exception to this principle is the so-called devolution right of the metropolitan, respectively the patriarch, which is not identical with the canonical provisions of the Roman Church concerning the pope’s reserved rights. The eparchial autonomy can be broken by the right of devolution, based on the disposition referred to in canon 11 of the Seventh Ecumenical Council, or when any special limitation of autonomy is mentioned, as an exception to the general rule (for instance, canon 55 Carthage). “Should a bishop fail to fulfil his administrative duties in his eparchy, in cases of sickness or inability etc., canon 11 of the Seventh Ecumenical Council accepts the interference of his metropolitan. Should the metropolitan fail to fulfil his obligations, too, then the patriarch must intervene. This shall happen for superiour reasons and be in the Church’s best interest.” V. ȘESAN, *Autocefalia, Autonomia*, 245-246.

More on the right of devolution of the metropolitan, respectively patriarch at V. ȘESAN *Dreptul de devoluțiune al Patriarhului și al Mitropolitului*, 723-737.

For the Catholic comprehension of the diocesan autonomy see Georg BIER, *Die Rechtsstellung des Diözesanbischofs nach dem Codex Iuris Canonici von 1983*, Würzburg 2001; Christian HUBER, *Das Amt des Diözesan- bzw. Eparchialbischofs zwischen Autonomie und Bindung*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 147-176; Ludger MÜLLER, *Der Diözesanbischof – ein Beamter des Papstes?*, in: *AfkKR 170* (2001), 106-122; K. MÖRSDORF, *Schriften zum Kanonischen Recht*, 284-321.

power in all its dimensions independently of any other bishop, but dependently from the bishops' college, the bishops' synod of the respective local Church.<sup>40</sup> The main idea here is that “the church autonomy does not represent a breach of the hierarchical order by a separation from the authority of the metropolitan or from that of the superior patriarch.”<sup>41</sup>

Today, the internal autonomy is referred to in the canonistical language of the Orthodoxy by the use of two terms: “autonomy” and “autocephaly”. Both terms define the status of independence or administrative autonomy of the large territorial Church units, as opposed to others of the same type, all being equally obligated to defend the dogmatic, cultic and canonical treasure which represents the ground on which their unity is based.<sup>42</sup>

In fact, the word “autonomy” (αυτος νόμος) hints more than “autocephaly” (αυτο κεφαλος)<sup>43</sup>, because it possesses a more precise, adequate and comprehensive juridical meaning. Through it one could express the fact that one makes a rule for himself, acts according to his own laws, bearing no exterior interference. The word “autocephaly” does not directly and properly express the same reality, but instead it does that in a more indirect and figurative way, without the juridical resonance. In spite of that, by its obstinate use in the church language, it has acquired a major juridical content as opposed to the term “autonomy”, in the sense that it defines a quasi-sovereign independence in the inter-ecclesiastical relationships, as opposed to the term “autonomy” which points out only towards a relative independence, limited by some servitudes. All things considered, the common ground of the autocephaly - purporting to the idea of ruling by own leader -, and of the autonomy - purporting to the idea of ruling by own laws - is the same, the distinction between these two terms being related only to their degrees of intensity in conveying a similar message. But, at the beginning, either the term “autonomy” or “autocephaly” were not used in the church language and

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<sup>40</sup> Cf. I. IVAN, *Legiurile Bisericii Ortodoxe Romîne sub Înalt Prea Sfințitul Patriarh Justinian*, 93.

<sup>41</sup> V. ȘESAN, *Autocefalia, Autonomia*, 243.

<sup>42</sup> Cf. I. G. ROȘESCU, *Principiul autonomiei și principiul autocefaliei*, 310.

<sup>43</sup> A detailed analysis of the etymology, evolution and meaning of the word “autocephaly” in the canonistical language see at L. STAN, *Obârșia autocefaliei și autonomiei*, 85-98.

On the issue autonomy and autocephaly see Grigorios D. PAPATHOMAS, *Essai de bibliographie (ad hoc) pour l'étude des questions de l'autocéphalie, de l'autonomie et de la diaspora (contribution bibliographique à l'étude des questions - essai préliminaire)*, Katerini 2000.

that is why, due to their common meaning it have long been non-distinguishable from one another. There is no known precise date attached to the moment when the term “autonomy” began being used in the Church in its proper sense, even though the reality to which it points out was in place starting the thirteenth century after Christ. It however began being currently used at least in the fourteenth century, starting with the “Syntagma alphabeticum” (“Alphabetical Arrangement”) by Matthew Blastares.<sup>44</sup>

The present distinction between the canonical content of the “autonomy” and the “autocephaly” began being noticeable in the twentieth century, as a consequence of the blurred situation defining the relationship between some Orthodox Churches, this problem being also included on the agenda of the highly expected pan-Orthodox synod.<sup>45</sup> The autocephaly expresses today the reality “according to which a hierarchically, synodally and territorially defined Church unit governs itself completely independent from any other entities of the same type, with which it however obligatory preserves the dogmatic, cultic and canonical unity.”<sup>46</sup>

It is observable that Andrei Şaguna did not ever understand through “autonomy” the same thing with the present day autocephaly.

Taking into account the fact that the term “autocephaly” was being introduced with its specific sense in the canonical terminology<sup>47</sup> at least from the beginning of the nineteenth century, when it was officialized in “Pedalion”, and that the autocephalic tendencies were fashionable during the nineteenth century in the Church of Rome<sup>48</sup> as

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<sup>44</sup> Cf. L. STAN, *Despre autonomia bisericească*, 379; “*Sýntagma ton theíon kai hieron kanónon*”, ed. by G. A. Rhalles - M. Potles, VI, Athens 1859, 85.

<sup>45</sup> Cf. A. JENSEN, *Die Zukunft der Orthodoxie*, 225 et seqq.; V. PHIDAS, *Droit canon*, 119-135, 164.

<sup>46</sup> L. STAN, *Legislația Bisericii Ortodoxe Române în timpul arhipăstoririi Prea Fericitului Părinte Patriarh Justinian*, 287.

<sup>47</sup> At length on the terms “autocephaly” and “autonomy” in the canon law and their usage and evolution in time see L. STAN, *Obârșia autocefaliei și autonomiei*, 90-112.

<sup>48</sup> According to a pattern existing since the late Middle Age, the birth of national states was followed by the attempt to establish independent, autocephalous Churches. Both in the West and in the East was taken a stand against this “fashion”.

Pope Pius IX condemned any autocephalic tendency through points 36 and 37 of the annex “*Syllabus errorum*” to the Encyclical “*Quanta cura*” of December 8, 1864: “§VI. *Errores de societate civili tum in se tum in suis ad Ecclesiam relationibus spectata/Irrtümer über die bürgerliche Gesellschaft, sowohl in sich als auch in ihren Beziehungen zur Kirche betrachtet: 36. Nationalis concilii definitio nullam aliam admittit disputationem, civilisque administratio rem ad hosce terminos exigere potest./Die Definition einer nationalen Synode läßt keine weitere Erörterung zu, und die bürgerliche Verwaltung kann die Sache nach diesen Bestimmungen einfordern. 37. Institui possunt nationales ecclesiae ab auctoritate Romani Pontificis subductae planeque divisae./Es können nationalen Kirchen eingerichtet werden, die der Autorität des Römischen Bischofs entzogen und völlig von ihr getrennt sind.*” H. DENZIGER, *Enchiridion symbolorum*, 803.



well as in that of Constantinople<sup>49</sup>, it is difficult to suppose that Andrei Şaguna avoided the word “autocephaly” by mistake. The Transylvanian bishop was practically looking forward to promoting the autocephaly of the Orthodox Metropolitanate of Transylvania in the classical meaning of the term, but he asked, from the beginning, for the granting of the administrative autonomy, not for the autocephaly. Moreover, he regulated an important means of preserving the connection between the Serbian and the Romanian Metropolitanates, more precisely the regularly summoned multinational hierarchs’ synods, included both in the “Project of Regulation”<sup>50</sup> and in “The Organic Statute”<sup>51</sup>. A cautious spirit, he would have realized the danger of the nationalistic exaggerations of the nineteenth century in what concerns the canonical order of the Orthodox Church; that is why he was careful about the use of the term “autocephaly”. More than this, well aware of the history and canons of the Orthodox Church, he would have consciously stayed far away from a term which shall be officialized only later by the Orthodox canonical language.

In Andrei Şaguna’s canonical works we only come across the term “autonomy” which term depicts two juxtaposed realities: on one hand, the external autonomy of the Church, its independence toward the state in what concerns strictly religious matters; on the other hand, the internal autonomy of the “social elements”<sup>52</sup> of the Church. The autonomy of the Transylvanian Church practically means, in the historical background of the nineteenth century, the departure from the guardianship of the Metropolitanate of Karlowitz by the reactivation of the Romanian Metropolitanate, and the organization of

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<sup>49</sup> The Holy and Great pan-Orthodox Synod convened in 1872 by Ecumenical Patriarch [Anthimus VI](#) in Constantinople blamed phyletism - the means by which the autocephaly of local Orthodox Churches was consolidated beginning with the nineteenth century. The following condemnation was issued on August 10, 1872: “We renounce, censure and condemn racism, that is racial discrimination, ethnic feuds, hatreds and dissensions within the Church of Christ, as contrary to the teaching of the Gospel and the Holy Canons of our Blessed Fathers which support the Holy Church and the entire Christian world, embellish it and lead it to divine godliness.” Cf. Nikolaus THON, *Neuzeitliche Kirchengeschichte*, 3. Ostkirchen, in: EKL, Bd. 3, 729 et seqq. here 730; J. BINNS, *An Introduction to the Christian Orthodox Churches*, 12.

On the topic nation-confession see Nicolae BOCŞAN, Ioan LUMPERDEAN, Ioan-Aurel POP, *Ethnie et confession en Transylvanie (du XIIIe au XIXe siècles)*, Cluj-Napoca 1996; Emanuel TURCZYNSKI, *Konfession und Nation. Zur Frühgeschichte der serbischen und rumänischen Nationsbildung*, Düsseldorf 1976.

<sup>50</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §15-§16.

<sup>51</sup> Cf. *Statutul organic*, IX.

<sup>52</sup> Cf. the chapter V.4 herein.

the reactivated Metropolitanate on the basis of a proper statute which had to assert its autonomy toward the state too.<sup>53</sup>

“The Organic Statute” of 1868 enforced first of all the principle of external autonomy. The independence of the Transylvanian Metropolitanate from the lay institutions, from the state in what concerns strictly ecclesiastical matters, was proclaimed in the first paragraph of the “General dispositions”. The same paragraph included, however, a special mentioning of the right of “supreme inspection” which was reserved to the emperor.<sup>54</sup> The appeal to the intervention of the civil power for the application of the decisions taken by ecclesiastical forums was allowed only in exceptional circumstances, as per paragraph VII.

The internal autonomy, that is to say the independence of the Transylvanian Metropolitanate from any other local Orthodox Church, especially from the Serbian one, was enunciated in the first paragraph and restated then through the stipulations regarding the common synod of Romanian and Serbian metropolitans and bishops, in the paragraph IX.

### VI.2.2 The internal autonomy

VI.2.2.1 The reasons for the administrative separation of the Romanian Transylvanian hierarchy from the Serbian one of Karlowitz

Andrei Şaguna was convinced that to regain the autonomy of the Transylvanian Metropolitanate was, in fact, a normal and canonical act to accomplish: “*Bishop Maširević told me at Vienna that a lot of churches of his eparchy feel the acute need to*

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<sup>53</sup> To give the Transylvanian Metropolitanate re-established by Andrei Şaguna as an example of autocephal Church unit (in the present-day perception of autocephaly) is a far-fetched argument in the historical and political nationalistic contexts, like the interwar period or the Communist one in Romania. For the assertion that the Transylvanian Metropolitanate was autocephal see V. MOLDOVAN, *Biserica Ortodoxă Română și problema unificării*, 21; P. MORUŞCA, *Organizarea Bisericii ortodoxe române*, 329 et seqq.; The speech of Alexandru Lepădatu, the minister of religions and arts, in the session of the Holy Synod of the Romanian Orthodox Church of February 1925, in: T. SIMEDREA, *Patriarhia românească. Acte și documente*, 30-34 here 32-33.

<sup>54</sup> See Statutul organic, I.

*be endowed with ‘Pentecostarions’<sup>55</sup>; but he did not ask me [for such liturgical books which were printed at Sibiu] by an appropriate writing, because he is angry with me on my desire to bring the condition of the Romanian Church to a normal and canonical status. [our reference] The Romanians are treated by them [the Serbians] in the same way the Greek hierarchy treats the Bosniacs, but God is great and justice will win.”<sup>56</sup>*

The idea of separation from the Serbian jurisdiction was a key and a milestone of all his church organizational efforts. He tried to clarify the true meaning of this deep desire throughout the brochures “Pro-memory” (“Promemorie”) and “Addendum to Pro-memory” (“Adaos la Promemoria”).<sup>57</sup> In March 1849, in the first of Andrei Şaguna’s official letter to the metropolitan (fresh appointed patriarch) of Karlowitz on the issue of the Transylvanian Metropolitanate, he used the following wording for to describe his idea of church and political autonomy<sup>58</sup>: “*Now it is the time for Your Excellency to finally confirm your acceptance of the church and political independence of the Romanian people. Please, do not alarm yourself on a possible breach within the Church that you might cause through such a loyal act; no, the Church will not be harmed in any way, but, on the contrary, it will be more consolidated than one could ever imagine. All I understand by the Romanians’ religious autonomy is that the internal hierarchical administration should be independent from the Serbian one, even though these two separate hierarchies should stay as one in what concerns the religion, the faith and all dogmas, in such a way that nothing could be disputed or decided in these fundamental matters - which compound the being of the Orthodox Church - without both of them giving their approval [...]. In what concerns the political aspect, I*

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<sup>55</sup> “Pentekostarion” (Πεντηκοστάριον) or “The Easter Triodion” (literally “The Flower Triodion”) is one of the two special liturgical books for the Easter cycle of worship, in the Orthodox Church, next to “The Lenten Triodion”. The books are called “Triodions” because of the “three odes” which are often sung during the church services of these seasons. The “Pentekostarion” contains the “propers” or variable elements for the 50-day Pentecost season, including Pentecost Week and its following Sunday, All Saints Day. Cf. Pentekostarion, in: The Oxford Dictionary of Byzantium, vol. 3, 1627.

<sup>56</sup> Andrei Şaguna’s letter to Protopope Meletie Drăghici from Timișoara, dated Sibiu, March 19, 1860, in: T. BODOGAE, Dintr-o corespondență timișoreană, 36. Cf. also A. ŞAGUNA, Corespondența I/1, 203.

<sup>57</sup> Cf. the chapter V.1.1 herein.

<sup>58</sup> The metropolitan of Karlowitz being also the Serbian voivode, he represented officially both the Serbian Church and nation; that is why Andrei Şaguna addressed him both in the issue of the church autonomy and that of the Romanians’ political independence.

wish that my Romanian people were granted their existence within the political life [of the monarchy], according to the principle of equality.”<sup>59</sup>

In all the works where he took on this subject, Andrei Șaguna used some types of arguments in sustaining the idea of church internal autonomy: **historical, canonical, geographical and ethnical** ones.

Apart from the above-mentioned “Pro-Memory” and “Addendum to Pro-Memory”, there were also other official documents which emphasised the **historical arguments**. Thus, in the memorandum of 1850 submitted to the Ministry of Public Worship and Instruction and to the civil and military Governor Ludwig von Wohlgemuth, the bishop underlined the logic for the reestablishment of the Transylvanian Metropolitanate historically: “*The desire of all Eastern Romanians under the Austrian Empire’s crown concerning the reestablishment of the old Metropolitan See of Alba-Iulia is not a phantom imagined by the enthusiastic Romanian coryphaeus, as claimed by the enemies of the Romanians and of the Eastern Church, it is, on the contrary, a fundamental and undeniable right, coming from the fifteenth century and never actually lost through any kind of disloyal deed, for the reinforcing of which each Eastern Romanian of the Austrian Empire constantly craves for...*”<sup>60</sup>

The “Memorial” from April 20, 1851, opened the series of the **canonical arguments** in favour of the autonomy, the apostolic canon 34<sup>61</sup> being the first on the list. Other

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<sup>59</sup> “Adresa primă a episcopului Andreiu Șaguna către patriarcul sârbesc Iosif Raiacics în cauza independenței ierarhice a românilor de sârbi” (“Bishop Andrei Șaguna’s first letter to the Serbian Patriarch Josip Rajačić regarding the hierarchical independence of the Romanians from the Serbians”), dated Vienna, March 16/28, 1849, in: II. PUȘCARIU, *Metropolia, colecția de acte*, 38-39.

<sup>60</sup> “Memorand așternut de episcopul Andreiu Șaguna ministeriului și în copie guvernatorului civil și militar Baron de Wohlgemuth despre dorințele și lipsele națiunii române și a bisericii răsăritene cu ocasiunea organizării nouă a Ardélului” (“Memorandum written by Bishop Andrei Șaguna to the ministry and, in copy to the civil and military governor Baron of Wohlgemuth about the wishes and needs of the Romanian nation and the Eastern Church, by the new organization of Transylvania”), in: II. PUȘCARIU, *Metropolia, colecția de acte*, 46-55 here 51-52: “Die Sehnsucht der morgenländischen Romanen aus den österreichischen Kronländern nach Herstellung ihrer uralten Karlsburger Metropole ist nicht, wie die Gegner der Romanen, und der romanisch morgenländischen Kirche behaupten, ein den Köpfen einiger romanischen Koriphäen entsprossenes Phantom, nein, es ist ein unwiderlegbares, während einer Dauer seit 15. Jahrhundert ausgeübtes und durch keine hochverräterische Handlung verwirktes Recht, nach dessen Wiederherstellung jeder österreichisch morgenländische Romane strebt ...”

<sup>61</sup> According to ap. c. 34 the bishops of every “nation” have to know the one among them who is the premier or chief, and to recognise him as their head. Each bishop enjoys full autonomy in his eparchy, being connected to the hierarchical subordination and to the synodality. See the text of the canon in the annex XV herein. See also the interpretation of this canon by Andrei Șaguna in the chapter VI.2.2.2 herein.

canons mentioned were the following: canon 6 of the First Ecumenical Council<sup>62</sup>, canon 2 of the Second Ecumenical Council<sup>63</sup>, canon 8 of the Third Ecumenical Council<sup>64</sup>. Special attention has been paid the canon 2 of the Second Ecumenical Council: *“It would not be useless to recall the reason that determined the Holy Fathers in creating this canon. During early Christians’ persecutions, in the first Christian centuries, there could be no definite borders between eparchies; later, after the chases ceased, even though the borders were more consciously designed and imposed, there was however no simultaneous change in the interventions of one church leader [bishop] in the eparchy of the other one [it continued to interfere with each other’s affairs and authority], thus giving rise to big disputes between eparchial bishops and maintaining a disorderly climate. In order to put an end to this tormented situation, the Holy Fathers decided that every patriarch or metropolitan should rule over his own eparchy only, which was confided to him in order to love and religiously cherish; no bishop would be allowed to usurp anything on the territory of a different eparchy, or to limit the rights of another Church [eparchy], that is to say never can do ordination to the priesthood or accomplish any other church function within another eparchy, unless he is expressly demanded by the responsible eparchial bishop. In what concerns the churches [eparchies] in danger of chases, they should be lead according to the custom*

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<sup>62</sup> According to c. 6 of the First Ecumenical Council was maintained the ancient custom to allow the bishop of Alexandria to have authority over all these parts (Egypt, Libya and Pentapolis), since this was also the treatment usually accorded to the bishop of Rome. The same was to be respected with reference to Antioch, and in other provinces. It is the rule: each province has a head (metropolitan, later patriarch). See the text of the canon in the annex XV herein.

<sup>63</sup> According to c. 2 of the Second Ecumenical Council the bishops must not leave their own eparchy and go over to churches beyond its boundaries; but, on the contrary, each bishop administrates only his eparchy in accordance with the canons. They do not go beyond their own province to carry out an ordination or any other ecclesiastical services unless (officially) summoned thither. Each province will confine itself to the affairs of that particular province, in accordance with the regulations decreed in Nicaea. The churches situated in territories belonging to barbarian nations must be administered in accordance with the customary practice of the Fathers. See the text of the canon in the annex XV herein.

<sup>64</sup> According to c. 8 of the Third Ecumenical Council the rights (jurisdiction) of every province, formerly and from the beginning belonging to it, will be preserved clear and inviolable. It was not allowed anymore to the bishop of Antioch to ordinate bishops for Cyprus, as he - contrary to the ecclesiastical laws and the canons of the Holy Apostles - did. Those who preside over the churches of Cyprus shall retain their privilege and ancient custom to perform themselves the ordinations of the bishops for their province. No one of the bishops shall take hold of any other province that was not formerly and from the beginning in his jurisdiction, or was not held by his predecessors. If anyone has taken possession of any and has forcibly subjected it to his authority, he shall re-give it back to its rightful possessor. See the text of the canon in the annex XV herein.

*decided by the Holy Fathers, namely the bishops who are the most willing and nearest, territorially speaking, should travel to those eparchies and try to fulfil their needs.*

*It is obvious both from the text of this canon and the interpretation by the canonists of the reason why the Holy Fathers imposed it, that the Fathers gathered at the Second Ecumenical Council established that the metropolitans should not cross the borders of their eparchial administration, but maintain the original customs, according to canon 6 of the First Ecumenical Council. A metropolitan or bishop can intervene in a foreign eparchy only if that is deprived of its shepherd, being exposed to persecutions. But the metropolitan or the bishop can exercise this influence only until the distressed eparchy finds its peace, freedom and rights; the external influence will cease after that for to prevent the original customs from being altered.”<sup>65</sup>*

The inefficiency of the canon 2 of the Second Ecumenical Council determined a new decision of the Third Ecumenical Council: *“Although the Fathers who gathered at the Second Ecumenical Council tried to put order in the metropolitans’ administration, still it is unlikely that they had reached their goal, because at the Third Ecumenical Council that was soon held in Ephesus in the year 431 by three hundred bishops it was obvious that a new church rule was needed in order to establish the borders between metropolitanates, as this appears in canon 8 of that synod [...].*

*There can be no doubt on the meaning of this canon, as far as everyone may be convinced either from its content or from its interpretation, that the Holy Fathers of Ephesus decided that no metropolitan should ordain any priest in another eparchy, especially in the eparchies which - in contradiction with the old rules - were subordinated to him by some political laws; on the contrary, he should give them back to the appointed bishops, because only in this way the rights of every [local] Church are respected in their entirety.”<sup>66</sup>*

After all this, Andrei Şaguna concluded: *“It is obviously true that generally the neighbouring metropolitan has no right over another bordering metropolitanate, not even in the case when both metropolitans are in one and the same state; all the more, he has the duty not to trespass the borders of his metropolitanate, because otherwise, by exercising his influence on another eparchy against the canons he makes for disturbing the peace and good rule of the Church. Only in special circumstances, such*

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<sup>65</sup> A. Baron de ŞAGUNA, Memorialu, 7-9.

<sup>66</sup> Ibid., 9-11.

*as when a metropolitanate is under persecution and therefore lacking its shepherd, should the neighbouring metropolitan see after the spiritual matters, that is travel there and fulfil the ecclesiastical duties that people are deprived of; however, as soon as the persecution ceases, the bordering metropolitan has to come back to his metropolitanate and never hinder the restoration of the other one, because this is the only way in which every metropolitanate's right can be sustained. A metropolitan who disrespects this commits a sin against the canons therefore the Church disallows his deeds and considers them null.”<sup>67</sup>*

The same canonical reasons for autonomy are mentioned in “Compendium”.<sup>68</sup>

The **geographical and ethnical factor** was the third argument for the Transylvanian Metropolitanate's autonomy: *“Let us have a look at the geographical extent of this hierarchy [the Serbian one] and we shall see that this territory started from the Galitian Carpathians and was spread as far as Dalmatia. Now I shall allow myself to say: the geographical position of this Metropolitanate proves that it is extraordinary and, apart from it, there is no other metropolitanate to have been as spread as the Metropolitanate of Karlowitz: from the Galitian Carpathians to Dalmatia. The second reason: I consider this separation of the hierarchies as being solely natural; I do understand the administrative separation, because one cannot speak about a dogmatic one; I repeat, I consider this separation to be natural, because the Slavic people live south of the Danube up to Dalmatia, whereas the Romanian people live north of the Danube up to Galitia, Bukovina and the borders. I think that if we want to build the Church, we should not turn it into a leasing issue, but really believe that we have to preach about light, culture and freedom because, as Apostle Paul says, the Holy Ghost is freedom.”<sup>69</sup>*

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<sup>67</sup> Ibid., 11-12.

<sup>68</sup> Cf. A. Baronu de SIAGUN'A, Compendiu, §257-§258.

<sup>69</sup> “Cuventarea Escelenției Sele Andreiu Baronu de Siagun'a, Metropolitulu Româniloru din Transilvani'a si Ungari'a, rostită in siedinti'a casei Magnatiloru dela 16 Maiu a.c.” (“The speech of His Excellency, Baron Andrei of Șaguna, the metropolitan of Romanians of Transylvania and Hungary, given in the Magnates' Hall on May 16, of this year”), in: Telegrafulu Romanu, No. 37, May 9/21, 1868, 145.

#### VI.2.2.2 Andrei Şaguna's interpretation of the thirty-fourth apostolic canon

The canonical argumentation of the necessity to reactivate the Romanian Orthodox Transylvanian Metropolitanate included, firstly, the 34 apostolic canon and, implicitly, a much discussed and controversial issue: the ethnic principle.

According to this canon, the bishops of every "nation" have to know the one among them who is the premier or chief, and to recognise him as their head. Each bishop enjoys autonomy in his eparchy, being connected to the hierarchical subordination and to the synodality.<sup>70</sup>

In the "Memorial" of April 20, 1851, Bishop Andrei Şaguna gave the following explanation to this canon: *"The comprehensions of this canon are very large, because they contain in themselves several norms concerning the church hierarchy, such as:*

*First, that canon prescribes that more bishops should have amongst themselves one they should recognize as their superior (the first of all) and never decide anything without his opinion in matters concerning dogmas, divine economy and corrections of the common mistakes, bishops' consecration etc. This 'superior' ('the first of all') is called metropolitan, together with whom the bishops are supposed to assemble at certain times and discuss the most important church matters.*

*Second, this canon teaches us further on that a metropolitan should not do by himself any common work without consulting his bishops; because this is the only way in which there will be communion and love between the metropolitan and his bishops. Through those harmony and love God shall be glorified through His Son and our Lord, Jesus Christ, who says: 'By this all men will know that you are my disciples, if you have love for one another.' (John, 13.35)*

*Third, we also learn from this canon that the bishops of a nation must have their metropolitan, who should be of the same origin [language] as the bishops and the people he rules. I hope I have not cut out too much of the quoted canon, because all the organization of the Eastern Church is made up in such a way as to fully consider the languages of all the nations that confess it, and consequently, all the ecclesiastical*

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<sup>70</sup> See the text of this canon in the annex XV herein.

On the issue 34 apostolic canon see Panteleimon RODOPOULOS, Ecclesiological Review of the Thirty-fourth Apostolic Canon, in: Kanon IV (1980), 92-99.



*ministries should be performed in the mother tongue, as well as the ecclesiastical administration. When they conceived the canon, the Holy Fathers considered not only the good rule of the Church, but also the necessity that each metropolitan should be able to celebrate the divine services [in the language of the people], to keep the correspondence with his suffragan bishops, and also to preach the Lord's word to the people. The necessity of such an organization is clearly visible when we think of the hardships a metropolitan and the bishops might be faced with on the occasion of the provincial synods, if they did not have the same origin or speak the same language, for they would have to resort to a foreign language which not everybody would understand.*"<sup>71</sup>

The same canon was explained in a letter written in 1860, to Bishop Eugeniu Hacman of Bukovina: *"There may be people who consider over the canons and their good rule the existence of two metropolitanates in the same state. Also in this respect I consult the Holy Canons [...]. And I discover immediately in 34 apostolic canon that the bishops of each nation should know a first (the metropolitan) amongst themselves etc. This is how I deduce that the bishops should be part of the same nation which they care for as bishops, for this apostolic canon can only in this way be understood in its true and natural meaning, which is that not only the metropolitan, but also the bishops should be part of the same nation; this is something necessary so that the bishops would be able to perform the divine service in the language of the people and know how to speak understandable for the spiritual flock about God's liberating word; they would understand and communicate with the priests and the faithful - wherever it is necessary -; then they would understand each other in the same language which is also the language of the church administration, for if the metropolitan and the bishops are not of the same nation, then when they meet they will use a foreign language, as it is happening in our case, that the metropolitan of Karlowitz and the Romanian bishops communicate in a foreign language.*"<sup>72</sup>

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<sup>71</sup> A. Baron de ȘAGUNA, Memorialu, 5-7.

<sup>72</sup> "Episcopul Șaguna către Hacman, episcopul Bucovinei, din sinodul diecesan ținut în Sibiu în Oct. 1860" ("Bishop Șaguna to Bishop Hacman of Bukovina, from the diocesan synod held at Sibiu, on October, 1860"), in: II. PUȘCARIU, *Metropolia, colecția de acte, 177-180* here 179.

In “Anthonismos”, Bishop Andrei Şaguna thwarted the speculations of some people of Bukovina who implied that the bishop of Sibiu would reject the idea of a new metropolitanate, that of Bukovina, on the grounds that he would not accept more metropolitanates for one and the same nation, making clear once more the meaning he gave to 34 apostolic canon: *“Wir haben in alten Unternehmungen für die Metropole nirgends gesagt, daß eine Nation so zahlreich und ausgebreitet sie sein mag, nur einen einzigen Metropolitan haben könne, sondern wir behaupten im Allgemeinen, was wir auch heute noch auf Grundlage desselben apostolischen Kanons und des kirchlichen Sprachgebrauchs, was immer und überall auch die Sprache der Christen in einem speziellen Orte ist, aufrechtzhalten, daß der Metropolitan, die Bischöfe und der Klerus aus einer Metropole derselben Nation mit dem gläubigen Volke angehören müssen. Es versteht sich aber von selbst, daß eine zahlreiche Nation, wo ein Metropolitan nicht hinreicht, auch mehrere Metropolitane haben kann und wirklich hat, wie wir ja wissen, daß die Hierarchie bei größeren und zahlreichen Nationen in mehrere Metropoliten geteilt ist. Während wir den 34. apostolischen Canon in diesem Sinne nahmen, die Brüder aus der Bukovina aber in einem ganz anderen, so sehen wir uns gezwungen zu glauben, daß unsere Brüder aus unserem Streben nach einer rumänischen Metropole das ableiten wollen, als wollten das Bisthum Bukovinas der Jurisdiction der alten rumänischen Metropole aus diesen Gegenden unterwerfen. Wir sind in unserem Gewissen beruhigt, daß wir eine solche Zumuthung nicht verdient haben ...”*<sup>73</sup>

The importance of the linguistic aspect in the Church is visible also in the speech the metropolitan delivered in the Diet of Pest, in 1868, on the legal acceptance of the Transylvanian Metropolitanate in the new political context of the Austrian-Hungarian Dualism: *“what has faith to do with nationality? Please, forgive me if I as both a priest and a Christian think that Christian faith lays great emphasis on the language. Very soon we shall celebrate the Pentecost. And what celebration is that? No other than a proof that the language is a practical vehicle for religion. I may speak even more beautifully than Saint John Chrysostom<sup>74</sup> did in days of yore, even Saint John*

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<sup>73</sup> A. Baron de SCHAGUNA, Anthonismos oder berichtigende Erörterung, 26-27.

<sup>74</sup> St. John Chrysostom (golden-mouthed) (347-407) is considered one of the greatest hierarchs and theologians of the Eastern Church. He is the Patron Saint of orators, preachers, and speakers.

*Chrysostom himself could speak, but if he speaks to people who do not understand him, his gold mouth will have no effect whatsoever.*<sup>75</sup>

In the commentary of the 34 apostolic canon in “Enchiridion” we find the wording: “II. *This canon puts also the basis for that institution which means that the metropolitanates have to be founded in accordance with the nationality of the Christian people and that the bishops of a people, of a nation must have a metropolitan elected from amongst that nation’s bishops, whom they should acknowledge as their leader.*”<sup>76</sup>

We have shown that Andrei Şaguna stated as a canonical principle in his preface at “Enchiridion” the use of the believers’ language in the liturgical and administrative life of the Church.<sup>77</sup> The interpretation of the term “ethnos” or “nation” in 34 apostolic canon is sustained with the same argument, mainly, the linguistic one. The continuous appeal to the linguistic argument in interpreting 34 apostolic canon is to be considered and understood last but not least in the historical, political and religious context of the time. The tensions between the Serbians and the Romanians within the common jurisdiction of Karlowitz, caused by the Serbian nationalism which wanted the assimilation of the Romanians, turned the issue of the liturgical and church administration language into a very serious one. Actually, the very essence of the Church was in danger, as long as its teaching power and mission to educate could not be achieved among the Romanian Orthodox who did not speak Serbian. Besides, the disastrous situation of the Transylvanian Orthodox Church was a living proof of the failure of the Serbian nationalistic policy and church jurisdiction.

In a letter from 1858 addressed to the Serbian folklorist and philologist Vuk Karadžić the bishop, concerned at that time by the printing of the Bible and other religious books, complained the fate of the Greek Orthodox Church: “*The Greek hierarchy not only did publish its religious books in a dead language that the people do not understand, but it also strove to prevent these books from spreading among the people.*”

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<sup>75</sup> “Cuventarea Escelenţiei Sele Andreiu Baronu de Siagun’a, Metropolitulu Româniloru din Transilvani’a si Ungari’a, rostită in siedinti’a casei Magnatiloru dela 16 Maiu a.c.” (“The speech of His Excellency, Baron Andrei of Şaguna, the Metropolitan of Romanians of Transylvania and Hungary, given in the Magnates’ Hall on May 16, of this year”), in: *Telegrafulu Romanu*, No. 37, May 9/21, 1868, 145.

<sup>76</sup> A. Baronu de SIAGUN’A, *Enchiridionu*, 21.

<sup>77</sup> Cf. the chapter V.1.2 herein.

*It had this unfortunate policy in times when printing was unknown, and I think today things stay the same. Any reasonable man can see that the Greek people are of a crass ignorance and that the cultivated people of today moulded themselves after foreign, not Greek values and schools.”<sup>78</sup> Then he concluded: “mercy on the people who do not understand their own law [faith] and spiritual heritage and who have to meet with many hardships to know their law [faith].”<sup>79</sup>*

The above arguments determined Andrei Şaguna to impose the Romanian language in the religious affairs: “Şaguna was the first one who introduced the Romanian language in the church official affairs and who accepted and introduced Latin characters [instead of Cyrillic ones] in his office, after the Philological Commission’s spelling system adopted by the general assembly in Braşov, in 1862.”<sup>80</sup>

In comparison with Bishop Andrei Şaguna’s interpretation of the word “nation” from the 34 apostolic canon, the Serbian Metropolitan Josip Rajačić offered an example of “political” but not Christian correctness: he argued very correct theoretical his opposition toward the restoration of the old Transylvanian Metropolitanate, by taking nationalism out of the Church<sup>81</sup>; actually, he contradicted himself<sup>82</sup> by promoting the Serbian nationalism. Two measures imposed by him are clear in this respect: the interdiction of the custom of using the Romanian language in the Holy Liturgy and sermon on the occasion of the consecration ceremony of the priests for the Romanian communities of Banat, a custom introduced by his predecessors; and the interdiction, stipulated in 1851, of using the Latin alphabet in the Romanian priests’ (official)

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<sup>78</sup> Andrei Şaguna’s letter to Vuk Karadžić, dated Sibiu, April 7, 1858, in: T. BODOGAE, Două scrisori ale lui Şaguna către Vuk Karagici, 680-682 here 681.

<sup>79</sup> Ibid., 681.

<sup>80</sup> N. POPEA, Arhiepiscopul, Discurs, 33.

<sup>81</sup> “Jesus Christus unser Erlöser und seine Jünger die Apostel haben keine jüdische, keine griechische, keine romanische, keine serbische oder wie sie heißen, keine nationale, sondern eine, heilige, katholische apostolische Kirche gegründet ...” Antwort auf die Angriffe einiger Romanen und der Presse gegen die Einheit der Hierarchie der morgenländischen katholischen orthodoxen Kirche und die serbische Nation in den k.k. österreichischen Staaten, Wien 1851, 18.

<sup>82</sup> Not only the Serbian patriarch was obviously at odds with himself, but also Bishop Eugeniu Hacman of Bukovina, who, although he used the 34 apostolic canon as a “correct” argument based on territoriality in order to refuse the incorporation of the Eparchy of Bukovina in the Transylvanian Metropolitanate, infringed the same canon willingly by accepting under his metropolitanate’s jurisdiction two Dalmatian eparchies (Zara and Cattaro), which had no territorial nor linguistic elements in common with Bukovina. Cf. M. PĂCURARIU, 100 de ani de la reînfiinţarea Mitropoliei Ardealului, 828.

correspondence.<sup>83</sup> In other words, Metropolitan Josip Rajačić was against nationalisms within the Church, but in favour of only the Serbian nationalism.

However, although Andrei Şaguna gave a somewhat “original” interpretation to 34 apostolic canon<sup>84</sup>, he did it with the conviction that the situation of the Romanian Orthodox could not be improved without having an institutional organization separated from the Serbians. “*Salus animarum suprema lex*” was for Bishop Andrei the main principle of interpreting the canons. “The Holy and Divine Canons” have been interpreted from the perspective of the concrete necessities of the Church, of the faithful at certain historical times, in order to serve the mission of the Church in the world. Any absolute or out-dated interpretation which is not adjusted to the historical and social context does not sustain the mission of the Church, but on the contrary, it impedes it. The Church as an institution has the mission to facilitate the temporary good and especially the eternal good of the people; anyway, it is not a purpose in itself, just for itself, a “leasing issue” managed by the hierarchy supported by “politically correct” canonical arguments.

Out of the mentioned quotations one can draw two important clarifying conclusions. First, it is a certain fact that Andrei Şaguna’s interpretation of the apostolic canon 34 did not hint to autocephaly, as it later happened in the local Orthodox Churches.<sup>85</sup> By underlining the importance of the nationality and especially of the language within Church - as the main vehicle through which its first mission can be achieved, the propagation of the Gospel - Andrei Şaguna did not mean to “divide” the Ecumenical Orthodox Church into nations.<sup>86</sup> Fighting for the autonomy of the Transylvanian Metropolitanate he did not intend to harm the unity of the Orthodox Church, but to

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<sup>83</sup> Cf. J. SCHNEIDER, *Der Hermannstädter Metropolit*, 183.

<sup>84</sup> The inference from 34 apostolic canon of the necessity of the identity of origin and language of one’s nation’s metropolitans with its bishops and believers seems to be original.

<sup>85</sup> J. SCHNEIDER, *Der Hermannstädter Metropolit*, 210: “Auf der anderen Seite läßt sich die später einsetzende Autokephaliebewegung innerhalb der rumänischen, bulgarischen, serbischen und anderen Kirchen keineswegs auf Şaguna zurückführen, da er sich in seinem Werk ausschließlich auf die Pentarchie bezieht ...”

<sup>86</sup> One might say that the interpretation of 34 apostolic canon by Andrei Şaguna is more an “anticipation” of the Second Vatican Council, which abolished the exclusivity of the Latin language in the divine services of the Catholic Church (Cf. The Constitution on Sacred Liturgy - *Sacrosanctum Concilium* - Chapter III, 36), rather than one of the Orthodox ethnophiletist arguments circulating especially beginning with the nineteenth century.

sustain the natural evolution of this Church. Moreover, the experience had shown that an intact preservation of the same dogmas, cultic life and canons, as defining elements that make any local Orthodox Church into a member of the Ecumenical Orthodox Church<sup>87</sup> could be guaranteed in the Transylvanian Orthodox Church only through an autonomous organization, separated from the Serbians.

Second, Andrei Şaguna did not politicize the meaning of the apostolic canon 34, just as he did not mean to politicize anything related to the Church. The ethnic principle was used by the Slav leaders of the revolution of 1848<sup>88</sup> to contest the Hungarian principle of the historical state.<sup>89</sup> But the bishop did not understand nor use the ethnic principle in the Church as it was used in the politics of that time. He used the 34 apostolic canon only as an argument to prove the need of the Orthodox Romanians to have their own hierarchy that could easily lead them to salvation if they knew closely their language, customs and needs. The Christian principle of love, which gives every human the right to save his soul, to know and fulfil God's word, was Bishop Andrei's principle, not the separation of the Orthodox according to nationalistic ethnic criteria. That is why one cannot state that Andrei Şaguna has any contribution to the paternity of the concepts of

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<sup>87</sup> “Die von der orientalischen Kirchenkonstitution bedingte Einheit der Bischöfe, Erzbischöfe und Patriarchen der verschiedenen Völker eines und desselben Glaubens findet ihre Begründung nicht in administrativen, sondern rein dogmatischen Rücksichten; nämlich in der Bekennung derselben Dogmen und in der Beobachtung einiger, bloss ceremonieller, beim Gottesdienste vorkommender Kirchengebräuche, die darin bestehen, dass der pontifizierende Bischof in einigen bei gottesdienstlichen Funktionen vorkommenden Gebeten des Metropoliten und dieser wieder des Patriarchen (wenn derselbe auch fremd ist) erwähnt. Die orientalische Kirche erkennt im Sinne ihrer Dogmen Christus zu ihrem Oberhaupte an, sie glaubt an ein unsichtbares Haupt; weicht aber von der römisch-katholischen Kirche darin ab, dass sie hinsichtlich ihrer Verwaltung für jede einzelne Nation einen eigens gewählten Vorstand hat, welcher bei verschiedenen Nationen desselben Glaubens auch verschieden (mystisch oder physisch) sein kann, wie z.B. bei den Russen und Griechen wird die Kirche durch eine Synode, und in der Walachei durch einen von dem Metropoliten der Moldau unabhängigen eigenen Metropoliten verwaltet; während die katholische Kirche sowohl in dogmatischer als auch administrativer Hinsicht eine vollkommene Einheit bildet und ihrer Hierarchie ein System zu Grunde liegt, welches auf keine Nationalität Bedacht nimmt.” “Petiţiunea către minister pentru separarea hierarchiei române de cea sârbească şi ţinerea unui sinod general” (“The petition to the ministry asking the separation of the Romanian hierarchy from the Serbian one and the meeting of a general synod”), in: N. POPEA, Memorialul, 385-389 here 386.

<sup>88</sup> One of the main representatives of this principle was the Czech leader František Palacký, who thought that Austria's only chance of survival as monarchy was its transformation into a federation of nations equal with each other, based on the moral fundament of its power, which was the total respect of certain ethnic groups. Cf. D. SUCIU, *Lupta naţionalităţilor din Imperiul Habsburgic*, 178; Hartmut LEHMANN, Silke LEHMANN, *Das Nationalitätenproblem in Österreich 1848-1918*, Göttingen 1973, 9-14.

<sup>89</sup> Cf. the chapter III.1.1 herein.

nation and nationalism<sup>90</sup> as it took shape in the nineteenth century and as it is known until now, or that he was a supporter of ethnophyletism, on the contrary.

### VI.2.2.3 The autonomy of the “social elements” and the representative principle

Apart from the autonomy of the Transylvanian Metropolitanate from the Metropolitanate of Karlowitz, Andrei Șaguna had in view as a principle the autonomy of all the constitutive parts (the “social elements”) of the Transylvanian Church.<sup>91</sup>

“The Organic Statute” stated in the general dispositions, paragraph III, line 2: “Each constitutive part of the Metropolitanate has the right to regulate, manage, and run independently of another itself equal constitutive part its religious, educational, and foundational affairs; each smaller constitutive part continues its religious, educational, and foundational affairs within the bigger constitutive part up to the Metropolitanate, through its representatives.”<sup>92</sup>

The phrase “through its representatives” revived the idea of representation<sup>93</sup> which paragraph I of the general dispositions already referred to. Apart from the autonomy of the constitutive parts, the paragraph I established from the very beginning the representative form of expressing this autonomy: “The Greek Orthodox Romanian Church of Hungary and Transylvania [...] regulates, manages, and runs its religious, educational, and foundational affairs independently, all over its parts and constitutive factors, according to the principle of representation.”<sup>94</sup> The representative organs were the synod or the assembly of the protopopiate see, the eparchial synod, and the church

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<sup>90</sup> Andrei Șaguna’s concept of “ethnos” or “nation” did not have the same role and meaning as what the cultivated politicians of his time understood by it, as the very educational and spiritual background in which they had grown up was considerably different. The Uniate intellectuals of the mid-nineteenth century offered the Romanians in Transylvania a new developing direction based on the idea of nationality. They were the fruit of that vigorous Greek Catholic political movement which gradually developed from the seeds of the Leopoldine Diplomas (Cf. the chapter I.2 herein), and seemed to place the requirements of ethnic nationality before religion. Cf. K. HITCHINS, *Conștiință națională și acțiune politică*, 59-60.

<sup>91</sup> See A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §5.

<sup>92</sup> *Statutul organic*, page 8.

<sup>93</sup> See A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §6.

<sup>94</sup> *Statutul organic*, page 7.

national congress for the entire metropolitan province. These organs are composed of one third clergymen and two thirds laymen.

Practically, the representative principle was put into practice in the following way. The basic corporation of the Transylvanian Church's organization was the parish synod (parish assembly); however, the parish assembly did not have a representative character, but a synodal one, its members being the very Christian community of age who "fulfilled their duties towards the parish"<sup>95</sup>, with the exception of women. The following corporations overlain to the parish had a representative character. The elections of the deputies for the eparchial synod, the protopopiate synod, and the church national congress (the mixed metropolitan synod) were performed by public voting equally and directly, in proportionate elective circles.<sup>96</sup> The vote was public, in principle; it could be made secret only if twenty electors asked for it; the acclamation was forbidden.<sup>97</sup> Therefore, Andrei Şaguna grounded the representation on the elective system with public voting. There is no doubt "that this form could not be borrowed from the modern political life, which did not use the universal voting at that time, but it is a practical application of the Christian spirit of the first centuries."<sup>98</sup>

Starting from the fact that the constitutive elements of the Church are the clergy and the laymen grouped in constituencies on parish, protopopiate, and eparchy levels which together form the Metropolitanate, Andrei Şaguna equally divided the power of the "social elements". On the one hand, each constitutive part of the Metropolitanate had the right to regulate, manage, and run its religious, educational, and economic affairs independent of another constitutive part equal to itself; on the other hand, each smaller constitutive part participated in the activities of the larger constitutive part up to the Metropolitanate, through its representatives.

All the constitutive parts of the Metropolitanate fulfilled their responsibilities in a constitutional form, through the parish, protopopiate, eparchial synods and the church national congress. The executive organs of the synods were the following: the parish

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<sup>95</sup> Statutul organic, §6.

<sup>96</sup> Cf. Statutul organic, §38-§40, §91, §148.

<sup>97</sup> Cf. Statutul organic, §91 e).

<sup>98</sup> I. MATEIU, *Contribuţiuni la istoria dreptului bisericesc*, 234.



committees in parishes; the protopopiate committees in protopopiates (the protopopiate see was the first instance judiciary forum in the Metropolitanate); the eparchial consistories in the eparchies (playing also the role of the second instance judiciary forum in the Metropolitanate); the metropolitan consistory, the supreme administrative body for the entire metropolitan province (and a third instance judiciary forum in the Metropolitanate).

This is how “The Organic Statute” cumulated “all the qualities of a good foundation law of the Church, which takes into consideration all the theoretical and practical requirements of a docile autonomy - both towards the state and the other Orthodox Churches -, and especially the relationships between the solitary constitutive parts among themselves. The way in which it was legislated, especially concerning the above-mentioned relationships is surprising. The autonomy was taken into account and it was ever larger growing upwards to the eparchial level, and what is more, criteria such as unity and uniformity were accomplished, both in the church legislation and administration.”<sup>99</sup>

### VI.2.3 The external autonomy

#### VI.2.3.1 The necessity and importance of achieving the autonomy of the Transylvanian Metropolitanate toward the state

The main priority of Andrei Șaguna’s mitre was the relationship Church-state, a *sine qua non* condition for the internal organization of his eparchy. The Transylvanian Orthodox Church, excluded by the state legislation ever since the sixteenth century, needed first of all to function legally. The first mixed eparchial synod of March 1850 had on the agenda among other objectives the situation of the Transylvanian Church in the present and future and its relationship with the state. The autonomy toward the state

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<sup>99</sup> V. MOLDOVAN, Biserica Ortodoxă Română și problema unificării, 31-32.

and the equality with the other accredited Churches (Catholic, Lutheran, Calvinist and Unitarian) were mentioned in the petition addressed by the synod to the emperor.<sup>100</sup>

The principle of church autonomy was Andrei Şaguna's "constant guide in all his dealings with the civil authority, from the Court in Vienna to the most isolated district official. According to his conception of church-state relations, each party had its own jurisdictions and spheres of activity into which the other might not intrude. [...] in his dealings with the civil authority Şaguna was always conscious of the need to assert his own prerogatives and redefine the limits of state power."<sup>101</sup>

The arguments of the idea of external autonomy of the Church can be best found in two of Şaguna's canonistical works: "Anthonismos" and "Compendium".<sup>102</sup> "The Elements of Canon Law" contained also references to the relationship between the Church and the state<sup>103</sup>, which were then systematized in "Compendium". The principle of external autonomy found its application in the "Project of Regulation"<sup>104</sup> and then in "The Organic Statute".

What Andrei Şaguna achieved was a "neuter legality", which means the legal recognition of his Metropolitanate and a minimal intrusion of the state in the internal affairs of the Metropolitanate. A total exclusion of the state from the internal affairs of any Church was not possible to be thought at that time, in the Austrian Empire. So "The Organic Statute" stipulated: "The Greek Orthodox Romanian Church of Hungary and Transylvania as an autonomous Church according to its canon law, guaranteed also by Art. IX of Law of 1868, apart from totally preserving His Majesty's right of supreme inspection ..."<sup>105</sup>; "for to enforce any disposition that was decided by either a

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<sup>100</sup> Cf. "Petiţiunea sinodului eparhial din anul 1850 către Maiestatea Sa Preaînălţatul nostru Monarch aşternută pe calea guvernului ţării" ("The petition of the eparhial synod of 1850 to His Highness, our Monarch, sent through the country government"), dated Sibiu, April 10, 1850, in II. PUŞCARIU, *Metropolia, colecţia de acte*, 65-68 here 66: "1. Geruhen Eurer Majestät durch einen in die zukünftige Landesverfassung des Grossfürstenthums Siebenbürgen eigens einzuschaltenden Artikel die Freiheit der morgenländischen Kirche in Siebenbürgen, und die Gleichberechtigung derselben mit den anderen christlichen Landesreligionen Allernädigst zu gewährleisten."

<sup>101</sup> K. HITCHINS, *Orthodoxy and Nationality*, 225.

<sup>102</sup> See the chapters VI.2.3.2 and VI.2.3.3 herein.

<sup>103</sup> See A. Baronu de ŞAGUNA, *Elementele dreptului canonic*, <sup>2</sup>1855, 3-4.

<sup>104</sup> Cf. A. Baronu de ŞIAGUNA, *Proiectu de unu Regulamentu*, §224-§225.

<sup>105</sup> *Statutul organic*, I.

ecclesiastical judiciary forum or a[nother] church authority only religious and moral means can be used. However, in extraordinary cases of opposition, in order to keep the good order of things, the civil power may also be requested to give its assistance.”<sup>106</sup>

The complete understanding of both the reason and importance of the church autonomy toward the state requires coming back to the historical context when Andrei Şaguna realized this desire: the nineteenth century in the Austrian Monarchy. Ever since the end of the previous century, the reformer Emperor Joseph II had imposed a strong current - called Josephinism -, which promoted the restriction of the independent life of the Church and its strict subordination to the state laws. Although at first this trend was not directed against the Orthodox Church of the monarchy, but rather the Roman Catholic one, towards the middle of the nineteenth century Josephinism had become a means to achieve the political and ecclesiastical goals of the Magyars in the monarchy. Under the growing influence of the Hungarians on the leading circles of the Austrian Monarchy, they began to restrict the freedom of the Orthodox Church and to promote insistently the church Union with Rome among the Romanian and Serbian Orthodox, with a view to consolidate the old Hungarian kingdom by Catholicization and Magyarization of all the nations belonging to it. So for example, the appointment of the Orthodox bishops and archimandrites by the emperor and the forbiddance of the synodal system of electing them, which was in force by the Orthodox Serbians, were presented as efficient solutions to strengthen the political centralism.<sup>107</sup>

A strong revival of Josephinism took place in the Neoabsolutist period, between 1850 and 1860.<sup>108</sup>

It was against this current that Bishop Andrei Şaguna fought, being aware that the Church has its specific mission and internal organization which the state interfering out of political reasons could only impede. When the Court of Vienna found itself an ally among the Orthodox - Bishop Eugeniu Hacman of Bukovina - in order to achieve the control over the Orthodox Church in the monarchy, the necessity to precisely define the “borders”, the role and place of the Orthodox Church in the state was even stronger.

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<sup>106</sup> Statutul organic, VII.

<sup>107</sup> Cf. S. RELI, *Politica religioasă a Habsburgilor*, 42.

<sup>108</sup> Cf. the chapter III.2.1 herein.

Because of the state intrusion in the Church internal affairs, the canonical order and organization were in danger of being obstructed.

The autonomy of the Transylvanian Orthodox Church toward the state was seen as a great thing, still long time after its statutory achievement in 1868: “And this is Metropolitan Şaguna’s greatest diplomatic success! He had rejected from the very beginning the interference of the state in the internal affairs of the Church as well as the attempt to impose a commissioner of the empire or government in our religious assemblies and corporations, and managed to defend the freedom of his Church and ensure its autonomy and independence, which cannot be found in any other Church, either in the country or on abroad.”<sup>109</sup>

The enforcement of the principle of external autonomy is to be appreciated all the more that it could not be achieved by the Orthodox Romanians of Bukovina, where the Josephinist system managed to be implemented by the Court until the end of the monarchy, in 1918. The Court not only administrated “The Religious Fund”<sup>110</sup> but it did not accept or approve any church congress in the Orthodox Church of Bukovina for the election of the bishops, metropolitan, and others church officials, nor the organization of the eparchy on the basis of the enlarged synodality, through the active participation of the laymen in the ecclesiastical affairs. There the elective synodal system was replaced with the direct appointment of the church officials by the emperor, at the proposal of the regional government.<sup>111</sup>

#### VI.2.3.2 “Anthonismos” versus caesaropapism

A clear expression of the Josephinist policy of the Court is the anonymous manifest “The Wishes of the Orthodox Clergy of Bukovina concerning the Canonical Organization of the Eparchy and its Hierarchical Position within the Orthodox Church

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<sup>109</sup> V. MANGRA, Şaguna ca organizator constituţional, 443.

<sup>110</sup> See the chapters III.3.2 and VII.5 herein.

<sup>111</sup> Cf. S. RELI, Politică religioasă a Habsburgilor, 43; V. ŞESAN, Proiect de unificare a organizaţiei Bisericii autocefale ortodoxe din România întregită, 20: “A church congress was created in 1871 in Bukovina too, but it did not function at all, being suppressed by the government that did not like it.”

in Austria”, published in 1861, which determined a “strictly churchly-canonical”<sup>112</sup> answer of Bishop Andrei Şaguna, namely “Anthorismos”. The relationship between the Orthodox Church and the state (empire) was argued on the pages 36 to 45 of the clergy’s brochure<sup>113</sup>, where it was demanded practically that in the Austrian Empire would be implemented the caesaropapist system introduced by Tsar Peter the Great in the Orthodox Church of Russia<sup>114</sup> and adopted by the Orthodox Church of Greece<sup>115</sup> too. In the Bukovinians’ opinion, because a patriarch of all the Orthodox in the monarchy - who would maintain the Orthodox unity, represent this Church outside, and exercise the supreme jurisdiction inside the Church - was necessary but not feasible (also because of the Serbians’ wish for supremacy), the best solution (which was also correct, in their opinion) was nothing else but the Russian or Greek caesaropapism of the time. The Transylvanian bishop’s reaction was one commensurate to the danger.

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<sup>112</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtende Erörterung*, 5.

<sup>113</sup> Cf. *ibid.*, 60. As it was shown in the chapter V.1.2 herein, because it was not possible to have access to a copy of the Bukovinians’ brochure, we used only “Anthorismos” that quotes the content of it too. So both the arguments of the clergy of Bukovina and Andrei Şaguna’s counterarguments will be quoted according to the same source - “Anthorismos” (in Geman).

<sup>114</sup> Peter the Great (1682-1725) radically turned away from the Byzantine heritage and reformed the state according to the model of Protestant Europe. Humiliated by his father’s - Tsar Alexis - temporary submission to Patriarch Nikon, Peter prevented new patriarchal elections after the death of Patriarch Adrian in 1700. In 1720, Feofan Prokopovich, archbishop of Pskov and Tsar’s friend Peter drafted a new constitution for Russian Orthodox Church, named “Spiritual Regulation” (“Dukhovny Reglament”), which declared the patriarchate to be abolished and set up in its place a spiritual college or “Holy Synod” composed of twelve members - three bishops and the others drawn from the superiors of the monasteries or from the married clergy - who were nominated and could be dismissed at will by the emperor. An imperial high commissioner (Oberprokuror) was to be present at all meetings and, in fact, to act as the administrator of church affairs. The “Spiritual Regulation” of the Synod was not based on canon law, but copied from the Protestant ecclesiastical synods in Germany. It saw the Church not as a divine institution, but as a department of state. Weakened by the schism of the “Old Believers,” the Russian Church found no spokesman to defend its rights and passively accepted the reforms. Cf. T. WARE, *The Orthodox Church*, 124-127; J. BINNS, *An Introduction to the Christian Orthodox Churches*, 18 et seqq.

<sup>115</sup> In 1821 the Greek revolution against the Turks was officially proclaimed by the metropolitan of Old Patras, Germanos. The Patriarchate of Constantinople, being the official Turkish-sponsored organ for the administration of the Christians, issued statements condemning and even anathematizing the revolutionaries. These statements, however, failed to convince anyone, least of all the Turkish government, which on Easter Day in 1821 had the ecumenical (Constantinopolitan) patriarch Gregory V hanged from the main gate of the patriarchal residence as a public example. Numerous other Greek clergy were executed in the provinces. After this tragedy, the official loyalty of the patriarchate was, of course, doubly secured. Unable either to communicate with the patriarchate or to recognize its excommunications, the bishops of liberated Greece gathered in Nvplion and established themselves as the synod of an autocephalous church (1833). The ecclesiastical regime adopted in Greece was modelled after that of Russia: a collective state body, the Holy Synod, was to govern the Church under strict government control. In 1850 the Patriarchate of Constantinople was forced to recognize what was by then a *fait accompli*, and granted a charter of autocephaly (Tomos) to the new Church of Greece. Cf. T. WARE, *The Orthodox Church*, 100; J. BINNS, *An Introduction to the Christian Orthodox Churches*, 12 et seq.

The Bukovinians' arguments of their demand are interesting, but so are Andrei Şaguna's counterarguments.

Thus, the **first argument** was a **historical** one: the relationship Church-state inaugurated by the Emperor Constantine the Great (306-337).

“Als Constantin der Große Christ wurde und seinen göttlichen Beruf begriff, nahm er die Kirche unter seine allgemeine Aufsicht, und sagte zu den Bischöfen: ‘*vos intra ecclesiam, ego extra ecclesiam a Deo episcopus constitutus sum*’. Hiermit wurde schon damals der Unterscheid zwischen *jura in sacra* und *jura circa sacra* gemacht. Die erstere überließ der Kaiser den Bischöfen, die andere behielt er sich selbst vor. Diese Stellung in der Kirche und ihr gegenüber nahmen und behaupteten alle Nachfolger Constantins; sie nahmen Recurse gegen die Mißbräuche an, entschied Streitigkeiten der Bischöfe, welche nicht geradezu die Religion oder das Priesteramt betrafen, sondern über Güter, Sprengel, Vorrechte, öffentliche Ehre entstanden und bei Religionsstreitigkeiten waren sie bedacht, daß sie geendigt und die Ruhe des Reiches nicht gestört werde; sie ordneten daher zu deren Untersuchung und Entscheidung Gerichte an, und beriefen Concilien, auf welchen sie selbst oder ihre Minister den Vorsitz führten. Sie schafften unruhige Bischöfe aus dem Reiche fort, setzten die unwürdigen Geistlichen ab, und bestrafte sie. Sie errichteten Bisthümer, erhoben sie zu Metropolen, und bestimmten nach Umständen die Grenzen der Patriarchate. Sie bestätigten die Kirchengesetze und gaben aus eigener Machtvollkommenheit Gesetze *circa sacra*. Und alles dieses thaten sie ohne irgend einen Widerspruch Seitens der Kirche. Geschach es auch manchmal, daß die Kaiser *in sacra* hinüberlangten, so wußten sich alsdann die h. Väter selbst der abendländischen Kirche auf eine hohe freie ihrer Würde angemessene Weise zu benehmen und demgemäß hatte damals die Kirche des röm. Reiches ein doppeltes Oberhaupt *in sacra* und *circa sacra*, jenes war die Gesammtheit der Bischöfe und dieses der Kaiser, und traten beide Gewalten zusammen, so war die höchste Kirchenmacht vollkommen repräsentirt und ein so vereintes Oberhaupt hieß dann eine ökumenische Synode. Diese Synoden wurden von Zeit zu Zeit vom Kaiser berufen und in denselben führte theils der Kaiser oder seine Minister den Vorsitz, theils die Patriarchen. In die Glaubenssachen mischten sich die Kaiser nicht, aber auf die Kanones nahmen sie den gebührenden Einfluß und diejenigen Kanones welche Staat und Kirche oder die *jura circa sacra* berühren, sind theils auf ihre Veranlassung, theils mit ihrer Zustimmung normirt worden. Ueberdies wurden alle

Beschlüsse noch insbesondere vom Kaiser bestätigt. So stand es mit der allgemeinen Constitution der Kirche vor der Spaltung. Nachher nahm die abendländische Kirche eine andere Form, die morgenländische aber blieb bei der ursprünglichen bis zum Falle des öströmischen Reiches.”<sup>116</sup>

The conclusion was that the system initiated in the Russian Orthodox Church by Peter the Great, like the one in the Greek Orthodox Church of the time was an inspired follower of the traditional Byzantine one, and it was only the so-called “millet system”<sup>117</sup>, introduced by the Ottomans after the fall of Constantinople, that had to be rejected: “[...] wir treffen in Rußland eine bleibende dirigirende Synode zu Petersburg an, welche aus einem kaiserlichen Minister (Procurator), einigen Metropolitnen, Bischöfen und Priestern besteht. Sie ist nichts anders als ein Ausschuß der römischen Reichssynode für Rußland, und Staat und Kirche befinden sich wohl dabei. Darum hat auch ein gleiches Oberhaupt die neugriechische Kirche angenommen in der bleibenden Synode zu Athen, welche auch aus einem königlichen Procurator, dann aus Bischöfen und Priestern besteht. Dagegen bestehen in dem türkischen Reiche noch die vier Patriarchen, von denen jedoch blos der Konstantinopolitanische noch eine etwas bedeutende Macht hat, die er auch unter dem muselmännischen Despotismus ziemlich willkürlich zu gebrauchen wußte. Nun können wir vernünftig wählen und da von einem Patriarchate keine Rede mehr sein kann; so bleibt uns nichts anders zu wünschen übrig, als eine allgemeine entweder nach Art der römischen von Zeit zu Zeit von Sr. Majestät nach Wien einzuberufenden, oder aber nach Art der Petersburger und Athener aus

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<sup>116</sup> A. Baron de SCHAGUNA, *Anthonismos oder berichtigende Erörterung*, 61-63.

<sup>117</sup> After the fall of Constantinople under the Ottomans, in 1453, the Christians in the vast Ottoman Empire were comprised by a new administrative system. For the Muslims drew no distinction between religion and politics: from their point of view, if Christianity was to be recognized as an independent religious faith, it was necessary for Christians to be organized as an independent political unit, an empire within the empire. The Orthodox Church therefore became a civil as well as a religious institution: it was turned into the “Rum Millet”, the “Roman nation”. The ecclesiastical structure was taken over in toto as an instrument of secular administration. The bishops became government officials, the patriarch was not only the spiritual head of the Greek Orthodox Church, but the civil head of the Greek nation - the ethnarch (εθνάρχης) or millet-bashi. The other historical patriarchates also within the Ottoman Empire - Alexandria, Antioch, Jerusalem - remained theoretically independent but were in practice subordinate to the patriarch of Constantinople, because the Turks looked on that patriarch as the head of all Orthodox Christians in their dominions. This situation continued in Turkey until 1923, when the Lausanne Treaty put an end to Constantinople patriarch’s jurisdiction in civil and administrative matters, as well as to his position as a representative of the Greek nation. Cf. T. WARE, *The Orthodox Church*, 98-100; J. BINNS, *An Introduction to the Christian Orthodox Churches*, 12; N. V. DURĂ, *Patriarhia Ecumenică și autocefalia bisericii noastre de-a lungul secolelor*, 55; Ethnarch, in: *The Oxford Dictionary of Byzantium*, vol. 2, 734; Christos VOULGARIS - Gunnar HERING, Ethnarch, in: *LThK*, <sup>3</sup>1993-2001, Bd. 3, 936-937; Michael URSINUS, *Zur Diskussion um „millet“ im Osmanischen Reich*, in: *Südost-Forschungen* 48 (1989), 195-207.

wenigen Mitgliedern beider Nationalkirche ebenfalls in Wien bleibend niedergesetzte Reichssinode.”<sup>118</sup>

Andrei Şaguna’s counterargument began with the direct disapproval of the idea of caesaropapism, as something that in his opinion belonged to the hard times of the Church: *“Es befallen uns tiefgreifende Schmerzen, wenn wir an diesen Wunsch unserer Brüder aus der Bukovina und dessen Motivierung denken, denn er gleicht jenen stiefmütterlichen Zeiten, wo die Wissenschaft und die Kenntniß der kirchlichen Institutionen dem Absolutismus eifrige Dienste leistete und die Kirche Christi und ihre Hierarchie unter den Ketten der Finsterniß schwer setzte.”*<sup>119</sup> Then he skilfully counteracted the wish of an Orthodox autocephaly of caesaropapist type in the Austrian Empire, reminding the Bukovinians and not only them that they already had a clear church organization, their canonical patriarch being in Constantinople; the subordination relationship of the Orthodox metropolitans in Austria to the Patriarchate of Constantinople was a natural one for the bishop, but totally eluded by the “skilled canonists and theologians”<sup>120</sup>, the authors of the brochure: *“Unsere Brüder selbst gestehen nothwendigerweise [...] daß in unserer Kirche die vorgesetzten der Metropolitene die Patriarchen sind, führen aber auch das an, daß unsere Metropolitene in Österreich dem Patriarchen nicht subordinirt werden können, sie sprechen aber die Motive nicht aus, welche unsere Metropolitene hindern würden, in kanonischen Wechselbeziehungen mit dem Patriarchen aus Konstantinopel zu stehen; Wir können uns mit diesem Gedanken unserer Brüder aus der Bukovina nicht befreunden, weil wir verlangen, daß uns die kirchliche Freiheit im kanonischen Sinne Seitens der politischen Behörde in nichts verkümmert werde, und dieses um so mehr, weil auch die Freiheit anderer christlichen Religionen politischer Seits nicht beeinträchtigt wird. Würden wir die Freiheit unsere Kirche im vollen Sinne des Wortes von der politischen Obrigkeit nicht beanspruchen, so gäben wir uns selbst das testimonium paupertatis und der Obrigkeit die Gelegenheit zu glauben, daß wir selbst in der kanonischen Verbindung unserer Metropolitene in Österreich mit dem Patriarchen von Konstantinopel eine Gefahr für den Staat erblicken. Wir aber halten dafür, daß unsere Hierarchie von sich jedes testimonium paupertatis abzuweisen wohl wissen werde, so wie jeden Verdacht,*

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<sup>118</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 63-64.

<sup>119</sup> *Ibid.*, 64.

<sup>120</sup> *Ibid.*, 70.



welchen der Staat aus der kanonischen Verbindung unserer Metropolen mit dem Patriarchen schöpfen sollte, denn erstens findet sich in den Annalen unseres Vaterlandes keine einzige Spur von einer Untreue unserer Hierarchen oder unserer Glaubensgenossen und dann haben ja bei jeder Gelegenheit unsere Hierarchen und Priester ihre Treue und Anhänglichkeit an Thron und Vaterland so klar bewiesen, daß es überflüssig erscheint dessen hier weiter zu gedenken.”<sup>121</sup>

Andrei Şaguna’s modern thinking is obvious, first, in the ideas expressed above - neutrality and equality of treatment from the state of all confessions/religions, compliance with the internal autonomy of the Church - and second, in the expression of his vision on the free and autonomous Church within the state: *“Wir wünschen daher eine freie Kirche in unserem Vaterlande zu haben, und dieser Wunsch bringt uns die Pflicht auf, daß wir unsere Kirche in ihrem ganzen Organismus befreien, weil wenn auch nur ihr kleinster Theil unfrei bleibt, dadurch ihr Leben beeinträchtigt wird. Und vielleicht sollen wir, ihre Söhne, ihr dieses anthun? Dieses sei ferne von uns! Wir sollen jedweden Kampf gegen jeden aufnehmen, der den gesetzlichen und von den h. Vätern sanctionirten Organismus unserer Kirche auch nur ein Bischof zu verletzen unternehmen wollte.”*<sup>122</sup>

Concerning Eusebius of Caesarea’s assertion of Constantine the Great as an argument for caesaropapism the bishop replied ironically that *“unsere Brüder aus der Bukovina als gelehrte Theologen und Kanonisten [...] zur tieferen Begründung ihrer Behauptung sich dabei auf den Kirchengeschichtsschreiber Eusebius lib. IV. Cap. 24. berufen wo er sagt: ‘Als Constantin der Große Christ wurde und seinen göttlichen Beruf begriff, nahm er die Kirche unter seine allgemeine Aufsicht, und sagte zu den Bischöfen: ‘vos intra ecclesiam, ego extra ecclesiam a Deo episcopus constitutus sum!’”* Uns nimmt eine solche Expektoration des Constantins kein Wunder, zumal er ja auch Mensch gewesen ist und auch noch dazu ein junger Christ, der wohl wußte, daß die heidnischen Kaiser im alten Rom nicht nur als die höchsten Priester der Heiden, sondern sogar als Götter selbst verehrt wurden. Daher konnte Constantin leicht auch von sich selbst sagen: *‘ego extra ecclesiam a Deo episcopus constitutus sum’*; aber wir wundern uns nur darüber, wie unsere Brüder aus der Bukovina es auszusprechen wagten, daß die oberwähnte Expektoration in unserer Kirche große Geltung haben kann! Auf dieser Grundlage

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<sup>121</sup> Ibid., 64-65.

<sup>122</sup> Ibid., 65.

*behaupten wir, daß die Berufung unserer Brüder aus der Bukovina auf den Eusebius sehr trivial ist, und von keiner Bedeutung, denn aus einer historischen Wahrheit kann man nicht immer auch eine juridische oder kanonische ableiten; die Geschichte von Eusebius zeigt blos die Thatsache jenes Bekenntnisses Constantins, nicht aber auch die kanonische Wahrheit derselben oder die Doktrin irgend einer kirchlichen Lehre, wodurch dem Kaiser Constantin extra ecclesiam z.B. in Disziplinarsachen das Episcopat zuerkannt worden wäre.*<sup>123</sup>

The Byzantine emperor's efforts to eliminate the undesirable bishops or priests, which were seen as examples of co-operation between state and Church, are qualified as uncanonical: *“die Antwort ist klar: es geschah dieses nicht nach dem kanonischen Rechte, denn es gibt keinen Kanon, der den byzantischen Kaisern oder andern Monarchen ein solches Recht eingeräumt hätte; also geschah jenes nach Willkühr und per jus fortioris.”*<sup>124</sup>

The statement that the Church was never discontented with the Byzantine emperors' interfering in its life, based especially on Eusebius of Caesarea's mention that Emperor Constantine was perceived as a general bishop of the Church, sent by God, made Andrei Şaguna to doubt Eusebius' credibility *“denn obwohl er ein frommer Bischof und ein würdiges Mitglied des ersten ökumenischen Conciliums, so wie ein großer Geschichtsschreiber gewesen ist, so war er doch von Natur aus sehr feige, so daß er beim Concilium bereit war mit dem Arius und seinem Partheigenossen in Verhandlungen zu treten, in der Meinung, daß nur auf diese Art der Kirchenfrieden erhalten werden könnte. [...] Hieraus ersieht man deutlich, daß das Bekenntniß des Eusebius über das Episcopat des Constantin nur eine individuelle und keine von der Kirche approbierte Meinung ist.”*<sup>125</sup>

As far as the summoning of the Ecumenical Councils by the Byzantine emperors is concerned, also seen as an argument in favour of caesaropapism, the clarification was soon to come: *“[...] unsere Brüder aus Bukovina haben kein Recht, wenn sie sagen: daß die ökumenischen Synoden von Zeit zu Zeit auf Geheiß des Kaisers zusammentreten, sondern wir behalten das Recht, die wir lehren, daß wenn die*

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<sup>123</sup> Ibid., 70.

<sup>124</sup> Ibid., 71.

<sup>125</sup> Ibid., 71-72. In front of this irrefutable anti-Eusebius argument, the following recent statement is at least surprisingly: *“Zum Verhältnis Kirche-Herrscher bzw. Kirche-Staat rezipierte er [Şaguna] einerseits die traditionelle byzantinische Reichsideologie, wie sie von Eusebius von Caesarea in seiner Kirchengeschichte formuliert worden war ...”* J. SCHNEIDER, *Der Hermannstädter Metropolit*, 82.

*Nothwendigkeit zur Abhaltung einer ökumenischen Synode von Seiten der gesammten Hierarchie eingesehen wurde, dem Kaiser die Anzeige davon mit der Bitte gemacht wurde, daß er als derjenige, der geeigneteres Mittel zur Einberufung der Hierarchen besitzt als die Hierarchie selbst, die Synode ausschreiben möge.*<sup>126</sup>

Another **argument of the Bukovinians** was a recent positive (in their opinion) **precedent**, offered by tsarist Russia: “In dieser Beziehung ist Rußland erfahren, und kann auch anderen Lehren ertheilen. Ein Patriarch ist ein Mensch und kann so gut *in dogmaticis et disciplinaribus* fehlen, wie ein Landpfarrer oder ein Mönch im Kloster; wer sollte ihn als dann richten? Es ist nicht kanonisch, einen Patriarchen vor eine Synode zu stellen, wo nicht seines Gleichen wenigstens den Vorsitz führen. Eben diese Gründe haben Peter den Großen bewogen, das russische Patriarchat abzuschaffen, und an dessen Stelle die h. Synode einzusetzen. Mit dem Patriarchate geht es also nicht. Wir müssen uns nach einem andern Oberhaupte umsehen.”<sup>127</sup>

**Bishop Şaguna’s answer** to this argumentation error was detailed and clear: “*Wir müssen euch noch darauf aufmerksam machen, daß ihr fehl gehet, wenn ihr behauptet, daß der Zar Peter der Große das russische Patriarchat deßwegen aufgelöst hat, weil der Patriarch ein absoluter, mächtiger und für Kirche und Staat gefährlicher Hierarch werden kann, und weil beim Bestande nur eines Patriarchen bei einer Synode, die über den versündigten Patriarchen zu Gericht seßen sollte, seines Gleichen sich nicht vorfinden würden, der bei einer solchen Synode den Vorsitz zu führen hätte. [...] in einem Zeitraum von 111 Jahren [sind] alle Patriarchen Rußlands gottesfürchtige Hierarchen und Bewahrer des Glaubens gewesen und [...] [daß sich] nicht das Bedürfniß herausgestellt hatte, irgendeinen von ihnen vor die Synode zu stellen, denn keiner war von Willkühr beherrscht oder in Verdacht für Kirche und Staat gefährlich zu sein. [...] alle Welt weiß es ja, daß der Zar Peter der Große, mit der Einführung einer strengen Centralisation in alle politischen, gerichtlichen und militärischen Zweigen, endlich in kirchlichen Angelegenheiten eine ähnliche strenge Centralisation durch Auflösung des Patriarchats und Einsetzung einer permanenten Synode in seiner Hauptstadt eingeführt hat, wo er zur Controlle auch einen kaiserlichen Procurator und*

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<sup>126</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 74. On the role of the Byzantine emperors in the summoning and presiding over the Ecumenical Councils see also A. Baronu de SIAGUN`A, *Compendiu*, 326-329.

<sup>127</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 61.

einen Stellvertreter eingesetzt hat, der die Aufsicht führen soll, damit nicht etwa die Synode einen Gegenstand verhandele, oder einen Beschluß fasse, der dem Kaiser unlieb wäre. Ueberdies hat der Zar diese Synode nicht Kraft seiner Autorität errichtet, sondern er schrieb nach dem Tode des Patriarchen von Rußland Adrian im Jahre 1700 viel dem Patriarchen von Konstantinopel über die Ersetzung der Patriarchenwürde in Rußland durch eine permanente Synode, und erst nach Einwilligung des Patriarchen von Konstantinopel und der übrigen noch drei Patriarchen von Alexandrien, Antiochien und Jerusalem darin, daß er an die Stelle des Patriarchats eine permanente Synode errichten kann, hat der Zar Peter Hand an diese Arbeit gelegt, freilich nicht aus Ehrfurcht gegen die positiven Kanones, sondern bloß in Gemäßheit seines Staatsprinzipes, alles zu centralisieren.<sup>128</sup> In other words, Andrei Şaguna underlined the fact that the idea of a supervisor appointed by state for the Orthodox of the Austrian Empire is one induced by the political circles, with the sole purpose of centralization of the monarchy, which was exactly what Tsar Peter the Great had in mind. However, Peter the Great himself could not interfere in the Russian Church's affairs without having in advance the acceptance of the entire Orthodox world, through the voice of the traditional patriarchates. This mention of Tsar Peter the Great's attitude, who was deferential unless in a diplomatic way toward the religious affairs, had on the one hand the purpose to show the Court that the Orthodoxy in the monarchy had to be dealt with by the Orthodox themselves, by Constantinople firstly and not by political interests; on the other hand, it reminded the Bukovinian theologians and canonists caught in the trap of political manipulations that the major decisions of organizing or reorganizing the Orthodox Church are made exclusively with the permission of the four traditional Orthodox patriarchates, within the limits of the canonical provisions. This was another proof of Bishop Andrei's faithfulness to the Orthodox traditional ecclesiology and the system of pentarchy, and of his disaccord with any un-canonical autocephaly and separatism derived from political interests and meant to serve political interests exclusively.

The end of this counterargument was ironically directed against the authors of the brochure: *“Der Kaiser [der Zar Peter der Große] sagte: ‘Ich werde von nun an euer Patriarch sein!’ Welcher Kanonist und welcher Christ wird behaupten wollen, daß ein solches Bekenntniß des Zaren irgend eine Kraft oder Legalität habe? Und unsere*

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<sup>128</sup> Ibid., 68-69.

*Brüder aus der Bukovina gedenken dieses Zaren als eines orthodoxen Kaisers, der in seinem Lande die Kirche Christi gut, und im Sinne der Kanones organisiert haben soll! Wir behaupten, daß heutzutage die Kirche in Rußland weit beßer stünde, wenn das Patriarchat geblieben wäre, und unsere Kirche würde nicht von ganz Europa, in so weit sie eines anderen Glaubensbekenntnisses ist, den Vorwurf hören, daß der russische Zar das Oberhaupt unserer gesamten Kirche wäre, ja sie würde eine begründete Kenntniß über unsere Orthodoxie, deren Verfassung und Organismus haben! Daher ist es kein Wunder, wenn die Männer anderer Glaubensbekenntnisse sagen: daß der russische Zar das Oberhaupt unserer Kirche ist, wenn unsere Brüder aus der Bukovina als gelehrte Theologen und Kanonisten auch noch heutigen Tags in der Adresse an ihren Herrn Bischof diese That des Zaren loben ...”<sup>129</sup>*

Bishop Andrei’s conviction was that the anomalies of the Russian and Greek Church will be forgotten and considered them only unfortunate occurrences: *“Was aber die permanente Synode des neugriechischen Reiches betrifft, so behaupten wir, daß durch die Einführung dieses unserer Orthodoxie fremdartigen Körpers das constitutionelle Kirchenleben in Griechenland ebenso unterdrückt wurde, wie in Rußland, denn die durch die Kanones festgesetzten Sinodalinstitutionen wurden durch eine Kraft politischer Macht in absoluten Bureaukratismus gekleidete Synode ersetzt. Wir hoffen, daß diese permanenten Synoden Rußlands und Griechenlands als einige durch Nichttheologen und Nichtkanonisten ersonnene Experimente nothwendig vergehen müssen, so wie nur der Hauch der kirchlichen Unabhängigkeit in jenen Ländern wehen und ihre Regenten und Hierarchen über jene unbestreitbare Wahrheit erleuchten wird, daß derjenige, welcher sich vor der wohlverstandenen kirchlichen Unabhängigkeit fürchtet, sich auch vor dem Reiche Gottes fürchtet, denn die Kirche Christi ist ja das Reich Gottes.”<sup>130</sup>*

Not at least Bishop Andrei Şaguna wanted to show in “Anthonismos” the “evolution” of the Bukovinian bishop’s opinions concerning the organization of the Orthodox Church in the Austrian Empire. In 1849 Bishop Eugeniu Hacman wrote to the Serbian patriarch: “Jede gesetzlich anerkannte Kirche hat nun mehr das Recht, ihre

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<sup>129</sup> Ibid., 69-70.

<sup>130</sup> Ibid., 72.

Angelegenheiten selbstständig einzurichten und zu verwalten. Nach unseren kirchlichen Vorschriften und Observanzen steht die christliche Gemeinde mit ihren Seelsorgen unter ihrem Bischofe, dieser unter einem Erzbischofe (Metropolit) und sämtliche Metropoliten unter ihrem Patriarchen.”<sup>131</sup> In 1861, shortly after the same Bukovinian bishop declared before the Romanian and Serbian participants in the Imperial Senate of 1860 at Vienna that the people of Bukovina wished to have their own church organization according to their local needs and to be able to administrate alone the Church funds<sup>132</sup>, some Bukovinian clergymen printed the brochure in which they clearly demanded the introduction of the Russian caesaropapism in the Orthodox Church of Austrian Empire. The logical deduction is that Bishop Eugeniu Hacman at least agreed with the brochure, if he was not its moral author, as it happened to express and put into practice his less Orthodox ideas through his hierarchical inferiors in the same year 1861. In the middle of the debates on the issue of the Transylvanian Metropolitanate and the participation of the laymen in the mixed synods, Bishop Hacman, who was hostile to the inclusion of his bishopric in the Transylvanian Metropolitanate as well as to the participation of the laymen in the synods, authorized a theology professor to explain his position: “These issues were presented by theology Professor Popovici by order, meaning that he only wrote the argumentation, gave them a shape and read them in German in front of a synod of priests summoned especially for this by the Bishop Eugeniu and in his presence. The bishop suggested the proposal should be accepted. The priests, who had not been informed on purpose and were accustomed with strict discipline and obedience, were bewildered by the long report in German, bowed their heads and the synodal proceedings were soon over! [...] Leaving the assembly the poor priests crossed themselves, praying God to have mercy upon them and their submissive position and forgive their trespassing which was the acceptance of the issues in the proposal...”<sup>133</sup>

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<sup>131</sup> Ibid., 97.

<sup>132</sup> See the chapter III.3.2 herein.

<sup>133</sup> “Respunsul lui G. Hurmuzachi către Șaguna” (“The answer of G. Hurmuzachi to Șaguna”), dated Czernowitz, February 9/21, 1861, in: Il. PUȘCARIU, *Metropolia, colecția de acte, 182-185* here 183.

### VI.2.3.3 The relationship Church-state in Andrei Şaguna's conception

The study of Andrei Şaguna's conception concerning the relationship Church-state is on the one hand interesting, because it was expressed in the nineteenth century, when in the Roman Church the school of *Ius Publicum Ecclesiasticum* and its theory of the Church as *societas perfecta*<sup>134</sup> developed. On the other hand, it is welcome both for the Romanian Orthodox Church, but also for the actual global context.

Andrei Şaguna's theory is based on the premise of possibility and necessity of the peaceful coexistence of the Church and state, although they are fundamentally different, the model of their communion being that of the relationship between soul and body. Moreover, not only can the two entities live together, but they also have to help each other mutually and unconditionally to serve man.

The state and the Church are different from one another. The difference lies, first of all, in their different origin. Whereas the Church is created entirely by God, through the incarnation, crucifixion, and resurrection of Jesus Christ<sup>135</sup>, the state is the result of several groups of people's unification under the command of a ruler (emperor, king, prince)<sup>136</sup>. Another difference is their final purpose. The purpose of the Church is "*to instil into the Christians the religiousness and morality according to Jesus' teaching, thus preparing the believers to achieve the spiritual salvation, or, as Christ said, to inherit God's Kingdom...*"<sup>137</sup> The state's function is to guarantee the order and protect the life, honour, and property of its citizens, or, in other words, to preserve the lawful state.<sup>138</sup> The Church conceives man as a member of Christ's mystical body that it has to prepare for the hereafter, while the state sees man as a citizen and is concerned on his temporary well-being. "*Although the Church is composed of the same people the state is composed of, still the community of the Church is different from the political one, for*

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<sup>134</sup> See J. LISTL, *Kirche und Staat in der neueren katholischen Kirchenrechtswissenschaft*, 104 et seqq.; Ludger MÜLLER, *Communio-Ekklesiologie und Societas-perfecta-Lehre: zwei Quellen des kirchlichen Verfassungsrechts?*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 265-293 here 266-270; L. GEROSA, *Gesetzeauslegung im Kirchenrecht*, 19-29.

<sup>135</sup> Cf. A. Baronu de SIAGUN`A, *Compendiu*, 279.

<sup>136</sup> *Ibid.*, 280.

<sup>137</sup> *Ibid.*, 279-280.

<sup>138</sup> *Ibid.*, 280.

*the Church's goal is one, and the state's goal is another. The Church's goal is eternal redemption and the state's goal is temporary happiness.*"<sup>139</sup>

Of course, in order to reach its goals the Church uses other means than the state. The means of the Church are the preaching of the Word - of faith, love, hope, of the ten divine commandments and the nine ecclesiastical ones - and the administration of the seven Holy Sacraments<sup>140</sup>, whereas the means of the state are "*the political and penal laws*"<sup>141</sup>. The fact that "*the civil rule cannot interfere in an absolutistic manner in the inner affairs of the Church is without any doubt.*"<sup>142</sup>

Therefore, the Church and the state are different both in their origins and final goals, and the means used to achieve their goals. But this difference does not hinder their peaceful coexistence, which was strongly proven by the analogy between soul and body.<sup>143</sup> As these two heterogeneous elements - the soul and the body - create together the human being which is spiritually subjected to the Church and physically to the state, the Church and the state can and must coexist. Because their goals and means, though different, do not contradict each other, even if the state were not Christian and irrespective of the form of government it would have.<sup>144</sup> "*And because the goal of the Church helps that of the state and the goal of the state does not prevent the Church from reaching its own goal, basically they are together, they contain each other, that is the Church is in the state and the state is in the Church, without any prejudices, for the Church does not harm the state, striving for the eternal redemption of the believers, nor does the state harm the Church, looking after the temporary happiness of its subordinated people; thus, only mistakes or disaccords can lead to a collision between the Church and the state. The Church can exist without the state, as it happened during*

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<sup>139</sup> A. Baronu de ŞAGUNA, *Elementele dreptului canonic*, 2<sup>1855</sup>, 3.

<sup>140</sup> A. Baronu de SIAGUN`A, *Compendiu*, 280. Andrei Şaguna did not mention deaconry or charity among the means possessed by Church in order to achieve its purpose. In the Orthodox doctrine, deaconry is intrinsic to the Church, being a derivative of the supreme evangelical commandment: the love of the neighbour. Andrei Şaguna himself had been a promoter and undisputed organizer of the social and charitable action of the Church ever since his first years as church ruler in Transylvania. Cf. the chapter III.1.5 herein.

<sup>141</sup> A. Baronu de SIAGUN`A, *Compendiu*, 280.

<sup>142</sup> *Ibid.*, 15.

<sup>143</sup> Cf. *ibid.*, 280.

<sup>144</sup> This is a good argument for the existence and achievement of the role of the Church in the actual European and worldly context too. The Church as divine-human institution is invited, must, and can achieve its role in the history, irrespectively of the social and political context which can be more or less favourable.



*the persecutions of the Church; but if the Church has the state's goodness on its side, then it flourishes [...]; when the Church is supported by the state, it has the natural authority.*"<sup>145</sup>

As far as the usefulness or the necessity of the Church (religion) in state is concerned, Andrei Şaguna rejected the idea according to which the Church is necessary to the state because it supports the state in its social interests, trade, industry, science, art, and moreover the promotion of morals. In his opinion, the Church is necessary to the state firstly because it ensures the spiritual peace of the people. The earthly life of the state's citizens has a double perspective - a material and a spiritual one - and it has to be lived in such a way so as to "*satisfy their spiritual needs and ensure their spiritual peace.*"<sup>146</sup> The state has the duty to guarantee the possibility of achievement of both human dimensions. It cannot ignore the religion of its citizens, without harming itself and its citizens.<sup>147</sup>

So the Church and the state are two entities between which major differences are but which still can coexist and work peacefully to the benefit of man, of his bodily and spiritual well-being. Their coexistence does not mean the lack of separation, on the contrary. The paragraphs 297 to 301 of the "Compendium" offer Şaguna's solution for the relationship Church-state: a clear separation and mutual, unconditional help.

The recognition of the separation between Church and state is attributed even to the Christian Byzantine Emperors Constantine the Great (306-337), Valentinian (364-375), Marcian (450-457), Justinian (527-565), "*for they confessed many times, in writing, that they had no right to interfere in religious affairs.*"<sup>148</sup> Moreover, Emperor Justinian "*was firmly convinced that civil laws had to be written according to the Church's canons*"<sup>149</sup>, the same emperor's Novella 83 being reminded in this respect. Although the Byzantine emperors issued laws concerning ecclesiastical people and objects, these

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<sup>145</sup> A. Baronu de ŞAGUNA, *Elementele dreptului canonic*, 21855, 3-4.

<sup>146</sup> A. Baronu de SIAGUN`A, *Compendiu*, 282.

<sup>147</sup> In this connexion it is interesting to notice the evolution, in the last 20 years, of the legislation concerning religions and the problems of the new religious movements in European countries such as Germany, France, Belgium, Austria. Cf. B. SCHINKELE, *Überlegungen zum Phänomen neuer religiöser Bewegungen*, 256-262.

<sup>148</sup> A. Baronu de SIAGUN`A, *Compendiu*, 281.

<sup>149</sup> *Ibid.*, 281.

laws were, however, in agreement with the canonical provisions, derived from canons “like their natural affluents”<sup>150</sup>, proving, in fact, the respect and support given to the Church by the state.

As for the state, the measure unit of its attitude toward the Church must be the truth that “Christ is the Head of the Church body (Colossians 1.18)<sup>151</sup>, therefore the Church is subordinated to Christ (Ephesians 5.23-24)<sup>152</sup>; the same as the ruler is the head of the state and the state is subordinated to the ruler.”<sup>153</sup> The separation between Church and state expressed here has its fundament in the Orthodox doctrine on the power and the supreme authority in the Church, which is Jesus Christ himself.<sup>154</sup> The state has another worldly, supreme authority - the ruling monarch in the monarchy, respectively the president or the parliament in the case of other forms of government. Just as Christ did not preach anything against the state or detrimental to it but on the contrary, respect and submission to the state authority, the state has to show respect to the Church, mainly by avoiding any measures that may infringe its principles or the Christians’ religious convictions. The state’s attitude toward the Church has to show respect directly proportionally with the holiness of the divine teachings, to comply with the goal of the Church, and to bring spiritual peace to the citizens. In essence, the state’s position toward the Church should be “the most cordial and correct one”<sup>155</sup>. The state is invited not only to guarantee the existence of the Church, but also to respect its principles

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<sup>150</sup> Ibid., 281.

<sup>151</sup> Colossians 1.18: “He is the head of the body, the church...”

<sup>152</sup> Ephesians 5.23-24: “[...] Christ is the head of the church, his body, and is himself its Savior. [...] the church is subject to Christ ...”

<sup>153</sup> A. Baronu de SIAGUN`A, Compendiu, 284.

<sup>154</sup> The source and subject of the Church authority is Jesus Christ. He exercises his authority in an invisible way through the unaltered teaching of the Gospels and the Holy Ghost, and in a visible way through the Holy Apostles and then through the bishops, as their followers. The bishops’ college, as a follower of the Apostles’ college is in Orthodoxy the holder of the supreme visible authority in the Church.

Unlike the Orthodox doctrine, in the Catholic Church the visible Church authority is entirely concentrated on the pope (can. 331 CIC), whereas within Protestantism the subject of the authority are the believers and only they.

Cf. D. BELU, *Autoritatea în Biserică*, 555-556; V. PHIDAS, *Droit canon*, 149 et seqq.; L. STAN, *Poziția laicilor în Biserica Ortodoxă*, 198-199; D. STĂNILOAE, *Orthodoxe Dogmatik*, Bd. 2, 162 et seqq.

<sup>155</sup> A. Baronu de SIAGUN`A, Compendiu, 284.

because of the intrinsic value given by their divine nature, and to know them in order to identify and respect them.<sup>156</sup>

Although he considers that the state has the duty to respect the Church, Andrei Şaguna admits that the principles of the Church cannot be accepted by the state as principles with legal value, excepting the form of government called theocracy.<sup>157</sup> However, the principles of the Church must be considered by the state as being worthy of imitation when the latter establishes its own principles and the citizens' rights and duties.<sup>158</sup> As positive examples he remembered some of the constitutional principles of the modern states adopted from Christendom - the abolishment of slavery, of privileges and feudalism, the equality in front of state duties and laws -, and the Gospels (Matthew, 5.1-48) as a moral source of legal provisions.<sup>159</sup>

A point of view unacceptable today, as it is against the state's religious neutrality, is expressed by Andrei Şaguna when he is of the opinion that the state itself must have a religion and respect it, giving expression to it in the measures either legislative or administrative it takes.<sup>160</sup> Still, in one of the following chapters of the "Compendium" where he analyses the relationships between state and different confessions, he strongly denies the idea of a dominant or state confession, stating the modern principle of the religious neutrality of the state.<sup>161</sup>

As far as the Church is concerned, it ensures the spiritual peace of the Christian citizens through its goals, so implicitly it does service to the state as the guarantor of the material and spiritual well-being of all its citizens. At the same time, the Church must

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<sup>156</sup> Ibid., 283, 290-291. The knowledge of the doctrine and principles of various religions and new religious movements is a real necessity for the state nowadays in order to guarantee what is useful for the citizens and, on the contrary, to repel what is detrimental to them. Cf. B. SCHINKELE, *Überlegungen zum Phänomen neuer religiöser Bewegungen*, 253-290.

<sup>157</sup> Cf. A. Baronu de SIAGUN`A, *Compendiu*, 285.

<sup>158</sup> If we consider the historical and political context in which the "Compendium" was edited, as well as the fact that Andrei Şaguna had revived the mixed synodality or constitutionalism in his eparchy ever since the Neoabsolutist era, it is easy to understand that one of the principles of the Church that he would have liked to have been followed by the state was that of constitutionalism. "In my Church the constitutionalism is so perfect that I would recommend it to the whole world! So I have learnt about the virtue of constitutionalism in my Church; as for political constitutionalism, it is said to be equal rights, but I have not felt it." Andrei Şaguna's speech in the Diet of Cluj of 1865, stenographical notices, in: *Telegraful Român*, No. 92, year XIII, Sibiu, November 21/December 3, 1865, 366.

<sup>159</sup> Cf. A. Baronu de SIAGUN`A, *Compendiu*, 286.

<sup>160</sup> Cf. *ibid.*, 282-283.

<sup>161</sup> *Ibid.*, 302-304.

have the right evangelical attitude of support toward the state, expressed in “*genuine, cordial and correct*”<sup>162</sup> forms.

The reciprocity or complementarity of services between Church and state are natural, coming from their liaison, similar to the one between soul and body. The soul and the body sustain each other, and so do the Church and the state. Moreover, the Church cannot refuse to help the state even when the state refuses to support the Church, the latter being unconditionally obliged to help according to the teaching of Jesus Christ (Matthew 22.21)<sup>163</sup> and his followers - the Apostles (I Peter 2.17)<sup>164</sup>. In this argumentation, worthy of being extended to the analysis of the relationship religion-state nowadays, there is also an anachronistical statement: “*the Christians are citizens and the citizens are Christians.*”<sup>165</sup> The citizens of the state nowadays can not only choose not to be Christians, but they can also have no religion whatsoever. This does not mean anyway that the state discriminates them because of this reason, but it has to find the best solution to treat them equally, which would harm neither the religious one nor the non-religious.<sup>166</sup>

Practically, the Church’s support for the state consists of: prayers for the rulers, soldiers and all the citizens<sup>167</sup>, announcing the civil duties, special prayers on emperor’s birthday<sup>168</sup>, prayers on special occasions such as epidemics, riots, wars, and the fulfilment of the ecclesiastical ministry with dignity.<sup>169</sup>

The state’s support for the Church consists of: the factual recognition of its citizens’ freedom of consciousness and of religious convictions<sup>170</sup>; the compliance with the internal autonomy of the Church by not interfering with its doctrine and strict religious affairs; the compliance with the dogmas, institutions and ecclesiastical internal

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<sup>162</sup> Ibid., 285.

<sup>163</sup> Matthew 22.21: “[...] Then he said to them, ‘Render therefore to Caesar the things that are Caesar’s, and to God the things that are God’s.’”

<sup>164</sup> I Peter 2.17: “Honor all men. Love the brotherhood. Fear God. Honor the emperor.”

<sup>165</sup> A. Baronu de SIAGUN`A, Compendiu, 287.

<sup>166</sup> Cf. B. SCHINKELE, Überlegungen zum Phänomen neuer religiöser Bewegungen, 256-262.

<sup>167</sup> See the great litany of the Orthodox liturgical prayers: “For our country, the president, and all those in public service, let us pray to the Lord.”

<sup>168</sup> In the Orthodox Church nowadays this anniversary prayer (Te Deum) has been preserved for the national day of the respective country.

<sup>169</sup> Cf. A. Baronu de SIAGUN`A, Compendiu, 285, 288.

<sup>170</sup> See *ibid.*, 289-296.

decisions; the compliance with the canon law; the minimal financial support for the clergy and Church's educational and charitable institutions; the guarantee of the development of the ecclesiastical and religious life of its citizens.<sup>171</sup>

What is very important, considering the reciprocity Church-state and also the separation between them, is the unconditional help: *“just as the Church obliges itself to offer the state its moral help unconditionally, because this is what the Holy Scripture command, the state obliges itself to give the Church its material help unconditionally too, without demanding any rights of patronage; contrarily, the hierarchy is invited to refuse such conditional help from the state and watch over for the strict compliance with the Saviour's words in the Bible.”*<sup>172</sup>

Not lastly is to be noticed the use of the adjective “correct” both when the state's attitude toward the Church and the Church's attitude toward the state are described. In order to sustain such a reciprocally right attitude, Andrei Şaguna insisted that firstly the ecclesiastical leaders themselves, but also the state should know the principles and genuine institutions of the Church: *“The Church hierarchy is obliged to eliminate, by its actions and words, any circumstance that might endanger the exercise and supporting of the Church's freedom within the state, which can be best ensured by the understanding of the genuine rules of the Church. [...] Not less, the state has the duty to insist on knowing the rules of the Church and getting permeated by their holiness, so that no wrong should be done to the Church [...]. Therefore, knowing the Church's rules is of the greatest importance for Church and state in order for the Church's freedom be exercised.”*<sup>173</sup>

He experienced incorrect attitudes both from the rulers of the Church and the political circles, especially in the case of the Orthodox Church of Bukovina. So that, after all his efforts to obtain and guarantee the autonomy of the Metropolitanate toward the state, Metropolitan Andrei Şaguna was aware that this autonomy could be easily damaged by the very representatives of the Church: *“I do believe that the strongest warranty of our rights we have won will be enforced when the Church's representatives, fully aware of*

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<sup>171</sup> Cf. *ibid.*, 288.

<sup>172</sup> *Ibid.*, 288.

<sup>173</sup> *Ibid.*, 291.

*their rights, will manifest this awareness not only in words, but also in actions. When they will guard their rights, exercise them with zeal, and admit that the exercise of their rights is a constitutional duty; when they will start avoiding the total submission to the government's tutorship and will stop considering it to be their providence, which should work miracles for them. These rights cannot be consolidated by the government, but only by the free activity of the Church.*"<sup>174</sup> Among other tasks of the church congress and bishops' synod stipulated by "The Organic Statute" were to promote and to defend the freedom and autonomy of the Church.<sup>175</sup>

Andrei Şaguna expressed an interesting and modern point of view when he made the difference between the religious tolerance and the religious freedom, the state being invited to ensure the latter. Whereas the religious tolerance postulates the existence and privileges for a dominant religion or confession, which idea he rejects<sup>176</sup>, the religious freedom admits the existence of a confessional, respectively religious diversity, and it legislates neutrally, without taking sides with one confession or religion or another. Moreover, the religious freedom promoted and guaranteed by the state has also the role of counteracting the proselytism, because a state that acknowledges a privileged religion or confession will always support it in its proselytist actions: "*the blame of the ecclesiastical proselytism always comes from the state firstly.*"<sup>177</sup> If the relationship between the different Christian confessions has to be based on Christian love, the state's relationship with all confessions and religions must be founded on the justice, the state assuring the confessional or religious equality through its laws.<sup>178</sup>

Because the state is sovereign, it has the right to approve the elected hierarchs, as well as the right to control, which is done for "the benefit of the country's laws", which rights anyway do not interfere with the internal autonomy of the Church.<sup>179</sup> As Keith Hitchins remarked, Andrei Şaguna "conceived of the ideal relationship between Church and state as one of harmony and cooperation in furthering the general welfare of the

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<sup>174</sup> Andrei Şaguna's letter to Jakob Rannicher, dated Sibiu, February 20, 1868, in: Spicuri și fragmente din corespondența lui Şaguna, 519-522 here 522.

<sup>175</sup> See Statutul organic, §145-§154; §171-§174.

<sup>176</sup> A. Baronu de SIAGUN'A, Compendiu, 303: "As a consequence, we do not approve the idea of a dominant [privileged] Church in a state with several Churches."

<sup>177</sup> Ibid., 304.

<sup>178</sup> Ibid., 302-303.

<sup>179</sup> Cf. A. Baronu de SIAGUNA, Proiectu de unu Regulamentu, §220-§225.

Christian community rather than one of hostility and rivalry, which characterized Rumanian Orthodoxy's existence in Transylvania for centuries.”<sup>180</sup>

### **VI.3 The hierarchical-synodal principle**

According to the Orthodox doctrine the Church's form of government is defined by the word “Christocracy”, derived from the name of the founder and Head of the Church, who is Jesus Christ. Because the invisible holder of the entire Church power rules the social organism of the Church through visible organs, its form of government is defined - taking into consideration these organs that hold and exert the power in the visible or militant Church - by the expression “hierarchical-synodal leadership” or “episcopal-synodal leadership”. Thus, in the Church as a social organism the plenitude of the power is held by the episcopacy, which exercises its power individually, each bishop in his eparchy, and synodally by the Ecumenical Councils concerning the entire Church<sup>181</sup> or by the local Synods concerning a larger part (province) of the Church.<sup>182</sup>

The episcopal-synodal character being added to the christocratic one, the form of leadership in the Orthodoxy is christocratic-episcopal-synodal.<sup>183</sup>

On account of this, in his “Project of Regulation” Andrei Şaguna laid as fundamental principles of the church constitution the hierarchical principle and the synodal one: “*The bishop is concerned with all those issues related to his eparchy*”<sup>184</sup> and “*the bishops' synod is the supreme authority in the Church*”<sup>185</sup>.

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<sup>180</sup> K. HITCHINS, *Orthodoxy and Nationality*, 225.

<sup>181</sup> The Church power for the entire visible Church is exercised only through the Ecumenical Council, as a successor of the Apostles' college in the sphere of power. Cf. L. STAN, *Har și jurisdicție*, 16.

<sup>182</sup> Cf. L. STAN, *Mirenii în biserică*, 31.

<sup>183</sup> Cf. I. IVAN, *Câțiva termeni canonici*, 98.

“In the [Orthodox] Church it is not the social organism that holds the power in any special way, it does not lend it to its leaders, turning it into authority and investing them with it, as it usually happens in the civil societies; here, in the Church, the authority comes down from the supernatural order, it has its principle in Christ and its investment with power comes from Christ too. It is not the power [the social organism] that creates authority, but the supreme holder of the Church power [Jesus Christ] gives power - through the organs created by him - to the authority based on grace, instituted by sharing the grace. The fundament of authority and power is created in the Church by consecration.” L. STAN, *Mirenii în biserică*, 32-33.

<sup>184</sup> A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §99.

<sup>185</sup> *Ibid.*, §211. See also the chapters V.2, V.3.2, and V.3.3 herein.

The hierarchical principle is that Orthodox canonical principle according to which “the Church power in its highest stage is exercised by the bishops.”<sup>186</sup> After the Resurrection and before His ascent to heaven, Jesus Christ entrusted the Apostles with the power that he had exercised alone before, showing them how to exercise it. The Apostles exercised that received Church power in the form of three superposed instances: one Apostle, two-three Apostles, and the Apostolic College (cf. Matthew, 18.15-20). The bishops, as Apostles’ followers, did the same: each bishop in turn, two-three or more bishops assembled in local Synods, and all the bishops assembled in Ecumenical Councils.<sup>187</sup> So, the episcopacy is the recipient of complete power and authority in the visible (militant) Church.<sup>188</sup>

In “The Elements of Canon Law” Bishop Andrei Şaguna stated laconically: “*The bishop is the ruler of the eparchy. The 38 apostolic canon clarifies this thing completely, saying: ‘Let the Bishop have the care of all ecclesiastical matters and let him manage them, on the understanding that God is overseeing and supervising.’ Everybody would be wrong to consider these words as a despotic or unlimited power of the bishop in the ecclesiastical affairs, because we read: ‘on the understanding that God is overseeing and supervising.’*”<sup>189</sup> In “Anthonismos” he used the 41 apostolic canon in order to underline the bishop’s authority: “*denn es heißt im 41. apostolischen Kanon, daß der Bischof die Macht über die kirchlichen Angelegenheiten hat und über die theuren Seelen der Menschen, die ihm anvertraut sind.*”<sup>190</sup> The polemics of “Anthonismos” made reference also to the entirety of the Church power each bishop has in his eparchy, which had to be respected by the state too, if we consider the principle of autonomy: “*wenn wir als Bischof diesen Modus der äußeren Reorganisation für gut und zweckentsprechend finden, so sind wir dann als Bischof berechtigt, unsere*

<sup>186</sup> I. IVAN, Autocefalia Bisericii Ortodoxe Române - un veac de la recunoaşterea ei, 15.

<sup>187</sup> Cf. I. IVAN, Căţiva termeni canonici, 98.

<sup>188</sup> The plenitude of the Church authority in Orthodoxy, the entire power of the Church, of the whole mystical body of Christ (the triumphant Church and the militant Church) is held only by Jesus Christ as the Head and supreme ruler of the Church. Jesus Christ exercises his authority in a visible way too, in the Church as a social institution (the militant Church) through the Holy Apostles and then through the bishops, as their followers to whom is conferred by consecration the entire special (clerical) power, which is necessary to them for the work they are called for. Cf. D. BELU, Autoritatea în Biserică, 555-556; L. STAN, Poziţia laicilor în Biserica Ortodoxă, 198-199.

<sup>189</sup> A. Baronu de ŞAGUNA, Elementele dreptului canonic, <sup>2</sup>1855, 82-83.

<sup>190</sup> A. Baron de SCHAGUNA, Anthonismos oder berichtigende Erörterung, 54. See the text of the mentioned canons in the annex XV herein.



*bischöfliche Ueberzeugung zu effektuieren, denn nach dem 34. apostolischen Kanon darf der Bischof in seiner Eparchie alles das thun, was zu seinem Bisthume und den unter demselben stehenden Dörfern gehört. Die Regierung hat nicht das Recht einen Bischof in der Effektuierung seiner streng oberhirtlichen und die Kirche betreffenden Ueberzeugung zu hindern, denn er wirkt kraft seines apostolischen Berufes...*<sup>191</sup>

On the hierarchical character of the Orthodox Church wrote Bishop Andrei very expressively in a letter to a man seduced by the Calvinist Church's constitution: *"Our hierarchy does not accept any alteration, because it would mean that the Church cease to be one, holy, catholic, and apostolic Church and it become a boat without floor. A reform of the hierarchical character of our Church is without thinking also because our Church has its institutions which its organism is grounded on. These institutions are holy and therefore unchangeable and stabile."*<sup>192</sup>

Practically, the hierarchical principle consists of "the organization, the working, and the leading of the Church according to the order imposed on the entire Church life by the hierarchy of the clergy divinely instituted."<sup>193</sup> This hierarchy is composed of three levels - different from one another according to their measure of grace - that is deaconate, priesthood and episcopate. The hierarchical principle stems from the teaching on consecrated priesthood as an institutional element of the Church, and is based on it. At the same time, the hierarchical principle is not applied only to the relationships between the consecrated people in the Church or the relationships between consecrated people and the faithful, but also the relationships between all the organs of ecclesiastical rule, the relationships between any types of functions performed in the Church, as well as the relationships between the ecclesiastical units.

Besides the hierarchical principle, the principle of the eparchial autonomy<sup>194</sup> plays an important role in the Church; that is why the synodal or collegial principle was

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<sup>191</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 108.

<sup>192</sup> "Andrei Şaguna către Gheorghe Contici" ("Andrei Şaguna to Gheorghe Contici"), un-dated draft, in: A. ŞAGUNA, *Correspondența I/2*, 221-222 here 222.

<sup>193</sup> L. STAN, *Legislația Bisericii Ortodoxe Române în timpul arhipăstoririi Prea Fericitului Părinte Patriarh Justinian*, 281-282.

<sup>194</sup> In Orthodoxy, according to the principle of eparchial autonomy, of the sovereignty of the eparchial bishop in his eparchy, each bishop exercises the Church power in his eparchy independently of any other bishop, thus the equality of power among all bishops being asserted. Cf. I. IVAN, *Autocefalia Bisericii Ortodoxe Române - un veac de la recunoașterea ei*, 15. See also the chapter VI.2.1 herein.

introduced through the 34 apostolic canon, according to which the principal matters are settled only by common decisions, by all the bishops gathered in synod or council.<sup>195</sup>

The synodal canonical principle “lies in the rule according to which the superior leading organs of the Church are not the individual ones, represented by one person, but those constituted in the form of synods, as collegial or collective organs.”<sup>196</sup>

All the bishops with apostolic succession have the complete power in the visible or militant Church, the entire episcopacy as college being at the core of the Orthodox Church’s organization.<sup>197</sup>

After the hierarchical principle, the synodal principle is given in the the practice and canons of the undivided Church of the first millennium the largest expression, by norms constantly noticed in the life of the Church: the practice of the Ecumenical Councils and of the other types of synods; 34 apostolic canon<sup>198</sup>; 37 apostolic canon<sup>199</sup>; canons 4,

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<sup>195</sup> Actually, there is a distinction between the synodality and the episcopal-synodal collegiality in the ecclesiological language of the Orthodox Church and that of the Catholic Church. See N. DURĂ, *Le Régime de la Synodalité*, 107-265.

About synod, council, and collegiality within Catholic Church see E. CORECCO, *Ordinatio Fidei*, 380 et seq.; Julius Folo KAFUTI, *Die Bischofssynode. Ein möglicher Ersatz für das Ökumenische Konzil?*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 127-146.

See an Orthodox approach of the terms “synod” and “council” at N. DURĂ, *Le Régime de la Synodalité*, 107-118.

<sup>196</sup> L. STAN, *Legislația Bisericii Ortodoxe Române în timpul arhipăstoririi Prea Fericitului Părinte Patriarh Justinian*, 283.

<sup>197</sup> “Regarding the equal power that Christ entrusted all the Apostles and, implicitly, all the bishops, is conclusive the assurance He gave them on the occasion of the Last Supper on Holy Thursday, when the Apostles were fighting for supremacy (Luke 22.24), telling them they will all sit on twelve judgement seats at the world’s final judgement (Luke 22.30; Matthew 19.28), they are each other’s brothers (Matthew 23.6-12), which excludes the superiority of any of them. That the Apostle Peter did not receive any right of supreme rule results also from the fact that he obeyed the Apostles’ College. Thus, he was sent with John to Samaria, to give the Holy Ghost to all those baptised by deacon Philip (Acts 8.14); moreover, after he had preached in Caesarea, Joppa etc., he had to account to the Apostles in Jerusalem for entering the house of the pagan soldier Cornelius (Acts, 11.3-4). When arose the question of compulsory circumcision of those who converted to Christianity and had belonged to gentiles, St. Peter, who hesitated, was even scolded by St. Apostle Paul (Galateans, 2.11-13) and had to subject himself to the Apostles’ College’s decision (Acts, 15.19-22). Actually, St. Peter did not credit himself, on any occasion, with any special rank or power higher than the other Apostles, calling himself ‘syn-presbyteros’, meaning ‘shepherd together with the others’ (I Peter 5.1).” I. IVAN, *Câțiva termeni canonici*, 98-99.

<sup>198</sup> According to ap. c. 34 the bishops of every nation have to know the one among them who is the premier or chief, and to recognise him as their head. Each bishop enjoys autonomy in his eparchy, being connected to the hierarchical subordination and to the synodality.

See the text of the canon in the annex XV herein.

<sup>199</sup> According to ap. c. 37 a council of bishops shall be held twice a year.

See the text of the canon in the annex XV herein.

5, and 6 of the First Ecumenical Council<sup>200</sup>; canon 6 of the Second Ecumenical Council<sup>201</sup>, etc.

The synodality is the traditional and constant way in which the ecclesial life was organized and led. Before being seen as the form of Church leadership, it must be considered the organization form of the Church. Despite of all the abuses inevitable in certain circumstances, the synodal form of Church organization and leadership has been regarded as the most authentic and appropriate one, which stands out and is in agreement with the revealed teaching and the basic rules that the Holy Apostles and their followers established for the organization and leadership of the ecclesiastical life. In its essence, the church synodality means getting together on the same way, making common decisions and leading the entire life after common deliberations of those bounded by their faith and organizationally constituted in church communities, smaller or larger, up to the level of the Ecumenical Church.<sup>202</sup>

The Orthodox doctrine on the christocratic-episcopal-synodal leadership of the Church was sustained by Andrei Şaguna in his canonistical writings and materialized in the ecclesiastical organization<sup>203</sup>. On the Church, its mission and leading form, he wrote

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<sup>200</sup> According to c. 4 of the First Ecumenical Council a new bishop should be ordained /enthroned by all the bishops of his province or at least by three of them.

According to c. 5 of the First Ecumenical Council in each province will be held synods of all the bishops every year twice a year, for common discussions on disciplinary questions.

C. 6 of the First Ecumenical Council refers not only to the rule: each province has a head (metropolitan, later patriarch), but also to the common vote (by the synod) of the bishops under the rule of each metropolitan.

See the text of the canons in the annex XV herein.

<sup>201</sup> C. 6 of the Second Ecumenical Council, treating the problem of the ecclesiastical discipline and the accusations against the bishops, refers to the provincial synod of all the bishops of the province, and to a “greater synod of the bishops of the diocese” as ecclesiastical judicial instances in these cases.

See the text of the canon in the annex XV herein.

<sup>202</sup> Cf. L. STAN, *Despre sinodalitate*, 155-158.

By the Second Vatican Council the synodality increased its importance in the ecclesiology and canon law of the Roman Church too. See W. AYMANS, *Kirchenrechtliche Beiträge zur Ekklesiologie*, 169-218; E. CORECCO, *Ordinatio Fidei*, 313-401; Libero GEROSA, Sabine DEMEL, Peter KRÄMER, Ludger MÜLLER (Hrsg.), *Patriarchale und synodale Strukturen in den katholischen Ostkirchen*, Münster 2001; Libero GEROSA, *Rechtstheologische Grundlagen der Synodalität in der Kirche*, in: Iuri Canonico Promovendo. Festschrift für Heribert Schmitz zum 65. Geburtstag, hrsg. von Winfried Aymans – Karl-Theodor Geringer, Regensburg 1994, 35-55; IDEM, *Canon Law 229 et seqq.*; K. MÖRSDORF, *Schriften zum Kanonischen Recht*, 256-283; A. M. ROUCO VARELA, *Schriften zur Theologie des Kirchenrechts und zur Kirchenverfassung*, 291-309; Norbert WITSCH, *Synodalität auf Ebene der Diözese*, Paderborn u.a. 2004.

<sup>203</sup> About the “undermining” of the hierarchical-synodal principle stated by Andrei Şaguna in the “Project of Regulation” see the chapters V.3.2 and V.3.3 herein.

concisely but comprehensively, in “Anthonismos”: *“Die Aufgabe der Kirche Christi ist die Vorbereitung der Gläubigen zur Antretung der Erbschaft des Reiches Gottes [...]. Zur Lösung dieser Aufgabe hat der göttliche Erlöser Andeutungen gegeben und Lehren ertheilt, welche die vier Evangelisten aufgezeichnet haben; und zu seinen ersten Organen zur Verbreitung seiner Göttlichen Lehre hat er sich die 12 Apostel und die 72 Jünger gewählt (Math. 10.1; Luk. 10.1,2), indem er den Aposteln die Macht zu lösen und zu binden auf Erden gab (Math. 18.18), und sie beauftragte, seine Lehre überall auf Erden zu verbreiten, alle Völker zu lehren und zu taufen (Math. 28.19) [...] und die Getauften zu unterrichten in Beobachtung aller Gebote, die er ihnen gegeben habe, denn er wird immerhin bei ihnen bis ans Ende der Welt sein (Math. 28.20). [...] Paulus sagt in seinem Briefe an die Epheser, [im ersten Kapitel] v. 22-23, daß Gott unter den Füßen Jesus Christus alles unterworfen und ihn als das Haupt über die ganze Kirche gesetzt habe, und dann an die Kolosser c.1 v. 18.: Christus ist das Haupt der Kirche; er ist der erste von den Todten auferstanden, damit er in allem den Vorzug habe [...]. Es ist noch zu bemerken, daß die Apostel keinen gewichtigeren und allgemeineren Gegenstand ganz allein und einseitig verhandelt hätten, sondern immer in den Synoden oder besser gesagt, in Versammlungen. Die erste ist im Jahre 33 oder 34 n. Chr. gewesen, wegen der Wahl eines Apostels an die Stelle des Verräthers Judas, worin Joseph und Mathias vorgeschlagen wurden und das Los auf den Mathias fiel.”<sup>204</sup>*

The plenary church authority and power in the visible Church cannot be concentrated on one hierarch but only on the Ecumenical Council: *“The centre of the Church on earth cannot be represented by any bishop, because it is spiritual, but it can be represented only by the Ecumenical Council [consisting] of bishops, priests, and laymen under the spiritual Head who is Christ.”<sup>205</sup>*

In his opening speech of the second mixed eparchial synod of October 1860, the bishop specified: *“The assemblies [councils or synods] have always been considered to be the soul of the best ecclesiastical order, because it is there that canons were established so as to apply the dogmas of the faith in their entirety, to respect the rules, and to organize*

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<sup>204</sup> A. Baron de SCHAGUNA, Anthonismos oder berichtigende Erörterung, 120-122.

<sup>205</sup> A. Baronu de SIAGUN`A, Compendiu, 95.

*the local Churches.*”<sup>206</sup> He wrote extensively on synodality in several of his canonistical works.<sup>207</sup>

Considering the synodality an apostolic institution totally preserved by the Orthodoxy, even in unfavourable social and political conditions, Andrei Şaguna pleaded for its intact perpetuation: “*Wir sind also für die strengste Aufrechthaltung der primitiven Satzungen, welche im Laufe von 19 Jahrhunderten unverletzt erhalten und unverkümmert bis auf uns gekommen sind; wir sind nämlich für das Institut der Synoden, oder besser gesagt, für kirchliche Versammlungen in der Art zusammengesetzt, wie es die Natur des betreffenden Gegenstandes erheischt ...*”<sup>208</sup> Not only the bishops are entitled to exercise the Church power by the synods, but also the clergy and the laymen, because “*the surest warranty to sustain Christ’s Church cannot be found in any physical individuality, be it adorned with all titles, but only in the spiritual individuality, which in our times the great Church of Constantinople calls to be the rudder of the whole Church and is in Pedalion, but it is exercised through the synods, where assemble either just the bishops, or also priests, deacons and the most trustworthy of the Christians, depending on the issues under discussion.*”<sup>209</sup>

#### **VI.4 The participation of the laymen in exercising the Church power: the organic or ecclesiastical constitutional principle**

##### VI.4.1 Notional clarifications

In the context of the nineteenth century, the most daring idea in Şaguna’s organizational work was the introduction of the lay people as an active part of the ecclesiastical organization: “This reform, whose canonicity has been long discussed, but which Şaguna sustained skilfully, diligently and successfully, is meant to become the angular stone in the revival of the universal Church. Şaguna’s greatness lies in this

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<sup>206</sup> Actele Soboarelor...1850 și 1860, 72.

<sup>207</sup> See A. Baronu de ŞAGUNA, Elemente dreptului canonic, <sup>2</sup>1855, 11-22; A. Baron de SCHAGUNA, Anthorismos oder berichtigende Erörterung, 122-127; A. Baronu de SIAGUN`A, Compendiu, 313-348.

<sup>208</sup> A. Baron de SCHAGUNA, Anthorismos oder berichtigende Erörterung, 127.

<sup>209</sup> Actele Soboarelor...1850 și 1860, 86.

very wise prevision of reading the thoughts of the future centuries, which gives his work a lasting value.”<sup>210</sup>

The same authority - Jesus Christ - who invested the Apostles, respectively the bishops with entire power in the visible Church, wanted the lay people as a constitutive part both responsible and active in the Church, leaving the hierarchy the right to regulate the laymen's rights depending on the Church's needs. However, there are not two sources of power (a clerical and a non-clerical one) in the social organism of the Church, there is only one principle and one authority which holds the power: Jesus Christ himself, who invested the Apostles and the bishops with the entire power founded on grace, leaving the participation of the laymen in exercising the Church power to the bishops's designation.<sup>211</sup>

The fundament of the ecclesiastical organization through the active involvement of the laymen is the canonical organic or ecclesiastical constitutional principle. This principle ensures the presence and activity of the laymen in all the fields of the Church life, on the grounds of the legitimate rights they are entitled to, not due to some concessions from the clergy. It is “the first and most important fundamental canonical principle of the Church rooted in the ecclesiology, that legitimates all the rights the laymen are entitled to in the life of the Church, and it permanently postulates the acknowledgement and enforcement of these rights.”<sup>212</sup> Despite its hierarchical-synodal character according to which the leadership of the Church belongs to the clergy, the ecclesial activity is not reduced at the clergy, because the laymen are also personal elements of the Church. Andrei Şaguna derived the laymen's constitutional rights from their undisputable quality of members of Christ's spiritual body.<sup>213</sup>

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<sup>210</sup> A. MAGIER, *Cu ce datorăm azi amintirei lui Şaguna*, 202-203.

The fact that Andrei Şaguna was providential by the mobilization of the laymen in the life of the Church is proven by the Second Vatican Council (1962-1965), which did the same thing in the Roman Church, but hundred years later. See Thomas A. AMANN, *Laien als Träger der Leitungsgewalt?*, St. Ottilien 1996; W. AYMANS, *Kirchenrechtliche Beiträge zur Ekklesiologie*, 219-238; E. CORECCO, *Ordinatio Fidei*, 357- 401; Libero GEROSA, *Vollmacht und Gemeinschaft in der Kirche*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 39-55; Peter MARX, *Räte und Konvente in ihrem Dienst an der Teilkirche*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 190-216.

<sup>211</sup> Cf. L. STAN, *Mirenii în biserică*, 32-34.

<sup>212</sup> L. STAN, *Biserica cu sau fără laici?*, 616.

<sup>213</sup> Cf. the chapter V.4 herein.

“It is called the organic principle or the principle of organic structure and work of the Church because, on the one hand it reflects the organic structure of the Church, meaning its structure resembling an organism, and on the other hand it also reflects the fact that all the parts of this organism contribute effectively to the completion of any activity in the Church. It is called the ecclesiastical constitutional principle because it expresses the specific canonical rule according to which all the Church’s units and leading organs are constituted through the expression of the will of all the members of the Church, not only the will of one leader or one category of members. And, as the leading organs of the Church are constituted through the will of all its members, the same the activity of these organs is achieved through the efficient co-operation of all categories of members of the Church.”<sup>214</sup>

The Church power the hierarchy holds has three branches: the holifying one (*potestas ministerii/munus sanctificandi*), the teaching one (*potestas magisterii/munus docendi*) and the leading one (*potestas jurisdictionis/munus regendi*).<sup>215</sup> “The Apostles had *jure divino* by Christ’s special mandate, the full entirety of the three branches of Church power. They were sent all over the world. Their competence was unlimited. But, in their own turn, the Apostles sent the bishops their entire holifying or sacramental power with the exception of the personal gifts (the Apostles were inspired, therefore infallible etc.) by consecration, while they gave them the other part of the Church power (*potestas magisterii* and *potestas jurisdictionis*) in its entirety, by *missio canonica*<sup>216</sup>, by sending and investiture; but this was limited to a certain community and circle, only in that circle they [the bishops] had the right to exercise the entire Church power in its

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<sup>214</sup> L. STAN, *Legislația Bisericii Ortodoxe Române în timpul arhipăstoririi Prea Fericitului Părinte Patriarh Justinian*, 279-280.

<sup>215</sup> On the three branches of the Church power see, e.g., Felix BERNARD, *Zur Genese der Drei-Gewalten-Lehre*, in: *ÖAKR* 36 (1986), 232-236; Yves CONGAR, *Sur la trilogie Prophete-Roi-Prêtre*, in: *RSPTh* 67 (1983), 97-116; Ludwig SCHICK, *Das dreifache Amt Christi und der Kirche. Zur Entstehung und Entwicklung der Trilogien*, Bern 1982; D. STĂNILOAE, *Orthodoxe Dogmatik*, Bd. 2, 89-122.

<sup>216</sup> “*Missio canonica* is the jurisdictional act by which the bishops (and the other honorary ranks derived from the bishop’s rank: archbishop, metropolitan, exarch, patriarch) are invested in the eparchy they will shepherd, and the priests and the deacons are installed in the church or parish which they will serve. This act adds nothing else to the capability obtained through the sacred, spiritual act of consecration. This administrative, jurisdictional measure was taken in order to avoid ordaining more people than it is necessary to ensure the believers’ religious assistance. Canon 6 of the Fourth Ecumenical Council regulates the consecrations only as part of an office created in advance as a necessity, declaring null the consecrations made without a certain destination.” I. IVAN, *Cățiva termeni canonici*, 97-98.

three branches, which means the teaching and leading power next to the holifying one.<sup>217</sup>

The Church holifying power can be exercised directly exclusively by the clergy, the consecrated people. The character of this power is mystical and invariable and is received through the act of consecration.

The non-clerical people have no access to the direct and immediate exercise of this power.<sup>218</sup> An exception from this rule is the baptism administered by the laymen in emergency cases. Then, in order to clearly express the participation of the laymen in the exercise of the holifying power, a traditional rule was adopted that no Holy Liturgy would take place unless believers were present.<sup>219</sup>

The Church teaching and leading power have an external, variable character, which is given through *missio canonica*, on the basis of the holifying power.

As a special function, the power of teaching belongs only to the hierarchy (clergy), which exercises it as the special organ meant to do so, while its exercise by the laymen is forbidden and condemned by the Church. Still, the laymen participation in exercising this power conditioned by the rights of the hierarchy and accepted by it are allowed and very necessary. The laymen participated and still participate in its exercising by doing their religious duty as required by the conscience, and by the rights asserted and recognized along the history of the Church.<sup>220</sup>

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<sup>217</sup> L. STAN, *Mirenii în biserică*, 103-104.

For the Catholic comprehension of *sacra potestas* and *missio canonica*, before and after the Second Vatican Council, see E. CORECCO, *Ordinatio Fidei*, 223-248; Libero GEROSA, *Vollmacht und Gemeinschaft in der Kirche*, in: S. DEMEL, L. MÜLLER (Hrsg.), *Krönung oder Entwertung des Konzils?*, 39-55 here 39-47; Peter KRÄMER, *Dienst und Vollmacht in der Kirche. Eine rechtstheologische Untersuchung zur Sacra Potestas-Lehre des II. Vatikanischen Konzils*, Trier 1973; IDEM, *Sacra potestas im Zusammenspiel von sakramentaler Weihe und kanonischer Sendung*, 23-33.

<sup>218</sup> The general priesthood, which all the members of Christ's mystical body enjoy, is not to be mistaken for the ordained priesthood in its three stages (bishops, priests, deacons), instituted by Jesus Christ, therefore being of divine right. Besides the divine hierarchy there are three stages of a human hierarchy: hypodeacon, anagnost (analogous to the lector in the Roman Catholic Church) and psaltist (church singer). Cf. I. IVAN, *Câțiva termeni canonici*, 95-97.

<sup>219</sup> Cf. L. STAN, *Elementul laic în Biserica Ortodoxă*, 11. Details on the laymen's participation in exercising the holifying power see at L. STAN, *Mirenii în biserică*, 46-63.

<sup>220</sup> Cf. L. STAN, *Elementul laic în Biserica Ortodoxă*, 11. Details on the laymen's participation in exercising the teaching power see at L. STAN, *Mirenii în biserică*, 64-109.

See also Peter KRÄMER, *Wer sind die Träger des kirchlichen Verkündigungsdienstes?*, in: *Communio in Ecclesiae Mysterio. Festschrift für Winfried Aymans zum 65. Geburtstag*, hrsg. von Karl-Theodor Geringer – Heribert Schmitz, St. Ottilien 2001, 247-267.



The episcopacy holds the Church leading power in its entirety and exercises it in the same way as the teaching power. The bishopry is given the leadership of the Church as a special function, the exercise of the leading power in the Church being a right and a duty of the hierarchy. "No-one can assume in this respect any right independent of the will of the hierarchy, and whoever holds or exercises a function having a right that is related to the leading power does it because the hierarchical authority invested them to do so. However, the hierarchy never exercised this power in an absolute way, and if it did so, that was an abuse."<sup>221</sup>

Although less important than the participation in the exercise of the first two branches of the Church power - the holifying power and the power of teaching -<sup>222</sup>, the participation of the laymen in the exercise of the third power branch - the leading power - has been on the one hand ever more visible, and on the other hand more discussed.

The acts of the leading power can be subdivided into three categories or sub-branches, expressing three functions (inadequately called powers) of this power, namely: the legislative, executive and judicial functions.<sup>223</sup>

The laymen have participated in the exercise of the legislative function to a certain extent in the legislative activity of the Ecumenical Councils or of the local synods of different types, called mixed synods, general synods, assemblies, congresses, meetings etc. "Their contribution to the activity of these ecclesiastical legislative bodies is and remains among the most useful ones at the adoption of the norms which were appropriate for every period of the life of the Church."<sup>224</sup>

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<sup>221</sup> L. STAN, *Mirenii în biserică*, 110.

<sup>222</sup> On the very actual issue of participation of the laymen in the exercise of the holifying power and the power of teaching within Roman Catholic Church see Beatrix LAUKEMPER-ISERMANN, *Der Anteil der Gläubigen an der geistlichen Vollmacht. Erster Beitrag*, in: Sabine DEMEL, Libero GEROSA, Peter KRÄMER, Ludger MÜLLER (Hrsg.), *Im Dienst der Gemeinde*, Münster 2002, 261-272; Thomas AMMAN, *Der Anteil der Gläubigen an der geistlichen Vollmacht. Zweiter Beitrag*, in: Sabine DEMEL, Libero GEROSA, Peter KRÄMER, Ludger MÜLLER (Hrsg.), *Im Dienst der Gemeinde*, Münster 2002, 273- 284.

<sup>223</sup> Of course, although the usual political-juridical language related to power division in the state is used (Montesquieu described the division of political power among a legislative, an executive and a judicial), in the case of the Church power we do not deal with a separation, as is the case of the state powers, but with the difference between the functions of one and the same power. Cf. I. IVAN, *Cățiva termeni canonici*, 97-98.

<sup>224</sup> L. STAN, *Elementul laic în Biserica Ortodoxă*, 12.

The Church recorded the participation of the laymen in the exercise of the judicial function especially in the first four-five Christian centuries, “even in a form that meant their contribution not only to the achievement of a judicial act, but also of a holifying act, specific to the consecrated priesthood, which was the administration of the Holy Sacrament of Penance. As we know, at that time the confession of sins as well as their absolution or the administration of penitence was done not only in the presence of the believers, but also with their active participation. Later on, within some disciplinary and even judiciary instances, it was accepted that representatives of the believers be present and cooperate in cases of moral deviation or general anti-social acts committed by the clergy, and also in the cases of litigations between clergymen and laymen.”<sup>225</sup>

The executive function consists in carrying out the decisions of the disciplinary and judiciary instances, and of the imperatives that derive from the ecclesiastical laws or from the decisions of the leading organs. In this light, the executive function is also called “church administration”, its field of work comprising: the common acts of ecclesiastical administration, the acts concerning the election of the clergy or the setting-up of other organs in the Church, as well as the actions related to the administration of the Church property.

The participation of the laymen in the exercise the executive function in the life of the Church was asserted from the very beginning, especially through their collaboration on the election of the clergy and other leading organs of the Church, and on the administration of the Church property. “These have remained, to this day, the acts which the lay believers participate on traditional and canonical grounds in, meaning that they have done so both due to the long practice which has become law, and due to some positive canonical norms, expressed in texts of Holy Canons and in other ecclesiastical laws.”<sup>226</sup>

The most important actions of the Church leading power in which the laymen participated and still do nowadays in the Orthodox Church are: the activities of the synods, the election of the clergy, and the administration of the Church property. This is how the ecclesiastical constitutionalism is achieved and expressed.<sup>227</sup>

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<sup>225</sup> Ibid., 12.

<sup>226</sup> Ibid., 13.

<sup>227</sup> Cf. L. STAN, *Mirenii în biserică*, 112.

#### VI.4.2 The mixed synodality

The “Project of Regulation” formulated the creation of five categories of mixed synods, which one third clergymen and two thirds laymen participated as members in. These categories were: the parish, the protopopiate, the eparchial, and the metropolitan synods.<sup>228</sup> The numerical ratio between the clergy and the laymen determined the composition of the synods, being in favour of the laymen, as it starts from the principle of individual equality.<sup>229</sup> The laymen’s participation in the mixed synods was made based on election and the representative principle.<sup>230</sup> The mixed synodality constituted through elections is one of the important points of the ecclesiastical organization conceived by Andrei Şaguna: “Metropolitan Şaguna was, maybe like no other one before him, preoccupied with the belief that the administration of the ecclesiastical affairs had to take place on good terms between the clergy and the lay people. But, because neither the clergy nor the laymen could assemble repeatedly for technical reasons in their entirety, Metropolitan Şaguna has the great merit of establishing precisely the representative principle.”<sup>231</sup>

As far as their structure is concerned, the synods may be: episcopal (composed only of bishops of different ranks); mixed (composed of bishops, priests, deacons and laymen). In “Anthonismos”, Andrei Şaguna made a difference between the episcopal synods (referred to only as “synods”<sup>232</sup>), and the mixed ones (referred to either as “assemblies”<sup>233</sup>, or as “synods”): *“Wir sind nämlich für die Behandlung der dogmatischen, sakramentalen, ritualen, gerichtlichen und disziplinarischen Sachen für Metropolitan- Patriarchal- und Ökumenische [Sinoden], Kirchenfonds- und Volksschulgegenstände aber sind wir für Eparchial- und Metropolitanversammlungen zusammengesetzt aus den kirchlichen Würdenträgern und den Vertretern aller Faktoren, die sich in einer Eparchie und Metropole befinden, als: der Priester, des*

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<sup>228</sup> Cf. the chapters V.2 and V.3 herein.

<sup>229</sup> Cf. A. Baronu de SIAGUN`A, Compendiu, 378.

<sup>230</sup> Cf. the chapter VI.2.2.3 herein.

<sup>231</sup> V. ŞESAN, Reflexiuni asupra unificării, 29-30.

<sup>232</sup> In the Orthodox Church, the bishops’ synods (the so-called “pure synodality”) have been always called in this way, but not only them. The term “synod” is used exclusively for the bishops’ synods in the Oriental Catholic Churches’ Code of Canon Law (CCEO).

<sup>233</sup> The term “assembly” used to refer to the mixed synod, is also used in the current legislation of the Romanian Orthodox Church.

*Adels, der Literaten, und der Gläubigen. Oder, um jede Mißdeutung fern zu halten, sprechen wir unsere Meinung in Betreff der Organisierung unserer kirchlichen Angelegenheiten dahin aus, daß es vor allem nothwendig ist, daß in jeder Eparchie eine Synode abgehalten werden soll, an welcher sowohl der höhere, als auch der Parochial und der Regular Klerus und die Laien durch ihre Vertreter Theil zu nehmen hätten, und nach Abhaltung dieser Synoden schlagen wir eine allgemeine Metropolitan-Synode vor.*<sup>234</sup>

The mixed synods were the most numerous and frequent in the history of the Church, the episcopal ones taking place only occasionally at the beginning, namely when issues concerning the faith were discussed.<sup>235</sup> The mixed synodality evolved along with the episcopal synodality. The apostolic synod of Jerusalem (Acts of the Apostles, 15) is the prototype of the Church assemblies which both the clergy and the lay people participated in.<sup>236</sup> The laymen had no decisive voting right in the mixed synods; only the bishops had this right, as rectors of the churches; however, the role of the lay people was not only to be informed about the bishops' decisions, for many laymen expressed their opinions, sustained or argued against an issue, thus influencing the taken decisions. "The participation of the laymen in the Ecumenical Councils generally was not excluded, nor was it in the other less important synods of the East."<sup>237</sup> However, "after being of common use in the first centuries, the mixed synods stopped receiving too much consideration in time."<sup>238</sup> They experienced exaggerations too<sup>239</sup>, which does not mean that the institution is wrong in itself, but that it was subject to mistakes, like any other human institution.

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<sup>234</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 127.

<sup>235</sup> A detailed approach of the mixed synodality throughout the time, see at L. STAN, *Mirenii în biserică*, 112-244.

<sup>236</sup> Cf. L. STAN, *Mirenii în biserică*, 114-115; N. DURĂ, *Le Régime de la Synodalité*, 391 et seqq.

<sup>237</sup> L. STAN, *Mirenii în biserică*, 127.

<sup>238</sup> *Ibid.*, 128.

<sup>239</sup> For instance, there was in France around the year 800, a system of mixed synods in which the decisions were taken with a majority of votes, its members - bishops and laymen - all having an equal vote. It is, certainly, an un-canonical system, because one cannot tolerate any equality of votes between the bishops and other lay representatives, because the episcopal character of the Church organization would be destroyed when the laymen were a majority, and the bishops had to accept the decisions of the lay majority only because they belong to the majority, not because they are right from the point of view of the Church. Cf. L. STAN, *Mirenii în biserică*, 129-130.

Concerning Andrei Şaguna's way of understanding the mixed synodality, his pastoral letter of December 5, 1855, is an important point of reference. It was written as a reaction to the subjective and provoking attitude of "The Transylvanian Gazette", with the purpose of preventing its buying and reading by the Orthodox. In the second part of his pastoral letter, the bishop was forced to dedicate larger coverage the mixed synodality. A former Greek Catholic gazette editor - George Bariţiu - had published a calendar-chronicle of Transylvania, praising the laymen's participation in the mixed eparchial Orthodox synod of March 1850<sup>240</sup>. Although the calendar author's intention have been laudatory toward Andrei Şaguna, the bishop felt offended by the latter's ignorance and incompetence: "*the calendar's writer says that our eparchial synod of 1850 had only one important significance, which was that not only the clergy, but also the lay people were represented there. Thus, the writer shows by his words that he was neither gifted, nor willing to write about our Church's assembly, because otherwise he would have mentioned in the Transylvanian Chronicle - which he writes himself - another happening of the greatest significance, not that one which always happens wherever such an eparchial assembly is held in our [Orthodox] Church, as it was our assembly of 1850.*"<sup>241</sup> Therefore, for the Bishop Andrei the mixed synodality was a "natural" thing in the Orthodox Church, something "*which always happens wherever such an eparchial assembly is held*". The novelty of the eparchial synod of 1850 was, in his opinion, not the mixed synodality itself but the recognition of the Orthodox Transylvanian Church's rights after over three hundred years, and consequently, the free assembling of the clergy and the laymen within that synod.<sup>242</sup>

The explanation of the mixed synodality was resumed in "Anthonismos". The presence of some lay representatives in the eparchial synod could only be of ill augury for the caesaropapist intentions, that is why the mixed eparchial synods organized in Transylvania which were well-received by the Bukovinian believers, were fought against by the leadership of the Eparchy of Czernowitz. Andrei Şaguna's argument in favour of mixed synodality was an elaborate one: "*I. wir glauben und bekennen, daß wir kein kanonisches Fundament verletzt haben, als wir zu unseren Diöcesanversammlungen in Siebenbürgen neben den Vertretern des Klerus auch jene*

<sup>240</sup> On this synod see the chapter III.2.5 herein.

<sup>241</sup> Andrei Şaguna's pastoral letter No. 1090/1855, in: Gh. TULBURE, Mitropolitul Şaguna, 195-201 here 198.

<sup>242</sup> Cf. *ibid.*, 198-199.

unserer Eparchioten zusammenberufen haben; wenn unsere Brüder aus der Bukovina zu wissen glauben, daß diese unsere bischöfliche That jedes kanonischen Fundamentes entbehrt und jene kanonischen Fundamente kennen, welche unsere bischöfliche That jedes kanonischen Fundamentes entbehren lassen: so mögen sie die Güte haben, uns mit denselben bekannt zu machen, quia ars est longa, sed vita brevis; 2. wir glauben und bekennen, daß wir gefehlt und Partheihungen provoziert hätten, wie wir sie in der Bukovina aus den oberwähnten Worten unserer dortigen Brüder ersehen, falls wir zu den abgehaltenen und zu Regulierung der kirchlichen und Schulangelegenheiten abzuhaltenden Diöcesan Versammlungen die Vertreter des Eparchialvolkes nicht einberufen hätten und künftighin nicht einberufen würden, denn wir wissen es, daß einerseits eine derartige Manifestation weder die kanonischen Institutionen, noch die kirchlichen Interessen, noch jemandes Ansehen verletzen, sondern im Gegentheile alles dieses auf eine günstige Weise fördert; daß andererseits aber die Stellung unserer Kirche in Siebenbürgen und ihrer Metropole, worin sie sich bis heutigen Tags befindet, und woraus wir sie retten wollen, eine außerordentliche ist, denn in Folge der politischen Maßregeln ist die Kirche in den elendesten und abnormsten Zustand herabgesunken, und sie ist jetzt mit allen ihren Elementen, Faktoren, die in der Kirche vereinigt sind, auf den normalen Stand zurückzuführen, ist das Zusammenwirken nothwendig und solche Mittel, welche unausbleiblich die Kirche zu erneuern im Stande wären, und um mit den Worten des Apostels Paul zu reden (1 Corinth. 14,1), wir sind verpflichtet für solche Mittel zu sorgen, wodurch wir sicher sein können, daß die Kirche an der Erbauung Theil nehmen werde. [...] Die väterliche Sorge eines Bischofes erkennt man damals am deutlichsten, wenn er Klerus und Volk um sich versammelt und persönlich beide aufklärt und kapazitiert; also zumal wir das Geistige lieben, so forschen wir nach dem, was für die Erbauung der Kirche zweckdienlich ist, damit wir in unseren Bestrebungen gedeihen...<sup>243</sup> He mentioned the 34 apostolic canon<sup>244</sup> and the canon 13 of the regional Council of Laodicea<sup>245</sup>, which in his opinion legitimize the mixed synodality too, for the good functioning of the eparchy; then

<sup>243</sup> A. Baron de SCHAGUNA, Anthonismos oder berichtigende Erörterung, 105-106.

<sup>244</sup> According to ap. c. 34 the bishops of every nation have to know the one among them who is the premier or chief, and to recognise him as their head. Each bishop enjoys autonomy in his eparchy, being connected to the hierarchical subordination and to the synodality.

See the text of the canon in the annex XV herein.

<sup>245</sup> According to c. 13 of Laodicea is not permitted to the "others" (the mobs and disorderly multitude of cities) to conduct the election of candidates for the priesthood.

See the text of the canon in the annex XV herein.

Bishop Andrei showed the purpose and important results of the mixed eparchial synods of 1850 and 1860, sustaining that he only followed the Apostles' example, who decided together with the Christians on the issue of charity, the acceptance of pagans among the Christians, Matthias' election etc.<sup>246</sup> Although Andrei Şaguna was convinced that the mixed synodality was not un-canonical, he underlined that the foundation and supreme argument of mixed synodality is the very essence of the Church - the love: "3. wir glauben und bekennen, daß jene Handlung eines Bischofes, welche das gute Eiverständniß mit sich bringt, und die daraus resultierende Liebe zwischen dem Bischofe, dem Volk und Klerus, sowie auch allgemeine Thätigkeit in allen Gliedern der Kirche, die bewirkt hat, daß wir heute in Siebenbürgen über 600 Volksschulen unseres orthodoxen Ritus haben, nicht jedes kanonischen Fundaments bar genannt werden kann, denn dann hätte nicht Christus zu den Aposteln gesagt: 'Ich gebe euch ein neues Gebot, daß ihr einander liebet; ja so einander liebet, wie ich euch geliebt habe.' (Joh. Cap. 13,34); denn dann hätte auch der Apostel Paulus ohne Nutzen an die Römer geschrieben c. 13. v. 10: 'Die Nächstenliebe füget Niemanden Schaden zu: die Liebe schließt also alle diese Gesetze in sich ein und erfüllt sie.' Dann hätten auch die Worte des h. Johannes in seinem ersten Briefe cap. 4. v. 11 keinen Sinn, wodurch gelehrt wird: 'daß wenn Gott uns so sehr geliebt, daß er seinen eingeborenen Sohn in die Welt geschickt hat, um sie zu erlösen, auch wir ja einander lieben müssen.' Dann hätte nicht der nämliche Apostel in seinem ersten Brief c.3 v. 18,19,21,22 zum Troste der wahren Christen also geschrieben: 'Meine lieben Kinder, weg mit bloßer Wortliebe, erweisen wir uns einander thätig, liebevoll, nur hieraus erkennen wir, ob wir aus der Wahrheit seien. ... Geliebte, wenn unser Herz uns nicht mehr bestraft und verdammet, so haben wir freudiges Vertrauen zu Gott; wir werden alles, um was wir ihn immer bitten, von ihm erhalten; denn wir sind ja unter denen, die seine Gebote halten, und thun, was ihm wohlgefällt.' und endlich, hätte auch der Apostel in seinem Briefe an die Kolosser c. 3. v. 14. nicht gepredigt: 'Ueber dieses alles haltet die Liebe, welche das Band der Vollkommenheit ist'."<sup>247</sup>

Concerning the statement of the Bukovinians that the mixed synodality was Bishop Andrei Şaguna's "innovation" in the Transylvanian Orthodox Church, because in the past no laymen participated in the Transylvanian synods, the unionist synods of 1700

<sup>246</sup> Cf. A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 109-114.

<sup>247</sup> *Ibid.*, 108-109.

and the elective one of 1809 being mentioned as proofs, he replied: *“Wir wundern uns und müssen uns darüber wundern, wie sich unsere Brüder für die Begründung ihrer Meinung Beispiele sogar auch solcher Verhältnissen vorzubringen bemühen, die nur per jus fortioris von Seiten der politischen Behörde in unserer Kirche aus Siebenbürgen eingeführt wurden.”*<sup>248</sup>

Seeing the laymen’s presence in the deliberative bodies as a sure guarantee of the revival of the ecclesiastical life, Andrei Şaguna was aware, at the same time, of the danger of the spreading of clericalism, which was so active in his age both in the West and the East<sup>249</sup>: *“I ask you, please, do not let go off the once gained freedom for the gathering of the synod which the representatives of both the clergy and the Christians [the laymen] implicitly will take part in. Use this freedom, for, believe me, you will find in it the revival of the numb and lethargic ecclesiastical spirit. I assure you that our enemies, whose number is legion, will know how to use their despotism if you are not able to use your freedom.”*<sup>250</sup> In answer to this, the laymen loved the bishop who supported their dignity of limbs of the Church, entitled them to take part in the decisional acts that concerned it: *“If I could instil in our superiors Your Excellency’s thoughts, the sufferance for the goodness, honour, autonomy, the advancement of the Orthodox Mother Church and for the concentration of its separated and isolated members - only a spark from Your Excellency’s vitality, energy, keenness.”*<sup>251</sup>

Even the laymen of Serbia admired the bishop of Transylvania for his works: *“Your Excellency are for those parts, especially for our Romanians brothers, a true and lucky phenomenon...”*<sup>252</sup>

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<sup>248</sup> Ibid., 115-116.

<sup>249</sup> Towards the end of the modern times - and in the Romanian Principalities especially during the Phanariot régime (in the eighteenth century) but also later - the clericalist spirit developed in Orthodoxy too, under the Western influence. Cf. L. STAN, *Biserica cu sau fără laici?*, 612.

<sup>250</sup> “Şaguna către Georgiu Hurmuzachi” (“Şaguna to Georgiu Hurmuzachi”), dated Sibiu, January 21, 1861, in: II. PUŞCARIU, *Metropolia, colecția de acte*, 180-181 here 181.

<sup>251</sup> “Respunsul lui G. Hurmuzachi către Şaguna” (“G. Hurmuzachi’s answer to Şaguna”), dated Czernowitz, February 9/21, 1861, in: II. PUŞCARIU, *Metropolia, colecția de acte*, 182-185 here 184.

<sup>252</sup> “Gheorghe Contici către Andrei Şaguna” (“Gheorghe Contici to Andrei Şaguna”), dated November 12, 1862, in: A. ŞAGUNA, *Correspondența I/2*, 219-221 here 219.



#### VI.4.3 The participation of the laymen in the election of the clergy<sup>253</sup>

Among the most important attributions of the ecclesiastical mixed corporations conceived by Andrei Șaguna was the election of the clergy of all degrees: “*Yes, it is a consequence of the sheer ignorance of the dignity which Christians are entitled to enjoy, when someone doubts the Christians’ right of electing their bishops or priests and of managing the ecclesiastical-economic affairs.*”<sup>254</sup> The election of the clergy from the lowest levels to the metropolitan was in the charge of the mixed synods, at the level corresponding to each of them: the parish synod would elect the parish priests and deacons<sup>255</sup>, the protopopiate synod would elect the protopope<sup>256</sup>, the eparchial synod would elect the bishop<sup>257</sup>, the metropolitan synod (the church congress) would elect the metropolitan<sup>258</sup>.

Since the foundation of the Church, the appointment of the clergymen has been done through the collaboration of the lay people and the hierarchy, of the conducted Church and the leading one. “It is true that the power of appointing clergymen of all degrees was given to the hierarchy and it rightfully belongs to it, but not so absolutely that it excludes the co-operation of all the other elements composing the Church. [...] The practice of the Universal Church abounds in clear evidences on this issue, although sometimes this thing is forgotten and so, what the whole Church - both in the East and in the West - has noticed from the very beginning and preserved in its tradition, is treated as Protestant or with Protestant inclination innovation.”<sup>259</sup> If in the first ten-elf Christian centuries the participation of the laymen in the election of the clergy - the expression of the elective principle - was generally adopted in the Church, after that it

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<sup>253</sup> See a historical-canonical analysis of the laymen’s participation in the election of the clergy at L. STAN, *Mirenii în biserică*, 245-709.

As it could be noticed considering the large space which Canonist Liviu Stan uses in the quoted work to clarify the problem of the participation of the believers in the election of the clergy, this aspect of the participation of the laymen in the ecclesiastical affairs had and has a special importance in the life of the Church.

<sup>254</sup> A. Baronu de SIAGUN`A, *Compendiu*, 175.

<sup>255</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §26 point 2; *Statutul organic*, §7 point 2.

<sup>256</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §72-§77; *Statutul organic*, §39, §50-§53.

<sup>257</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §100-§107, §136 pct. 2; *Statutul organic*, §96-§103.

<sup>258</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §139, §193-§200; *Statutul organic*, §154-§157.

<sup>259</sup> L. STAN, *Mirenii în biserică*, 246.

was maintained almost exclusively in the Orthodox Church, and it appeared in a new, deviated form, in the sixteenth century's Protestantism.<sup>260</sup>

An appointment of the clergy only by the hierarchy, although within the law, it “is not meant to reach its goal; for an election to be real and serve the Church better, it has to be the result of the co-operation between the entire Church, the faithful and the hierarchy. [...] Although the Christians cannot impose a shepherd directly through elections because the ecclesiastical authority can reject him on serious grounds, they can still resort to resistance, and using such a means they can refuse to accept unwanted persons. The canons themselves assure us of this right of resistance. Imposing an unwanted shepherd is un-understandable in the Church and not only useless but also harmful, because an unwanted shepherd does not make for the sheep's protection, but their dissolution.”<sup>261</sup>

The bishops' election was the object of special attention during the entire Christian era, due to the importance of this function. In the ancient times, all the Christians in a vacant eparchy were invited to co-operate for the election of the hierarch together with the neighbouring bishops. There were also times when there were attempts at eliminating the laymen or at least reduce their position to a decorative role, but the power of a tradition lasting for centuries could not be defeated.<sup>262</sup>

The laymen are entitled to co-operate for the election of the bishops, but their role is not as important as that of the bishops' synod, which has the right to censor the choice made by the laymen. Still, “the laymen's co-operation is indispensable, because an election made only by the bishops is almost as inappropriate with the spirit of the Christian Church as one made only by the laymen. The collaboration of these two elements is absolutely necessary. The laymen's role is that of choosing and presenting one or more candidates eligible for the bishopric to the higher censorship of the

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<sup>260</sup> Cf. *ibid.*, 246-247.

<sup>261</sup> *Ibid.*, 247-249.

<sup>262</sup> Cf. *ibid.*, 607. See also Hubert MÜLLER, *Der Anteil der Laien an der Bischofswahl. Ein Beitrag zur Geschichte der Kanonistik von Gratian bis Gregor IX.*, Amsterdam 1977; L. GEROSA, *Gesetzesauslegung im Kirchenrecht*, 161-178.

bishops' college; in this way, the laymen have practically a right of presentation, of candidature."<sup>263</sup>

But the decision is made by the bishops' college. By vote, the bishops can accept or refuse - should the reason be very serious - to promote a candidate proposed by the laymen for the position of bishop. However, the bishops cannot impose anyone against the laymen's indicative will. That is why, as a correction factor of the episcopal college's arbitrariness, "the people have the right to refuse to accept a hierarch who is neither wanted nor loved by them."<sup>264</sup>

The limits of the laymen's involvement in the act of electing the hierarchs is therefore established and lies in the right to propose candidates to bishopric and to refuse the inappropriate hierarch - the right of opposition. The bishops are the rulers of the Christian society by divine right, they are entitled to decide on the election of the new bishops, but in this decision they are obliged to take into consideration the wish of the people "for in the Orthodox Church the authority is not exercised in an absolutist way."<sup>265</sup>

In the "Project of Regulation" handed in to the mixed synod of 1864, Andrei Şaguna established the election of the bishops to be made by the eparchial synod composed of forty laymen and twenty clergymen<sup>266</sup>, the bishops' synod being the one that had to control the canonicity and to censor the election<sup>267</sup> made by the eparchial synod. The metropolitan was elected by the metropolitan synod, composed of all the bishops and the representatives of the believers (maximum ninety in number) among which two thirds were laymen and one third were clergymen.<sup>268</sup> As per §198 the metropolitan was elected from among the bishops; however, in §197 it was stipulated in this case too the bishops' synod censorship of the election made by the mixed synod. "We can rightly say that, concerning the participation of the laymen in the direct elections of bishops and metropolitans, Metropolitan Şaguna has the uncontested merit of giving decisive directions to the entire Orthodox Church."<sup>269</sup>

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<sup>263</sup> L. STAN, *Mirenii în biserică*, 608.

<sup>264</sup> *Ibid.*, 609.

<sup>265</sup> *Ibid.*, 609.

<sup>266</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §100.

<sup>267</sup> Cf. *ibid.*, §123.

<sup>268</sup> *Ibid.*, §139 and §193.

<sup>269</sup> V. ŞESAN, *Reflexiuni asupra unificării*, 24.

In “The Organic Statute” was adopted, with some amendments, the system of electing the bishops formulated in the “Project”.<sup>270</sup> Innovations was introduced concerning the election of the metropolitan, made by an elective body composed of hundred and twenty members, sixty from the Eparchy of Sibiu and sixty from the other two eparchies of the Metropolitanate.<sup>271</sup> The suffragan bishops, if not elected as deputies in the special elective body, had no right to take part in the election of the metropolitan.<sup>272</sup> By §157 point 15 the way in which Andrei Şaguna decided that the elections would be censored by the bishops’ synod was changed, this taking place after the elected one was confirmed by the emperor. The elected one was not necessarily a bishop. The censorship by the bishops’ synod took place only when the elected one was not a bishop, a bishop elected as metropolitan not being censored anymore by the bishops’ synod, but directly enthroned by the congress in the metropolitan see.

Comparing the way in which the Serbian metropolitan and bishops were elected, for instance, with the one proposed by Andrei Şaguna, the latter is highly canonical. In the Serbian example, only the metropolitan’s election was canonical, both the clergy and the believers being represented in the elective college. The bishops were elected by the bishops’ synod and confirmed by the emperor.<sup>273</sup>

But the practice of the Church, including the Romanian Orthodox Church, was not always canonical, as it happened with the Romanian law of 1925 concerning the ecclesiastical organization, according to which all the bishops, clergymen, and laymen who composed the elective college had equal voting right.<sup>274</sup> The right of the bishops’ synod to examine the candidate from the canonical point of view was annulled, but it was covered partly by its right to censor the election. Then, the representatives of the clergy and laymen from the entire Romanian Church were part of the elective college, not only those coming from the vacant eparchy.

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<sup>270</sup> Cf. Statutul organic, §97-§105.

<sup>271</sup> Ibid., §155 al.1.

<sup>272</sup> Statutul organic, §155 al.2.

<sup>273</sup> Cf. I. MATEIU, *Contribuţiuni la istoria dreptului bisericesc*, 242.

<sup>274</sup> See *Legea din 6 mai 1925 pentru organizarea Bisericii Ortodoxe Române*, art. 12; *Statutul pentru organizarea Bisericii Ortodoxe Romane*, din 6 mai 1925, art. 9 lit. j).

The elective principle, as an expression of the Christian spirit which is the basis of the ecclesiastical constitutionalism, was adopted by the Church not only when hierarchs, but also priests and other members of the clergy were appointed.<sup>275</sup> In the primary Church it was observed from the very beginning the practice that the laymen were entitled to co-operate by the election of the priests and deacons too, not only by that of the bishops. “This participation is considered to be a means which strengthens the moral bond that has to exist between the priest and the people. [...] The prejudice of the aim of the Church, which is the redemption, by placing an unwanted shepherd authoritatively, a fact which would scandalise the believers, deprives the priesthood from its reason of being.”<sup>276</sup> It is known from the Apostles’ practice that the people were consulted regarding the eligibility of the candidates, even for the office of a deacon. The practice of the priests’ election with the believers’ co-operation was maintained until the first half of the twentieth century, almost everywhere in the Orthodox Church.<sup>277</sup> Still, the bishop is the one who truly enjoys the right of election (for the co-operant role of the believers the term “election” is the improper one). The bishop decides in the end on the candidate or candidates presented, proposed by the community. According to the principles of the Orthodox canon law, the election by the community confers the elected one only the title of candidate in front of the bishop, who accepts him or - due to serious reasons - can reject him.

According to the “Project of Regulation” of 1864, the election of the priests and deacons was made by the parish synod whose chairman was the protopope, with a majority of votes, from among the competing candidates.<sup>278</sup> The election of the protopopes was made by the protopopiate synod, composed of two thirds laymen and one third priests, who were representatives of the parishes in the protopopiate.<sup>279</sup> The eparchial consistory proposed three candidates to that mixed synod, which elected one of them.<sup>280</sup>

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<sup>275</sup> At length on the laymen’s participation in the election of the priests and deacons at L. STAN, *Mirenii în biserică*, 610-709.

<sup>276</sup> L. STAN, *Mirenii în biserică*, 610.

<sup>277</sup> Cf. *ibid.*, 707.

<sup>278</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §26 point 2, §32.

<sup>279</sup> *Ibid.*, §74.

<sup>280</sup> *Ibid.*, §75.

“The Organic Statute” adopted the provisions of the “Project” concerning the election of the priests, deacons and protopopes<sup>281</sup>, but it ignored the reference to the number of three candidates proposed by the consistory, in the case of protopopes’ election. On the contrary, the first three candidates elected by the mixed synod were presented to the consistory, which appointed one of them.<sup>282</sup>

The ecclesiastical laws of the old Romanian Kingdom<sup>283</sup> did not comprise such provisions as the election of the priests, deacons and protopopes<sup>284</sup> and they were also introduced in “The Statute of the Organization of the Romanian Orthodox Church”<sup>285</sup> from 6 May 1925, thus doing away with a very important provision of the ecclesiastical organization conceived by Andrei Șaguna: the election of the church servants by the participation of the believers.<sup>286</sup>

#### VI.4.4 The involvement of the laymen in the administration of the Church property<sup>287</sup>

There is no need for sacramental priesthood for the office of administration of the material property of the Church, so every Christian has theoretically the capacity to do

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<sup>281</sup> Statutul organic, §7 point 2 and §13.

<sup>282</sup> Statutul organic, §51-§53.

<sup>283</sup> It is about the Romanian Provinces Moldavia and Wallachia, united politically firstly in 1859, as Romanian United Principalities, on December 24, 1861 proclaimed as state Romania under the Ottoman suzerainty and in 1881 proclaimed kingdom under the reign of Carol I of Hohenzollern-Sigmaringen. The Romanian Kingdom (1918-1947) included almost all aged Romanian territories. Cf. History of Romania. Compendium, 505 et seqq. See also the map in the annex VI herein.

<sup>284</sup> In the era of the Organic Regulations - adopted in Wallachia in 1831 and in Moldavia in 1832, as a consequence of the provisions of the Russian-Turkish Treaty of Adrianople (1829), and confirming a powerful Russian influence - it was impossible to avoid totally, in the Romanian Orthodox Church of the Principalities, the caesaropapist type of absolutism introduced by Peter the Great in the Russian Church. Cf. History of Romania. Compendium, 456.

<sup>285</sup> Cf. the chapter VII.5 herein.

<sup>286</sup> Some arguments for abandoning the provisions concerning the clergy’s election by the parish communities at M. CRISTEA, *Principii fundamentale*, 32-33.

<sup>287</sup> At length on the laymen’s involvement in the administration of the Church property see L. STAN, *Mirenii în biserică*, 710-752.

We decided to do not give a large space to this subject, because both the East and the West preserved quite well during the centuries the participation of the lay people in exercising this function of the Church leading power.

For the actual situation within Catholic Church see Hans HEIMERL, Helmuth PREE, Bruno PRIMETSHOFER, *Handbuch des Vermögensrechts der katholischen Kirche unter besonderer Berücksichtigung der Rechtsverhältnisse in Bayern und Österreich*, Regensburg 1993; Helmuth PREE, Bruno PRIMETSHOFER, *Das kirchliche Vermögen, seine Verwaltung und Vertretung. Eine praktische Handreichung*, Wien 2007.

that. The appointment is not made through a special act, as is in the case of the priesthood. But the certification for this office has to be made by the competent authority, which is the bishop. The right to manage the Church property does not belong to the community, but to the bishop<sup>288</sup> who was entrusted with the administration of the eparchy.

In the Transylvanian Orthodox Church, Andrei Șaguna paid special attention on this aspect of exercising the Church power. Thus, on the occasion of the eparchial mixed synod of March 1850 was founded the eparchial trusteeship, composed of two clergymen and four laymen, with the bishop as chairman, its purpose being the administration of the eparchy's property.<sup>289</sup> The trustees of the parish churches are mentioned in the documents of the mixed synod of 1860.<sup>290</sup> Then, the "Project of Regulation" stipulated the competences of the parish trustees in detail (two to four, according to the parish size), elected by the parish synod.<sup>291</sup> There was also an eparchial respectively arch-eparchial trusteeship for each eparchy, comprising two clergymen and four laymen, a cashier and an auditor.<sup>292</sup>

"The Organic Statute" adopted in its entirety the disposition in the "Project" concerning the parish trusteeship.<sup>293</sup> On the level of the protopopiate it was added, next to the protopopiate committee<sup>294</sup>, the protopopiate trusteeship<sup>295</sup> composed of four trustees and two substitutes, elected by the protopopiate synod. For each eparchy, there was a trustees' senate<sup>296</sup> with a variable number of members, one third clergymen and two thirds laymen.

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<sup>288</sup> Cf. the apostolic canons 38 and 41.

According to ap. c. 38 the bishop has the care of all ecclesiastical matters and he manages them, on the understanding that God is overseeing and supervising.

According to ap. c. 41 the bishop has authority over the property of the Church.

See the text of these canons in the annex XV herein.

<sup>289</sup> See *Actele Soboarelor...1850 și 1860*, 48; P. BRUSANOWSKI, *Reforma constituțională*, 92.

<sup>290</sup> Cf. *Actele Soboarelor...1850 și 1860*, 126 et seqq.

<sup>291</sup> Cf. A. Baronu de SIAGUNA, *Proiectu de unu Regulamentu*, §45-§48.

<sup>292</sup> *Ibid.*, §156-§174.

<sup>293</sup> Cf. *Statutul organic*, §24-§27.

<sup>294</sup> *Ibid.*, §56-§63.

<sup>295</sup> *Ibid.*, §64-§65.

<sup>296</sup> *Ibid.*, §132-§137.

The right conclusion on the above analyzed church organization and its principles is: “Without sacrificing the hierarchical principle, Șaguna knew how to implement it in a harmonious way with the social evolution and the special condition of the Romanian Church in Transylvania, giving the believers an important, but well-defined part within the ecclesiastical organization. For we see how he, although recognizing the rights of the laymen to elect the Church officials from the deacon to the metropolitan, and also to manage the Church’s possessions, conditioned their position on the approval of the hierarchy, which was given the plenitude of the Church power in a divine way.”<sup>297</sup>

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<sup>297</sup> I. MATEIU, Contribuțiuni la istoria dreptului bisericesc, 194.



## VII. THE SPECIFICITY, RECEPTION AND EVOLUTION OF ANDREI ȘAGUNA'S ECCLESIASTICAL ORGANIZATION

The active participation of the laymen in the ecclesiastical organization is undoubtedly the angular point in Andrei Șaguna's canonistical concept and ecclesiastical organization. The "innovation" brought by him in the middle of the nineteenth century was the revival of the laymen's right to participate in the exercise of the Church power, within the limits prescribed by the dogmas and canons. The spirit of collaboration between all the members of the Church, which finds its highest expression in the mixed synods and in the episcopal synods<sup>1</sup>, was applied by him at all levels of the life of the Church, starting with the parish. Even this spirit of collaboration embodied in the mixed synods was "the stumbling rock" for many of Andrei Șaguna's contemporaries and successors. In the historical-ecclesial context of that time, "this was in fact a 'reformed' act, but not in the meaning of the Protestant Reform, but as a return to the origins. Șaguna was right and this truth cannot be contested, a fact which justifies the affirmation that he was born hundred years earlier."<sup>2</sup>

### VII.1 The specificity of Șaguna's mixed synodality in the Austrian Monarchy

The institution of the synods (sobor in Russian) has its roots in the socio-political life also. The Slavic people, for instance, used to discuss all the important state problems in sobors.<sup>3</sup> That is why the institution of the ecclesiastical mixed synods was naturally adopted by the Slavs, at the same time with the Christianity on the Byzantine line. By adopting the Christendom from Byzantium, they have also taken the forms and institutions of it. Because in Constantinople the institution of the mixed synods were known and respected, it was naturally adopted and "grafted" on the old Slavic institution of state councils/sobors, which it had formal resemblances with: "The mixed synods of Byzantium had their heathen correspondent in the Slavic councils/sobors and

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<sup>1</sup> Cf. L. STAN, *Mirenii în biserică*, 194.

<sup>2</sup> I. MARGA, *Andrei Șaguna, canonist și organizator bisericesc*, 196. The same "Reform" was adopted in the Roman Church by the Second Vatican Council, about hundred years after Andrei Șaguna.

<sup>3</sup> Cf. R. A. KANN, Z. V. DAVID, *The Peoples of the Eastern Habsburg Lands, 1526-1918*, 392 et seq., 425 et seqq.

the Slavs' contact with Byzantium transformed their pagan state councils/sobor in hybrid ecclesiastical and state synods/sobors. [...] this is how hybrid ecclesiastical and state synods appeared in all Slavic Churches.”<sup>4</sup>

In the Middle Age, the Serbians discussed both Church and state issues in their councils, as imposed by the confessional character of the Serbian state. After the occupation of the Serbian Kingdom by the Turks (partially in 1389 and finally in 1459), the state councils could not be held anymore, leaving the only instances of the mixed ecclesiastical synods (*sabors*) the task to discuss both the Church and civil problems of the Serbians.<sup>5</sup> They have lasted since then, this old practice serving as starting point for the future church national congresses. According to the “millet system”<sup>6</sup> brought in by the Ottoman domination, the patriarchs of Constantinople were also ethnarchs, they being the axis of the entire religious and socio-political life of the non-Moslems people in the Ottoman Empire. But the institution of the Serbian church congresses was not related to the Serbian patriarch's quality of ethnarch.<sup>7</sup>

At the end of the seventeenth century and in the eighteenth century, when the great Serbian migrations in the Habsburg Empire took place (in 1690 and after 1737), the Serbians got the recognition of their ecclesiastical customs including the institution of the church national congress.<sup>8</sup> Emperor Leopold's privileges for the “Illyrian Nation” (the Privilege from August 21, 1690, and the Privilege from August 20, 1691)<sup>9</sup> recognized the foundation of a congress made up of clergy and laymen, “although without to establish a precise form regarding its assembly. [...] More on the

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<sup>4</sup> L. STAN, *Mirenii în biserică*, 134.

<sup>5</sup> On the political character of the Serbian ecclesiastical *sabors* and the so-called “last political sabor of the Serbians in Hungary”, of 21 March/2 April 1861 see Th. BREMER, *Ekklesiale Struktur*, 24-26.

<sup>6</sup> On the “millet” system see the chapter VI.2.3.2 herein.

<sup>7</sup> Cf. L. STAN, *Mirenii în biserică*, 136-137.

<sup>8</sup> Cf. Th. BREMER, *Ekklesiale Struktur*, 16-17.

At the end of the seventeenth century, the Serbian patriarch of Peć (the centre of the Serbian Patriarchate in the Ottoman Empire), Arsenije III Crnojević (1674-1691), together with (about) 36,000 Serbian Christian families emigrated to the new Austrian territories Vojvodina, Slavonia and eastern Croatia. The years 1738-1740 brought a new massive wave of refugees in the Habsburg Empire, this time from northern Serbia, most of whom were colonized in Banat. The Habsburgs granted the new colonists a series of synthesized rights called “Illyrian Privileges”. They provided a large national Church autonomy. Cf. I.F. DOBRESCU, N.L. DOBRESCU, *Românii din Serbia*, 81-82; II. PUȘCARIU, *Metropolia*, 24. Cf. also the chapters I.2.1 and I.2.3 herein.

<sup>9</sup> On the imperial privileges see Ljiljana PANTOVIĆ, *Die Wiener Orthodoxen Serben (Dissertation)*, Wien 2004, 19-24. Cf. also A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 38 et seqq.

organization and definition of the attributions of the congress was established later, in the following century.”<sup>10</sup>

Certainly, these hybrid synods with both ecclesiastical and civil competences are not canonical. They were the result of the historical hardships the Orthodox territories had to bear after the fall of Constantinople. However, it should be emphasized, on the one hand, that Andrei Şaguna did not “import” the Serbian hybrid synodal system<sup>11</sup>, but he revived the Orthodox tradition in its pure, un-political spirit; he “corrected” the faulty tradition (because the mixed synods with both political and ecclesiastical competencies had been a tradition, up to Andrei Şaguna); on the other hand, the existence of the un-canonical mixed synods does not mean that all the mixed synods should have been condemned or banned, but restored in their strict ecclesiastical dimension.

Although the Metropolitan Andrei Şaguna was formed as a theologian in the Serbian climate, it is reckless to state that the institution of the mixed synodality - which he regulated in his church constitution - was “imported” from the Serbians. Because this apostolic institution had lasted long not only for the Serbian people, for the Slavs in general, but the Patriarchate of Constantinople itself had it well-preserved in the nineteenth century, and Andrei Şaguna knew that, of course.

After the settlement of the Ottoman domination, in the Patriarchate of Constantinople the institution of the mixed synods lasted in the next centuries without being specified in an organizational law, and in the nineteenth century this practice found its legal expression in the church regulations of 1860. By those church regulations, published in October 1860, according to which the Church of Constantinople managed itself until after the First World War, a “permanent mixed council” was instituted, made up of four bishops and eight laymen (the proportion two thirds laymen and one third clergymen).

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<sup>10</sup> L. STAN, *Mirenii în biserică*, 162-163. Cf. also Th. BREMER, *Ekklesiale Struktur*, 31-65; A. Baron de ŞAGUNA, *Istoria Bisericei Ortodoxe Răsăritene Universale*, vol. II, 293 et seq.; F. H. VERING, *Lehrbuch*,<sup>3</sup>1893, 371.

<sup>11</sup> Unfortunately, some scholars circulate the contrary idea until today: “So bedeutete jene der Serbischen National-Kongress nachgebildete Vollversammlung der rumänischen Kirchnation ein politisches Element von kaum zu unterschätzender Tragweite. In dieser unmittelbaren politischen Relevanz lag nunmehr der Unterschied zur unierten Kirche, die durch den multinationalen Anspruch der katholischen Kirche ihre politische Leitfunktion eingebüßt hatte.” K. SCHWARZ, *Heilendes Erinnern*, 136. Cf also Ernst Christoph SUTTNER, *Das religiöse Moment in seiner Bedeutung für Gesellschaft, Nationsbildung und Kultur Südosteuropas*, in: *Südosteuropa Mitteilungen* 37 (1997), 1-9.

The four bishops were elected from the members of the bishops' synod (together with the patriarch), and the lay members were elected by the lay spokesmen of the Constantinople and Katasten parishes, after precise rules. The attributions of this mixed council were economic, foundational and educational. The Holy Synod, formed of twelve bishops, was concerned with the spiritual matters. In the mixed council the decisions were taken with a majority of votes. It lasted until after the First World War. Its mixed composition relied on the fact that the patriarch was also ethnarch, and because the Patriarchate took care of the Orthodox ecclesiastical and national affairs, it had to have a mixed council too.

Beside this council, the Patriarchate's national assembly - the mixed general synod - was maintained, which had the executive body in the national council, elected by the national assembly.

Every eparchy had - according to a ecclesiastical law of 1873 - an eparchial assembly composed of the delegates of the parishes. The assembly was presided over by the bishop and decided, with majority of votes, the issues submitted to it.

For every parish it was stipulated a parish assembly, made up of all the adult parishioners.<sup>12</sup>

Andrei Şaguna only returned, by his system of ecclesiastical organization, to the primary tradition of the Church, avoiding the political connotations of the mixed synods which appeared after the fall of Constantinople: "By analysing the ideas and the original Project elaborated by Şaguna, we were convinced that he had known how to penetrate through his studies in the genuine spirit of the origins and development of the universal Church and to understand with a profound intuition the real apostolic feature of the ecclesiastical institutions and how they could be changed according to the canons."<sup>13</sup>

Not only the Serbians of the Monarchy have had an old tradition of the mixed synods, but also the Romanians of Transylvania have had mixed ecclesiastical corporations. In the sixteenth and seventeenth centuries, the Transylvanian legal Codes *Approbatæ constitutiones* (acts of law voted by the Transylvanian Diet between 1540 and 1653)

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<sup>12</sup> Cf. L. STAN, *Mirenii în biserică*, 188-190; F. H. VERING, *Lehrbuch*, <sup>3</sup>1893, 663.

<sup>13</sup> I. MATEIU, *Contribuţiuni la istoria dreptului bisericesc*, 257.

and *Compilatae constitutiones* (acts of law voted by the Transylvanian Diet between 1654 and 1669) recognized the privileged Churches (Catholic, Lutheran, Calvinist and Unitarian) the institution of the mixed synods composed of clergy and laymen, as mixed general assemblies where they had to discuss the major problems of each confession.<sup>14</sup>

What is more, the Transylvanian Orthodox had known the institution of the mixed synods even before the Reform. “It has been stated and it still is that the laymen only under the influence of the Calvinism and Lutheranism of Transylvania obtained such large rights in the Church. This statement is absolutely mistaken, unfair, and in contradiction with the history of the Church in Transylvania. [...] the laymen had taken part in exercising the Church power in Transylvania long before the arrival of the Protestantism here, in the middle of the sixteenth century. [...] The Patriarch Antonius IV of Constantinople [1389-1390, 1391-1397] approved in 1391 that the abbot of the stavropegic monastery Peri in Maramureş - who exercised episcopal rights too - should be elected by both clergy and laymen [...]. Consequently, the abbot of Peri was elected by clergy and laymen in the fourteenth century, by universal vote. In the Romanian Principalities [Moldavia and Wallachia] the bishops were elected with the participation of the laymen too, even if the Protestantism never had a greater influence there.”<sup>15</sup>

One can find evidence on the existence of a great mixed synod of the Transylvanian Metropolitanate in the seventeenth century in George Branković's Chronicle<sup>16</sup>. “The attributions of this big synod were numerous and were extended over the most important affairs of the Church in Transylvania.”<sup>17</sup> There were also the protopopiate small synods.<sup>18</sup>

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<sup>14</sup> Cf. L. STAN, *Mirenii în biserică*, 165-166. See also K. ZACH, *Politische Ursachen und Motive der Konfessionalisierung in Siebenbürgen*, 58-59.

More on the legal Codes of Transylvania see in the chapter I.1.2 herein.

<sup>15</sup> N. POPOVICI, *Opinii asupra proiectului de modificare*, 10.

<sup>16</sup> George Branković, Hungarian language clerk and brother of Metropolitan Sava Branković (1656-1680), was a diplomat in the service of Transylvanian Prince Michael Apaffi I (1661-1690), and later of the Wallachian Prince Şerban Cantacuzino (1678-1788). His Chronicle wrote on demand of Cantacuzino, is considered one of the first attempts to describe synthetically the history of the South-eastern Europe and is one of the first historical writings in Romanian. Cf. *History of Romania. Compendium*, 389 et seqq.

<sup>17</sup> L. STAN, *Mirenii în biserică*, 175.

<sup>18</sup> Cf. *ibid.*, 175-176.

In 1785, the Bishop Gedeon Nikitić of Transylvania (1783-1788) summoned a general synod in Sibiu, composed only of protopopes and their vicars, which marks a change, a deviation from the traditional mixed synods of the Orthodox Church in Transylvania.<sup>19</sup>

Therefore, the Orthodox Romanians of Transylvania have had, unlike the Serbians in the Austrian Monarchy, a tradition of the mixed un-political synods which was well known by Andrei Şaguna, who was very interested in the history of the Church<sup>20</sup>. Metropolitan Andrei “did not borrow a foreign institution, he stayed on the fundamental traditional line of our ecclesiastical organization”<sup>21</sup> He just “tried to dig up an old tradition, belonging not only the Transylvanian Church, but the entire Orthodox Church ...”<sup>22</sup>

## VII.2 Echoes of the ecclesiastical organization conceived by Andrei Şaguna

The first echoes of the ecclesiastical organization in Transylvania could be heard, as it was expected, in the other Romanian provinces.

Andrei Şaguna himself remarked in “Anthonismos” how the clergy and the believers in Bukovina were divided - by the year 1860 - by the idea of adopting the mixed synodality in their eparchy: “*Aus diesen Worten unserer Brüder aus der Bukovina müssen wir folgen, daß in der Eparchie Bukovina zwei Partheien gibt, die eine, welche behauptet, daß die Laien kein Recht hätten an jener Versammlung theilzunehmen, wo die Regulierung der kirchlichen Angelegenheiten verhandelt wird, die andern aber, die verlangt, daß auch die Laien durch ihre Vertreter an einer solchen Versammlung Theil nehmen sollen. Wir würden dem Bukovinaer Klerus und der Eparchioten die Beilegung dieser Meinungsverschiedenheit über den erwähnten Gegenstand überlassen, aber wir können darüber nicht hin weggehen, weil, wie es scheint, eine Parthei ihre Meinung auf die Praxis von Siebenbürgen gründet, während die andere behauptet, daß diese siebenbürgische Praxis jedes kanonischen Grundes entehrt, und sich bloß aus das*

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<sup>19</sup> Cf. *ibid.*, 180.

<sup>20</sup> See Andreiu Baron de ŞAGUNA, *Istoria Bisericei Ortodoxe Răsăritene Universale*, vol. I-II Sibiu 1860 (Cyrillic letter).

<sup>21</sup> N. POPOVICI, *Opinii asupra proiectului de modificare*, 10.

<sup>22</sup> L. STAN, *Mirenii în biserică*, 192.

*Guthalten des dortigen Bischofs stützt und ein Zugeständnis ist, welches jetzt zum erstenmale in Siebenbürgen auftaucht...*<sup>23</sup> Because the church organization in Transylvania had become a stumbling rock for some people in Bukovina, the bishop gave an elaborated explanation on the mixed synodality.<sup>24</sup>

Șaguna's ecclesiastical organization was not left outside the preoccupations of the theologians and hierarchs in Moldavia and Wallachia, too. Especially after Alexandru Ioan Cuza's reforms<sup>25</sup> and "The Synodal Law of 1872"<sup>26</sup>, there were voices which were for<sup>27</sup> or against<sup>28</sup> the mixed synodality, the other synods than the episcopal ones.

The important role and influence of Șaguna's conception on the ecclesiastical organization and of "The Organic Statute" at the organization of other local Orthodox Churches later in time were a reality, although less discussed today.

The Russian Church was one of the "receivers": "In the great Church of the big Russia, at the end of the eighteenth century disappeared any free action or trace of mixed synodality, because Peter the Great's reforms introduced a kind of caesaropapism supported by the episcopal absolutism."<sup>29</sup> At the beginning of the twentieth century, the first intentions of reorganizing and emancipating the Church from the state's tutelage were visible. Although the first attempts of reform in the spirit of the mixed synodality failed<sup>30</sup>, in 1917 a new "Statute for the Administration of the Russian Church" similar

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<sup>23</sup> A. Baron de SCHAGUNA, *Anthorismos oder berichtigende Erörterung*, 104.

<sup>24</sup> Cf. the chapter VI.4.2 herein.

<sup>25</sup> Alexandru Ioan Cuza is the first ruler of the United Romanian Principalities (1859-1862) and of the national Romanian State (1862-1866). Under his reign were settled the bases of the economic, social, political and cultural modern organization of the Romanian nation. He interfered with radical laws in the ecclesiastical life, laws which, although useful for the bettering of the Orthodox Church's situation, had many un-canonical measures, which triggered vehement reactions of the Church, or the "fight for canonicity". For Andrei Șaguna's implication in these issues, see the chapters III.2.8 and V.1.3 herein. Cf. *History of Romania. Compendium*, 505.

<sup>26</sup> See *Rumänisches Gesetz vom 14. December 1872*, in: *AfKR*, 42 (1879), 423-426. More on it see the chapter VII.5 herein.

<sup>27</sup> See Nicolae DOBRESCU, *Lămuriri Canonice-Istorice asupra sinodului și asupra organizațiunei bisericești din Biserica Ortodoxă*, București 1909; I[Ioan Irineu] MIHĂLCESCU, *Modificarea legei sinodale*, București 1909.

<sup>28</sup> See CALINIC, *Primatul României*, IOSIF, Mitropolit, MELCHISEDEK Episcop, *Studiū despre ierarchia și instituțiunea sinodală în Biserica Ortodoxă a Resăritului în genere și despre ierarchia și instituțiunea sinodală în Biserica Ortodoxă Română în specialū*, București 1883.

<sup>29</sup> L. STAN, *Mirenii în biserică*, 181. See also the chapter VI.2.3.2 herein.

<sup>30</sup> Cf. *ibid.*, 209-218.

to “The Organic Statute” was adopted.<sup>31</sup> It succeeded to comprise the mixed synodality: “It was indeed a wonderful achievement of the Moscow Sobor of 1917-18 that it restored this lay participation to its full capacity and gave the laity new possibilities of cooperation with the hierarchy and creative activity in the Church, and this at a moment when the common defence of the Church became an urgent need. It brought to an end a false ‘clericalism’, a situation in which clergy alone constitute the active element in the Church. It clearly proclaimed the principle that all Christians are living and active members of the Church.”<sup>32</sup>

After the Romanian “Statute” of 1925<sup>33</sup> was elaborated on the basis of the Transylvanian one, a participant from Transylvania in the long contradictory discussions on the Romanian Church’s reorganization, confessed: “The former archbishop of Bessarabia - Nicodim - somehow eased our situation, saying in the conference of Sinaia [in 1919] how he was welcome during the war in Russia, and how he could find out the decisions that were taken for the organization of the Russian Church. After studying a number of comparative works, the Russian commission decided that the best organization in the Eastern Orthodox Churches belonged the Romanian Orthodox Transylvanian Church.”<sup>34</sup>

This is the reason why the Russian “Statute” of 1917 resembled “The Organic Statute”: “But the word ‘resemblance’ is not enough; in its most important parts it is identical with “The Organic Statute”. [...] The entire research led to the recognition of Şaguna’s organization as the best synthesis of the [canonical] principles and the most appropriate formal expression of them, in a word, the best legislation that had ever been given the

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<sup>31</sup> On August 15, 1917, six months after the abdication of Emperor Nicholas II, when the provisional Government was in power, an All-Russian Church Council was convened at Moscow, which did not finally disperse until September 1918. More than half of the delegates were laymen - the bishops and clergy present numbered 265, the laity 299. The Council carried through a far-reaching programme of reform, its chief act being to abolish the Synodical form of church government established by Peter the Great, and to restore the patriarchate. But two days after the election of the new patriarch, Lenin gained full mastery of Moscow. The Church was allowed no time to consolidate the work of reform. Before the council came to a close, in the summer of 1918 persecution had already begun. Cf. T. WARE, *The Orthodox Church*, 137 et seq.

See also Günther SCHULZ, *Das Landeskonzil der Orthodoxen Kirche in Rußland 1917/1918 - ein unbekanntes Reformpotential*, Göttingen 1995; Günther SCHULZ, Gisela A. SCHRÖDER, Timm C. RICHTER, *Bolschewistische Herrschaft und Orthodoxe Kirche in Rußland. Das Landeskonzil 1917/1918*, Münster 2005.

<sup>32</sup> Alexander SCHMEMANN, *The Church is Hierarchical*, in: *St. Vladimir’s Seminary Quarterly*, Vol. 3, No. 4, Fall 1959, 36-41 here 40.

<sup>33</sup> See the chapter VII.5 herein.

<sup>34</sup> I. LUPAŞ, *Legea unificării bisericeşti*, 24.



Church. Its entire adoption by the Russian Church in 1917-1918 truly confirms, even after half a century, the undoubted value of Şaguna's work."<sup>35</sup>

However, the Bolshevik revolution was to lead to the splitting of the Russian Church<sup>36</sup> and to the renunciation to the principle of the mixed synodality in Russia. The coming back to the principles of the Russian church constitution of 1917-18 was made in 2000, by the new church constitution of the Russian Orthodox Church.<sup>37</sup>

Studying the reception of "The Organic Statute", Ioan Mateiu considered around 1930's that this statute created an époque in the Orthodox ecumenical life, because many local Orthodox Churches adopted principles and institutions similar to those included in it. "The laymen were progressively invited in the ecclesiastical corporations, with equal rights besides the clergy, even in the Ecumenical Patriarchates of Constantinople, Alexandria, and Antioch, in the Archbishopric of Cyprus, in the Church of Bulgaria<sup>38</sup>, Greece, and in the autonomous Churches which appeared after the [First World] War in Czechoslovakia, Finland, Estonia, Latvia, Ukraine, Lithuania and Albania. Moreover, their liberalism went so far, that the laymen were introduced even in the bishops' synods, as in the case of the Patriarchate of Antioch, of the Russian Patriarchate, and of the Orthodox Church in Ukraine."<sup>39</sup>

Analysing the ecclesiastical legislation after Andrei Şaguna in the autocephalous and autonomous Orthodox Churches<sup>40</sup>, the canonist Liviu Stan concluded, in 1939: "If we take a look at the evolution towards synodality of all Orthodox Churches since the appearance of Şaguna's legislation until nowadays, it is impossible to avoid the fact that the father of the trend of returning to synodality is the great Şaguna. 'The Organic Statute' is the prototype of the new laws and statutes of organization of the Orthodox Churches, which adopted - partially or totally - not only the principles, but also the forms of Şaguna's statute. His work remains like a haughty mountain, whose image is

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<sup>35</sup> L. STAN, *Mirenii în biserică*, 222.

<sup>36</sup> The reunification process of the Russian Orthodox Church is in progress, being officially initiated by the agreement of June 1, 2007.

<sup>37</sup> See Alexej KLUTSCHEWSKY u.a., *Das Statut der Russischen Orthodoxen Kirche*, in: *Kanon XIX* (2006), 41-72.

<sup>38</sup> For the reception of Andrei Şaguna's conception on ecclesiastical organization in the Bulgarian Orthodox Church see J. SCHNEIDER, *Der Hermannstädter Metropolit*, 224.

<sup>39</sup> I. MATEIU, *Mirenii și drepturile lor în Biserică*, 37.

<sup>40</sup> See L. STAN, *Mirenii în biserică*, 206-237.

successively projected in the consciousness of the Orthodox Church, like in a miraculous mirror.”<sup>41</sup>

### VII.3 The critics and deniers of Andrei Şaguna and of the mixed synodality

#### VII.3.1 Radoslav/Emilian Radič; Friedrich Heinrich Vering

The mixed synodality promoted by Andrei Şaguna was the object of acid criticism of the Serbian Orthodox canonist Radoslav/Emilijan Radič<sup>42</sup>. In one of his first works<sup>43</sup>, Radoslav Radič, presenting the organization of the Serbian Orthodox Church in 1875, he called it Protestant, its paternity undoubtedly belonging to Metropolitan Andrei Şaguna of Transylvania, because he was the first who introduced the lay synods in the Transylvanian Orthodox Church by “falsifying the canons”. From there the Serbian reformers copied their work. With this organization, the Serbian congress would have divided the Church power in two parts: a spiritual one for the bishops, and an administrative one for the congress.<sup>44</sup>

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<sup>41</sup> Ibid., 238.

<sup>42</sup> Ioan Mateiu states that there were two brothers, but in reality there was one author, who signed himself with his lay name (Radoslav) or his friar name (Emilijan). Cf. I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 275-278.

“Der Mönch Emilijan (Geburtsname Radoslav) von Radič entstammte einer serbischen Adelsfamilie und wurde 1857 im Banat geboren. Er studierte Theologie in Moskau, Jura in Prag und Philosophie in Pest. Als erster Serbe erlangte er ein Doktorat in der Theologie. Als Mönch war er zunächst Protosynkellos, dann lehrte er am Priesterseminar in Karlovci und war anschließend in verschiedenen Klöstern in leitenden Funktionen. Sein Wunsch, Bischof zu werden, erfüllte sich jedoch nicht. 1907 verstarb er in Baden-Baden.” Th. BREMER, *Ekklesiale Struktur*, 88.

<sup>43</sup> See Radoslav Edler von RADIČ, *Die Verfassung des obersten Kirchenregiments in der orthodox-katholischen Kirche bei den Serben in Österreich-Ungarn, Werschetz 1877*.

<sup>44</sup> Ibid., 98-99: “Der § XVIII, der im J. 1875 sanctionierten Kongreßorganisation bestimmt ‘dass sich die Geschäftssphäre des Kongresses nicht erstreckt auf die dogmatischen, sacramentalen und liturgischen Sachen, wie auch auf die Disziplin in spiritualibus, welche sich auf die kirchliche Zucht und Ordnung bezieht’ - mithin also dies den synodalen Wirkungskreis zu bilden hat! Dieser § ist buchstäblich entlehnt dem walachischen ‘Org. Statut’. In den letztern wurde er von Schaguna hineingespielt (vgl. sein Compendium, S. 391, § 409, 3). Ein für allemal bemerken wir hier, dass Schaguna’s Compendium um ein Jahr älter ist (1868) als das walachische ‘Organische Statut’ (sanct. im J. 1869), und dieses wieder 5-6 Jahre älter ist als die neueren Beschlüsse der serbischen Laiencongresse (1870-1875). Dies führen wir deswegen an, damit es evident wird, dass nicht Schaguna und sein ‘Organisches Statut’ die Beschlüsse der serbischen Laiencongresse plagiirten und abschrieben, sondern dass dies umgekehrt der Fall war.”

Three years later<sup>45</sup>, Radič sustained that the Orthodox Transylvanian Church had had a canonical organization, which was overturned by Andrei Şaguna - who “was of Greek Catholic confession when he was young”<sup>46</sup> - through “The Organic Statute”. For to justify the application of this ecclesiastical organization, the Romanian metropolitan had used the national principle, being seduced by the apostolic canon 34, which he had interpreted through the viewpoint of Beveregius<sup>47</sup>, the Anglican bishop. In order to justify the national basis of the Anglican Church toward the cosmopolitanism of the Latin Church, the latter searched for reasons in the primary Church, translating the canons. Radič criticised the presence of the laymen at the bishops and clergymen’s election too, because by Serbians only the metropolitan - as a national-political leader - was elected by the mixed assembly composed of clergy and laymen, not even the bishops.<sup>48</sup>

It is obvious that “the reason of Radič’s groundless criticism is Şaguna’s great deed of having removed the Romanian Church from the domination of the Serbian hierarchy...”<sup>49</sup> Not at least one must take into consideration that Radič studied theology at Moscow, where at the time the caesaropapism but not the constitutionalism flourished in the Church. Actually, the Serbians inspired their ecclesiastical life after the seventeenth century from the Russian model, not from Andrei Şaguna.<sup>50</sup>

<sup>45</sup> See Emilian Edler von RADIČ, *Die Verfassung der orthodox-serbischen und orthodox-rumänischen Partikular-Kirchen in Österreich-Ungarn, Serbien und Rumänien*, Prag 1880.

<sup>46</sup> *Ibid.*, II. Buch, 96.

<sup>47</sup> Guilielmus Beveregius (William Beveridge) (1637-1708) is the author of some important canon law books: *Synodikon sive Pandectae canonum SS. Apostolorum et Conciliorum ab ecclesia Graeca receptorum*, 2 volumes, 1672; *Codex canonum ecclesiae primitivae vindicatus ac illustratus*, 1678. Cf. Beveridge, William, in: *The Oxford Dictionary of the Christian Church*, 198.

<sup>48</sup> For the criticism of Şaguna by Radič see Th. BREMER, *Ekklesiale Struktur*, 96-99.

<sup>49</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 276.

<sup>50</sup> See Th. BREMER, *Ekklesiale Struktur*, 27-31.

The previous organization of the Serbian Church, from the eighteenth century, considered the Russian Church’s organization - itself under the Protestant influences - introduced by Tsar Peter the Great. Cf. A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 44.

Peter the Great had “das monarchische Patriarchat gestürzt und durch das System der Kollegialverwaltung ersetzt. Damit began für die Verfassung der russischen Kirche eine eigenartige Entwicklung, in der das weltliche Element in die Kirchenverwaltung immer stärker eingriff und unter dem Vorbild der protestantischen Nationalkirchen das Amt des Oberprokurators entstand.” A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 20.

In the light of the above-cited lines is to see how Radič’s tendentious statements about the influences of the “Protestant” Şaguna’s ecclesiastical organization on the Serbian Church’s organization of the nineteenth century made “school” among the Catholic scholars. In spite of the fact that the Catholic author of the above lines clearly wrote about the Protestant influences on Russian track on the life of the Church in Serbia after the seventeenth century, he even wrote too: “In die Karlowitzer Kirche kam durch den siebenbürgerischen Metropoliten A. Schaguna, ein neuer, auch der Orthodoxer Kirche nach allgemeinem Recht fremder Zug hinein - die überragende Bedeutung des Laientums, da Schaguna die Konsistorien nach ihren Agenden in einen rein verwaltungstechnischen und rein kirchlichen Teil schied.” A. HUDAL, *Die serbisch-orthodoxe Nationalkirche*, 20.

One of the foreign critics, who apparently took Radič's ideas, was the German Catholic canonist Friedrich Heinrich Vering<sup>51</sup>, who sustained that the participation of the laymen in exercising the Church power is in contradiction with the fundamental principles of the Eastern Church's constitution. In his opinion, it was introduced a Protestant element borrowed from the Evangelical Church in the Transylvanian and Serbian Orthodox Churches<sup>52</sup>, because the old canons forbid the participation of the laymen in the church synods. Andrei Şaguna's arguments in favour of the mixed synodality expressed in "Anthonismos" are criticised with the statement that the commentaries of Zonaras and Balsamon lead to the opposite: that the laymen are excluded from the synods.<sup>53</sup>

Friedrich H. Vering's opinions are based exclusively on the hierocratic-episcopal meaning of the Church, which in the Western tradition was a consequence of the medieval discussions on the investitures<sup>54</sup> and decisional role of the noblemen, outlining, after Reform, the theory of opposition between the clergy and the lay people. Vering's purpose was to discredit the idea of the mixed church synods - as they existed by Serbians or how they had been conceived in Transylvania - in the fight against the reformed ideas which "tempted" the Catholic ecclesiastical circles in Germany or Hungary of that time.<sup>55</sup>

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<sup>51</sup> In the first edition of his book on Catholic, Oriental and Protestant canon law, published when he was a professor in Czernowitz, Friedrich H. Vering did not make any negative remarks on Andrei Şaguna's "Compendium" (F. H. VERING, Lehrbuch, 1876, 17); the first mention of Andrei Şaguna's "Protestant conceptions" appears in the second edition of the book, when he was a professor in Prague, where the young Radoslav Radič was studying Law (F. H. VERING, Lehrbuch, <sup>2</sup>1881, 22). This change in the evaluation of Andrei Şaguna's work leads to the probable conclusion that, in Prague, Vering personally knew Radoslav Radič and "borrowed" his opinions on Andrei Şaguna. He wrote in his book's third edition: "Derselbe [Şaguna] verfasste auch ein populäres, das orientalische Kirchenrecht vielfach nach protestant.[ischen] Anschauungen umgestaltendes 'Compendium...'" (F. H. VERING, Lehrbuch, <sup>3</sup>1893, 24).

<sup>52</sup> "In demselben [Organischen Statut] gelangten, [...], die von den protestantischen Siebenbürger Sachsen entlehnten, mit der hierarchischen Grundverfassung der orientalischen Kirche nicht im Einklang stehenden Grundsätze, wonach die Gemeinde und überwiegend die Laienrepräsentanz in allen kirchlichen Verwaltungssachen eine entscheidende Stimme zu beanspruchen hat, zur Geltung." F. H. VERING, Lehrbuch, <sup>3</sup>1893, 372.

<sup>53</sup> Cf. F. H. VERING, Lehrbuch, <sup>3</sup>1893, 662 et seqq.

<sup>54</sup> Conflict of investitures (Ger. Investiturstreit) is the terminus technicus for the great struggle between the popes and the German kings Henry IV and Henry V, during the period 1075-1122. During the Middle Ages a rivalry had always existed between the popes and the emperors, twin representatives, so to speak, of authority. Cf. Rudolf SCHIEFFER, Investiturstreit, in: LThK, <sup>3</sup>1993-2001, Bd. 5, 570-573; Werner GOEZ, Investiturstreit, in: TRE, Bd. 16, 237-247.

<sup>55</sup> Cf. J. SCHNEIDER, Der Hermannstädter Metropolit, 199.

### VII.3.2 Alexandru Grama: the accusation of Calvinization of the Transylvanian Orthodox Church

The most vehement criticisms which Andrei Şaguna received, was those from the part of the Greek Catholics Alexandru Grama<sup>56</sup> and Augustin Bunea<sup>57</sup>.

The main theme of Alexandru Grama's criticism<sup>58</sup> was the implication of the laymen in the exercise of the Church power, Metropolitan Andrei being accused of falsification of the canons in order to sustain his wrong conception on church organization. In Alexandru Grama's opinion, the laymen are not accepted in any ecclesiastical leadership - according to the Orthodox canons -, and if they were present in the past of the Church in Transylvania, this was a result of the Calvinist domination, of which the Romanians got rid only through the "Holy Union [with Rome]".<sup>59</sup>

Grama probably "inspired" himself from Friedrich Heinrich Vering, attacking in a more decisive way the canonicity of the ecclesiastical norms introduced by "The Organic Statute". He wanted to point out, above all, that under the influence of the Calvinist propaganda exerted upon the Romanian Church throughout the sixteenth and seventeenth centuries, this Church estranged itself by the administration of its internal affairs from the "Pravila" ("Law Code") and "Pedalion" as the only measure giving codes in the Church's organization. Based on some historical sources, he sustained that, before and after the church Union of a part of the Romanians with the Church of Rome, the supreme institution for different affairs of the Orthodox Transylvanian Church was

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<sup>56</sup> Alexandru Grama (1850-1896) attended philosophy and theology courses at the Viennese University, with a doctorate in 1877. He was a professor of canon law and ecclesiastical history at the Greek Catholic theological Seminary in Blaj (1877-1893), simultaneously holding other positions in the Uniate Church (canonist, rector of the Seminary). He published a series of didactic books, as well as a few historical works, but from a confessional point of view; he attracted the disgrace of the public opinion and of the literary critics with a study on poet Mihai Eminescu, in which he disparaged him and his poetry or trend. Cf. M. PĂCURARIU, *Dicţionarul teologilor români*, 204.

<sup>57</sup> Augustin Bunea (1857-1909) attended philosophy and theology courses at "De Propaganda Fide" College in Rome (1877-1882), where he got the doctorate (1882); he was ordained priest at Rome (1881), appointed in the service of the metropolitan office in Blaj (1882-1886), professor at the Greek Catholic theological Seminary in Blaj (1886-1888), secretary of the metropolitan (1888-1895), canonist (starting from 1895). He published a series of works on the history of Transylvania, especially on the church history, using new sources, but presenting biased the facts, from a confessional point of view. Cf. M. PĂCURARIU, *Dicţionarul teologilor români*, 73.

<sup>58</sup> See Alexandru GRAMA, *Institutiunile calvinesci în biserica românească din Ardélu*, Blaşiu 1895.

<sup>59</sup> *Ibid.*, 58-61.

the so-called “great synod”, made up of all the eparchial protopopes and sometimes of some priests.<sup>60</sup> This synod appears in the historical papers of past centuries under the name of “*synodus generalis*”, which is absolutely identical with the supreme institution of the Calvinist Church in the sixteenth and seventeenth centuries. The identity appears even more striking - in Alexandru Grama’s vision - in the fact that the Calvinists’ “*synodus generalis*” was of two kinds: one made of protopopes, and one of protopopes and common priests. Consequently, in accordance with their attributions and the time and place where they were held, the “great synod” of the Transylvanian Orthodox Church and “*synodus generalis*” of the Transylvanian Calvinist Church were two identical institutions.<sup>61</sup> And when an institution with the form and attributions of this synod was not accustomed to the canon law of the Orthodox Church and was unknown to the other local Orthodox Churches, it naturally resulted that the Romanians of Transylvania borrowed it from the Calvinists.<sup>62</sup> Thus, the organization of the Transylvanian Orthodox Church according to “The Organic Statute” was not a consequence of the old constitutions and synods of the Eastern Church, but an “offspring” of Protestantism, adopted by Andrei Şaguna for his Metropolitanate.

In fact, Alexandru Grama “tried, out of too much Catholic zeal, to show that all the canonical institutions of the Orthodox Church in Transylvania would be of Calvinist origin. The impressive attempt of the latter canonist failed, because he could only prove the resemblance in the working of some Romanian ecclesiastical institutions of Transylvania with the Protestant ones, not their formation and Protestant origin. [...] It is true that the author gathered a great deal of material, but it was still not enough to prove what he had in mind. Further research has offered facts that refute the author’s conclusions.”<sup>63</sup>

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<sup>60</sup> Cf. *ibid.*, 11-23.

<sup>61</sup> Cf. *ibid.*, 29-39.

<sup>62</sup> Cf. *ibid.*, 40-53.

<sup>63</sup> L. STAN, *Mirenii în biserică*, 169.

### VII.3.3 Augustin Bunea: the accusation of plagiarism of the Transylvanian Evangelical Church's constitution

Another Greek Catholic theologian - Augustin Bunea - opined that the organization Andrei Şaguna gave to his Eparchy and later to the Metropolitanate was a plagiarism<sup>64</sup> of the church constitution of the Evangelical Lutheran Church in Transylvania, drafted after 1851 and finalized in 1861/62<sup>65</sup>.

Bunea "known for having a complete lack of impartiality toward the Orthodox Church, based on historical facts that are interpreted in a biased way, formulated after Grama his critical system and gave the supreme accusation, that Şaguna has copied 'The Organic Statute' from the constitution of the Saxon Evangelical Church in Transylvania, after he had borrowed the main principles from A. T. Laurianu's 'Constitution'."<sup>66</sup> In his opinion, the mixed synod was introduced in the Transylvanian Orthodox Church under the influence of the Lutheran Church. Andrei Şaguna seduced his believers, generally the Romanians, by allowing the laymen to participate in the synods. "The Organic Statute" was made on the principles of the Evangelical constitution, organizing the Transylvanian Orthodox Church differently from other Orthodox countries' church organization: Russia, Romania (Moldavia and Wallachia), Greece. Still, Bunea had to admit: "No matter how this organization is, it cannot be denied that it strengthened the Transylvanian Orthodox Church ..."<sup>67</sup>

But the constitution of the Lutheran Church in Transylvania is substantially different from "The Organic Statute"<sup>68</sup>, and especially from Andrei Şaguna's "Project of Regulation", as substantially different are the history and tradition of these two Churches of Transylvania.

Besides the Saxon National University (Universitas Saxonum/Sächsische Nationsuniversität)<sup>69</sup>, the Saxons in Transylvania had also had the Ecclesiastical

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<sup>64</sup> See Augustin BUNEA, *Discursuri. Autonomia bisericească*. Diverse, Blaj 1903.

<sup>65</sup> See Karl W. SCHWARZ, *Verfassungsbemühungen nach 1848*, 94-238; Jakob RANNICHER, *Die neue Verfassung der evangelischen Landeskirche Augsburgers Bekenntnisses in Siebenbürgen auf Grundlage ämtlicher Quellen*, Hermannstadt<sup>2</sup>1857.

<sup>66</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 265.

<sup>67</sup> A. BUNEA, *Discursuri. Autonomia bisericească*. Diverse, 381.

<sup>68</sup> Cf. P. BRUSANOWSKI, *Reforma constituțională*, 46-56; J. SCHNEIDER, *Der Hermannstädter Metropolit*, 106-107, 196-198.

<sup>69</sup> About the Saxon University and the Transylvanian Saxons' privileges see the chapter I.1.1 herein.

University, with the purpose of their immediate subordination to the Catholic Archbishopric of Esztergom and not to the Bishopric of Alba-Iulia. The Ecclesiastical University, unlike the lay one, extended outside “The Royal Land” (“Fundus Regius”), including the subservient villages. Thus, it surpassed the limits of the institution of class/social status and pointed to ethnical solidarity.<sup>70</sup> The lay and the religious University had held their meetings at the same time. In the relationship between the two Universities, the decisive role was played by the lay one, which subordinated the ecclesiastical one, in the spirit of the *cuius regio eius religio* principle.

The importance of the Ecclesiastical University grew after the Reform, when the lay University accepted the ecclesiastical regulation of the Transylvanian Germans<sup>71</sup> (*Reformatio Ecclesiarum Saxonicarum in Transylvania* / “Kirchenordnung aller Deutschen in Sybembürgen”<sup>72</sup>). This is how the Saxon Evangelical Lutheran Church was born, and it became the Saxons’ national church (Volkskirche), playing an important role in the preservation of their identity. It had the character of a state Church on “Fundus Regius”, a feature given by the Saxon National University, as supreme political institution. The national and religious life influenced each other, and even the political organization was transplanted over the internal life of the Saxon Church.<sup>73</sup>

In the eighteenth century, the Catholic persecutions determined the rethinking of the organization of the Saxon Evangelical Church, the first Evangelical consistory being founded at Sibiu, in 1753. This consistory finalised a new church regulation, decreed by the Synod of 1763, according to which the ruling bodies were the central and local mixed consistories (Oberkonsistorium and Consistorium Domesticum/Privatum).<sup>74</sup>

But beginning with 1795, the Viennese Court asked this Church for a new organizational plan, approved only in Josephinist formula: the emperor claimed his right as supreme bishop, the consistory had to be inspected by the government, and the Church was handed over to the lay people.<sup>75</sup>

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<sup>70</sup> See Konrad GÜNDISCH, Die „Geistliche Universität“ der Sächsischen Kirchengemeinden im 15. und 16. Jahrhundert, in: *Konfessionsbildung und Konfessionskultur in Siebenbürgen in der Frühen Neuzeit*, hrsg. von Volker Leppin – Ulrich A. Wien, Stuttgart 2005, 105-113.

<sup>71</sup> *Ibid.*, 111.

<sup>72</sup> See it in: G[eorg] D[aniel] TEUTSCH, *Urkundenbuch der Evangelischen Landeskirche A.B. in Siebenbürgen, Erster Theil*, Hermannstadt 1862, 36 et seqq..

<sup>73</sup> See Ulrich A. WIEN, *Einleitung*, in: *Die Kirchenordnungen der Evangelischen Kirche A. B. in Siebenbürgen (1807-1997)* hrsg. von Ulrich A. Wien – Karl W. Schwarz, Köln u.a. 2005, 1-5.

<sup>74</sup> *Ibid.*, 6-7.

<sup>75</sup> *Ibid.*, 8 and 19-70.



After 1848, measures for the return to the old formula of the ecclesiastical autonomy were taken, the model of the new organization - expressed in “Die Kirchenverfassung 1861/62”<sup>76</sup> - being the constitution of the Evangelical Church in North Rhine-Westphalia, from 1835.<sup>77</sup>

Ioan Mateiu compared<sup>78</sup> the two church constitutions - Orthodox and Evangelical - of the middle-nineteenth century in Transylvania and pointed out that there is not any fundament for the accusation of plagiarism, concluding: “If we compare the Saxon organization with Metropolitan Șaguna’s original Project, the difference is so huge, that any doubt of imitation has to be excluded *ab ovo*.”<sup>79</sup>

As for the hazardous affirmation that the “Project of Regulation” would be made by the Saxon lawyer Jakob Rannicher<sup>80</sup>, it is not sustained by any credible proof.<sup>81</sup>

It is useless to comment - in the contemporary ecclesial context - the groundlessness of the Catholic Friedrich Heinrich Vering and Greek Catholics Alexandru Grama and Augustin Bunea’s accusations. The canons 204 §1, 460-468 of the Codex Iuris Canonici (CIC) and 7 §1, 140-145, 235-242 of the Codex Canonum Ecclesiarum Orientalium (CCEO) are enough to show that Andrei Șaguna’s only “guilt” when he regulated the presence of the laymen in the mixed church assemblies was that he did it hundred years before the Roman Church.

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<sup>76</sup> See it at K. W. SCHWARZ, *Verfassungsbemühungen nach 1848*, 165-238.

<sup>77</sup> Cf. *ibid.*, 94; J. RANNICHER, *Die neue Verfassung* 1857, 7-13.

<sup>78</sup> Cf. I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 270-273.

<sup>79</sup> *Ibid.*, 273. See the same conclusion after the comparison of the Evangelical Church’s constitution with “The Organic Statute” at P. BRUSANOWSKI, *Reforma constituțională*, 55.

<sup>80</sup> Cf. *Anticritic’a*, 24. On the friendship Andrei Șaguna - Jakob Rannicher see the chapter III.2.8 herein.

<sup>81</sup> Cf. J. SCHNEIDER, *Der Hermannstädter Metropolit*, 102-106.

A relevant episode for the groundlessness of the affirmation that Jakob Rannicher would be the author of the “Project of Regulation” is presented in the chapter IV.2 herein.

### VII.3.4 Other criticisms<sup>82</sup> and misapprehensions

One of the Romanian Orthodox critics<sup>83</sup> of “The Organic Statute” was the Bishop Melchisedec Ștefănescu of Roman<sup>84</sup>. In the context of “The Synodal Law of 1872” in Romania - with many inconveniences - heated discussions on the synod and in general on synodality, and on a possible consideration of the ecclesiastical organization of Transylvania began. Thus, a study presented to the Holy Synod<sup>85</sup> by the Bishop Melchisedec, in the autumn of 1883<sup>86</sup>, outlined the non-canonicity of the mixed synods stipulated by “The Organic Statute”. The organization of the Orthodox Transylvanian Church was - in the view of that study - wrongfully considered in connection with the nationalist desiderates, the same as the Serbian old synods which “grouped in their organization not only the strict ecclesial interests, namely the Church doctrine and ecclesiastical discipline, but also the national ones like [...] the election of the metropolitans and bishops, who are in a way also the political national leaders.”<sup>87</sup> Andrei Șaguna’s value was not contested, but it was thought that “he, in his organization, could not remain strictly on the canonical bases, which limit the role of the ecclesiastical administration more to the doctrine and discipline of the Church, under the leadership of the bishops’ synod; it is understandably that the other

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<sup>82</sup> We have considered useless the enumeration of other types of criticisms than the strictly theological-canonical ones. For example, it was left out the inter-war polemic around the freemasonic character of “The Organic Statute”, derived from the fact that the president of the congress’ commission of 1868 appointed for to analyze Andrei Șaguna’s “Project of Regulation” - Gheorghe Ioanovici - was a freemason. On this issue see Dimitrie BRAHARU, *Un colaborator al lui Șaguna, secretarul de stat Gh. Ioanovici (One of Șaguna’s Co-workers, the State Secretary Gh. Ioanovici)*, Cluj 1932; Ernest ARMEANCA, *Statutul organic, operă francmasonică?* (The Organic Statute, a Freemason’s Work?), in: “Patria”, 21 January 1933; IDEM, *Gheorghe Ioanovici și Statutul organic, zis „șagunian”* (Gheorghe Ioanovici and The Organic Statute, so-called Șaguna’s Statute), in: “Patria”, 23 February 1933; Dumitru STĂNILOAE, *În zadar: Statutul organic e șagunian (In Vain: The Organic Statute Belongs to Șaguna)*, Sibiu 1933.

<sup>83</sup> Some Romanian Orthodox criticisms see also at P. BRUSANOWSKI, *Reforma constituțională*, 35-40.

<sup>84</sup> Melchisedec (Mihail) Ștefănescu (1823-1892) was named bishop of the Lower Danube Eparchy, with the residence in Ismail (1865-1879), by a decree signed by Alexandru Ioan Cuza; later, he was elected bishop of the Eparchy of Roman (1879-1892). He was one of the best historians of his time. As a member of the Holy Synod he forwarded a series of proposals concerning the development of the church life, the improvement of the clergy’s material status, and especially the recognition of the autocephaly of the Romanian Orthodox Church. Cf. M. PĂCURARIU, *Dicționarul teologilor români*, 483.

<sup>85</sup> The name “Holy Synod” is given - in the Romanian Orthodox Church - to the synod composed of all the bishops in the country.

<sup>86</sup> See Primatul României CALINIC, Mitropolit IOSIF, Episcop MELCHISEDEK, *Studiu despre ierarhia și instituțiunea sinodală în Biserica Ortodoxă a Resăritului în genere și despre ierarhia și instituțiunea sinodală în Biserica Ortodoxă Română în specială*, București 1883.

<sup>87</sup> *Ibid.*, 26.

[ecclesiastical] affairs are ruled by the state.”<sup>88</sup> The name “synods” given the mixed ecclesiastical assemblies in Transylvania was qualified as “not appropriate” or “even abusive”, the possible adoption of this ecclesiastical organization in Romania being considered “absurd”<sup>89</sup>.

Apart from some tendentious aspects of Bishop Melchisedec’s criticisms, the others were correct, “but his mistake was that he attributed ‘The Organic Statute’ to Șaguna and not to the church congress of 1868.”<sup>90</sup>

Even not on the line of ungrounded accusations but more on the one of misunderstanding were the historians Ștefan Meteș<sup>91</sup> and Nicolae Iorga. The latter - who underestimated the value of Andrei Șaguna’s works<sup>92</sup> - stated in the very light of this underestimation: “He did not feel as a priest above all anymore, but as a Romanian, and by ‘The Organic Statute’ which organized the new Metropolitanate deciding the participation of the laymen in the leading synods he gave the Church to his people.”<sup>93</sup>

Without knowing neither the ecclesiology, nor the Orthodox canons it was difficult for Nicolae Iorga to make another kind of evaluation of the ecclesiastical organization in Transylvania, other than a patriotic or even nationalist one. Actually, Iorga made many contradictory affirmations on Andrei Șaguna.<sup>94</sup> In other circumstances, the historian understood Bishop Șaguna and called him the other way round, insufficiently nationalistic, an ardent imperialist, who organized his eparchy inefficiently for the people: “One can easily see in him a clear, foresighted eye, which is not afraid of anything, shows what is wrong and finds out how to correct it. He was an admirably practical man. When he saw the bad things, he did not even have time to say ‘no’, because his deed said ‘yes’. Șaguna’s greatest sin was that he did so in a way no

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<sup>88</sup> Ibid., 29.

<sup>89</sup> Ibid., 34.

<sup>90</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 265.

<sup>91</sup> Cf. I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 273; Gr. COMȘA, *Modificarea legii de organizare a Bisericii noastre*, 14-15; P. BRUSANOWSKI, *Reforma constituțională*, 38.

<sup>92</sup> See the chapter V.1 herein.

<sup>93</sup> N. IORGA, *Oameni cari au fost*, 47-48.

<sup>94</sup> See N. IORGA, *Istoria românilor din Ardeal și Ungaria*, vol. II, 134-138. One of the most visible contradictions is proved by the affirmations concerning the conversion to Catholicism of the child Anastasie Șaguna (see above, chapter II.2). Even his Christian name was mistaken by Iorga: “for Atanasie was his first name, like his uncle’s.” (N. IORGA, *Istoria Bisericii românești și a vieții religioase a românilor*, vol. II, 274).

different from a province governor in Graz, or a Catholic bishop in Brno, or any ecclesiastical or lay office holder of any province in the Empire. His thinking was not Romanian, but belonged to the schools where he had learned. The world he had left from did not have a Romanian stove in the midst of the house. This is why he remained Austrian and imperialist, and many of his solutions were not beneficial for the people whose Church he organized.”<sup>95</sup> Iorga saw in the mixed synod “Șaguna’s greatest innovation, also determined by his conception of commanding through the Church.”<sup>96</sup>

Illustrative for Nicolae Iorga’s error concerning Andrei Șaguna is the following remark of a Romanian theologian - Grigorie Pișculescu (alias Gala Galaction) - made at the beginning of the twentieth century, in the context of a canonistical dispute which the historian was also involved in: “However varied and impressive would be his [Nicolae Iorga’s] culture, he is not accustomed to the theological issues. And his misapprehension could lead to the misapprehension of many other people.”<sup>97</sup>

As the canonist Liviu Stan affirmed “we should not be astonished by the fact that Șaguna’s tradition has rarely found interpreters and defenders. We should not be astonished by the fact that some people did not understand it at all, others only partially, and that others, trying to understand and spread it, were crushed by it - and not because of its size and weight, but for their weakness. The lack of understanding of Andrei Șaguna’s legacy slowly appeared in our Church of Transylvania [...] and the most terrible straying came to light in the united Romania, on the occasion of the action undertaken for the reorganization of the Romanian Church, in the first years after the reunification [after 1918]. In Transylvania, the generation that was raised under Șaguna’s blessing and care [...] kept his legacy; they kept it piously, but they did not assimilate it scholarly and theologically, they did not consider it thoroughly, nor develop it, and in their care of keeping it unstained, they only took care of the forms, the cover which the spirit flew away from. [...] Many people reduced their ecclesiastical activity to the respect of some formalities and their periodical reiteration. [...] There were also a few stray people among Șaguna’s direct heirs who did not understand his work and refused to preserve its spirit or spread it to other people. [...]

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<sup>95</sup> N. IORGA, *Istoria românilor din Ardeal și Ungaria*, vol. II, 134.

<sup>96</sup> *Ibid.*, 138.

<sup>97</sup> G. PIȘCULESCU, *Apologia unei legi*, 30-31.

most of them fought against Şaguna's trend out of ignorance; others had different interests or wanted to make much ado about nothing."<sup>98</sup>

During the Communist years in Romania, after a period of Andrei Şaguna's interdiction<sup>99</sup>, the theological academic circles tried to re-launch his image by adding a nationalistic halo to it. This idea, appreciated by the Communists more than they could have ever liked the real values of the Church, was and is still spread, instead of a deep research of Andrei Şaguna's works. The disputed participation of the laymen in exercising the Church power - as a Christian tradition with roots in the apostolic times, revived by Andrei Şaguna - could not be removed from the ecclesiastical constitution of the Romanian Orthodox Church of 1948<sup>100</sup>; first, because the mixed synodality was still a strong tradition at least in Transylvania, and it had been motivated exemplarily in the inter-war period by the canonist Liviu Stan; second, because the "democratic" Communists did not dislike the idea of the "democratic leadership" of the Church. However, the canonistical doctrine and works of Andrei Şaguna were outshined by the Communist nationalistic "myth": "Şaguna had also nationalistic interests besides the accomplishment of the synodal principle in the organizational system of his Church. This reason justifies the participation of the laymen in a double number in the ecclesiastical assemblies and makes us understand why they were called synods."<sup>101</sup> Or: "The high number of the laymen was justified by Şaguna with the fact that what the laymen could not do by political means, they tried to do within Church."<sup>102</sup> As we pointed out<sup>103</sup>, the above-mentioned opinions counteract flagrantly the reality: not Metropolitan Şaguna, but the lay majority of the congress of 1868 tried to use the Church to carry out their ambitious social and political programme, a thing which provoked big sorrow the metropolitan.

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<sup>98</sup> L. STAN, *Mitropolitul Nicolae*, 215-219.

<sup>99</sup> Because of the Marxist-Leninist epithet of "reactionary", "imperialist" under the charge of the Austrian Monarchy, even Andrei Şaguna's image in the public space was forbidden, after 1948, at least for a decade. An Orthodox priest (Zosim Oancea), who published in 1948 the church calendar "Credința" ("The Faith") with Andrei Şaguna and Avram Iancu's portraits on the front page, was condemned to ten years imprisonment in Aiud Jail. Cf. Paul CARAVIA, *The Imprisoned Church. Romania, 1944-1989*, Bucharest 1999, 282.

<sup>100</sup> See the chapter VII.6 herein.

<sup>101</sup> C. DRĂGUȘIN, *Legile bisericești ale lui Cuza Vodă*, 94.

<sup>102</sup> A. PLĂMĂDEALĂ, *Momentul Şaguna în istoria Bisericii Transilvaniei*, 211.

<sup>103</sup> See the chapters IV.4.1 and V.2 herein.

One of the newest and very surprising opinion on the “source of inspiration” of Andrei Șaguna’s canonistical doctrine and ecclesiastical organization, expressed by a young church historian of Sibiu - Paul Brusankowski - in a book published in 2007<sup>104</sup>, is that the Transylvanian Orthodox metropolitan inspired himself not from any Protestant church constitution of Transylvania, but from some reformed movements of the nineteenth century in the Catholic Church, especially from the works of a Catholic theologian from Tübingen, Johann Baptist von Hirscher (1788-1865).<sup>105</sup>

Of course, it could be considered “trendy” to re-invent some “old-fashioned” personalities (as Andrei Șaguna, an well-grounded Orthodox, for some contemporary people might seem), but in this case we think that such an opinion is at least hazardous because it has any scholarly, logical, and even moral character, so long the author of the idea himself supposes much more than he really argues and proves: “Andrei Baron of Șaguna applied in his Eparchy, and then in ‘The Organic Statute’, in the entire Metropolitanate the very ideas of [Johann Baptist von] Hirscher. There are not any documents which could prove their meeting. But their theological vision is quite identical [...]. But even if they did not meet themselves personally, Șaguna would have read Hirscher...”<sup>106</sup>

One could better say that there were in the nineteenth century some theologians in the Catholic Church too, who understood the necessity of the revival of the active lay people’s participation in the life of the Church, as a primary Christian tradition of the

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<sup>104</sup> See Paul BRUSANKOWSKI, *Reforma constituțională din Biserica Ortodoxă a Transilvaniei între 1850- 1925*, Cluj-Napoca 2007.

<sup>105</sup> *Ibid.*, 62-67, 106.

Johann Baptist von Hirscher was between 1817 and 1837 professor of moral and pastoral theology at Tübingen University, and between 1837 and 1863 professor of moral theology and catechetics at the University of Freiburg. Hirscher exerted a great influence in the domain of moral theology, homiletics, and catechetics. His ideas on the reform of the Church were open to suspicion. So the pamphlet on the present state of the religion - “Die kirchlichen Zustände der Gegenwart” - published in 1849 at Tübingen was put on the Index. This brochure together with another one on the social condition of the present day and the Church - “Die socialen Zustände der Gegenwart” - created a profound sensation, for in them Hirscher showed himself hostile to the Catholic Associations’ movement, which gave birth to the first general Congress of the German Catholics at Mains, in 1848; he feared that the movement might lead to imprudent demonstrations by the Catholics. He preferred lay associations to be undenominational, and favoured a synodal organization in which the laity would be represented, and which should be periodically convened by the bishops and presided over by them. Cf. Friedrich Wilhelm BAUTZ, *Hirscher, Johann Baptist von*, in: *BBKL*, Bd. 2, 897-899; Walter FÜRST, *Hirscher, Johann Baptist von*, in: *LThK*, <sup>3</sup>1993-2001, Bd. 5, 153 et seq.; F. C. LEHNER, *Hirscher, Johann*, in: *The New Catholic Encyclopedia*, vol. 6, 861.

<sup>106</sup> P. BRUSANKOWSKI, *Reforma constituțională*, 67; IDEM, *Principiile și izvoarele Statutului Organic Șagunian*, 46.

apostolic times, a thing which was only after a century officially recognized by the Roman Catholic Church, by the Second Vatican Council (1962-1965).<sup>107</sup>

An answer to all the criticisms, misunderstandings, and shallowness by approaching Andrei Şaguna's canonistical-organizational work could be one given by Şaguna himself: *“Our misfortune comes from there, that the leaders and the other men of the Church do not make themselves a thorough, long study on the knowledge and institutions of our Mother Church, but they remain with what they heard and learnt in foreign schools of other religions [confessions].”*<sup>108</sup>

### VII.3.5 Şaguna's ecclesiastical organization and the 1848 context

Both the “Project of Regulation” and “The Organic Statute” were more superior to the general ecclesiastical climate of the nineteenth century. This is why Şaguna's ecclesiastical organization was associated either with the Protestantism or with the liberal political ideas of that time. A realistic spirit, the metropolitan himself knew from the beginning that his system of ecclesiastical organization outran its epoch<sup>109</sup>; it even outran the power of assimilation of a nation held in serfdom for centuries.

The reactivation of the mixed synodality was made by Andrei Şaguna only after a thorough understanding of the spirit of the Orthodox Church and thanks to a profound knowledge of its old rules. But just this was the gap of the majority lay members of the national church congress of 1868 “who lacked the ecclesiastical culture meant to make them to understand the character of an ecclesiastical organization. This lack was therefore replaced with a lay mentality inspired by current political ideas that launched the slogan of liberalism and democracy with a view to an ecclesiastical

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<sup>107</sup> In this context it is to remark once more the importance of two canonical principles of the Orthodox Church - the eparchial autonomy and the synodal, not papal leadership - which made possible the “incarnation” of such positive and progressive thoughts hundred years sooner in the Orthodox Metropolitanate of Transylvania as in the Catholic Church, without waiting for any supervision from Rome, Constantinople or anywhere, but just taking into consideration the spirit of the primary Church, the canons of the first Christian millennium and the spiritual needs of the believers.

<sup>108</sup> “Şaguna către Hurmuzachi” (“Şaguna to Hurmuzachi”), dated Sibiu, February 18, 1861, in: II. PUŞCARIU, *Metropolia, colecția de acte, 185-187* here 185.

<sup>109</sup> Cf. the chapter VII.4 herein.

parliamentarism, in order to heal their deceptions suffered on the field of political battles. The members of the congress did not think at all of the canonical-ecclesiastical considerations which had to lead the creation of a church constitution, but they were utterly possessed by political-national preoccupations.”<sup>110</sup>

The lay intellectuals, although not very attached to the Church, were not against it; they only wanted to “transform the Church and the clergy in instruments of social change”<sup>111</sup>, to subordinate it to the national idea which enlivened them. From the beginning of the 1840s, the Orthodox intellectuals, as well as the Uniate ones tried to gain a more important role in dealing with the Church’s issues, as a necessary prelude of the general reform of ecclesiastical administration and institutions. The Uniates guided by Simeon Bărnuțiu pleaded for the reestablishment of the diocesan synod made up of both laymen and clergymen as the main leading body of the Greek Catholic Church. The Orthodox intellectuals manifested a similar attitude during the elections of Vasile Moga’s - the bishop who died in 1845 - successor. They objected that the participation in this important national event was, contrary to the canon law, restricted to protopopes, without being consulted the believers.<sup>112</sup>

However, although the intellectuals themselves resorted to canons in order to justify their desiderata, it is obvious that the core of their thinking was an ideology (be it a progressive one), unlike the Orthodox creed and Tradition which were the foundation of Șaguna’s thinking and actions.

Although it was supposed to be laudatory, not critical, Gheorghe Tulbure’s opinion according to which Metropolitan Andrei Șaguna would have introduced the constitutionalism in the Orthodox Church under the pressure of that time’s liberal politics, is one that cannot be taken into account as long as one can demonstrate that the “Project of Regulation” was established on the canonical and traditional basis, not on political doctrines. Tulbure stated: “Pervaded by this trend [the liberal one], Metropolitan Șaguna, who always stood up to the height of his time’s spirit, when he

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<sup>110</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 258-259.

<sup>111</sup> K. HITCHINS, *Conștiință națională și acțiune politică*, 127.

<sup>112</sup> Cf. *ibid.*, 127-128.



wanted to transform his Church into a lasting and useful institution he inevitably had to embody the liberal democracy into its constitution, which was already ruling the entire civilised world.”<sup>113</sup> We think that this opinion was assumed from the confusing considerations which Ioan Mateiu had expressed in one of his works on the ecclesiastical organization conceived by Șaguna. Firstly Mateiu wrote that the participation of the laymen in the ecclesiastical leadership was “a result of the historical evolution, which the ideas of 1848s gave the possibility to get crystallized irrevocably in safe and modern constitutional forms to. [...] this trend of wide ecclesiastical democratization was not borrowed from the Protestants; it is a natural and impetuous effect of the political revolution...”<sup>114</sup> But further on he stressed that “the mixed synodality has existed in our Church; it is in no case an invention of the 1848s, or a replica of the Protestant constitutions.”<sup>115</sup> Otherwise Ioan Mateiu has the merit to be the first author of a historical-canonistical argumentation of the Transylvanian Church’s organization. The same thing did later in a more developed form the canonist Liviu Stan.

The latter canonist concluded himself that one cannot admit that the reappearance of the mixed synods in the second half of the nineteenth century is explained as just a simple innovation, in accordance with the democratic doctrine after 1848. The spirit of that time did not bring anything new to the Church, it did not create any new principle for it; it just supported the measures of reviving an old Orthodox institution taken by the Church’s leaders who knew how to find and use the favourable moments. The liberal doctrine of that time did not create a new principle for the Church; it only eased the achievement of an everlasting principle of the Christian Church.<sup>116</sup>

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<sup>113</sup> Gh. TULBURE, *Activitatea literară*, 52.

<sup>114</sup> I. MATEIU, *Contribuțiuni la istoria dreptului bisericesc*, 101.

<sup>115</sup> *Ibid.*, 104.

<sup>116</sup> Cf. L. STAN, *Mirenii în biserică*, 238-239.

#### VII.4 The enforcement of “The Organic Statute”; 1868-1918 - the jubilee balance

The involvement of the laymen in exercising the Church power through “The Organic Statute” had unwanted consequences too. They were previsible for Andrei Şaguna, especially in the context of the discussions before the statute was adopted.<sup>117</sup> Although he was constantly against the transformation of the ecclesiastical organization into a lay political platform, as well as against any deviations from the Orthodox canonical spirit, the bishop finally made concessions to the congress of 1868 in order to see his Eparchy solidly organized and protected in front of the political fluctuations. “Thus we remember the case of the first parish committee constituted here at Răşinari, when the people interpreting *ad litteram* the paragraphs of the law the parish synod did not elect in the committee any of the men who were involved in the leading of their parish in the past; those treated unfairly complained to Şaguna about the shame that was brought upon them by the new ecclesiastical organization. Being cautious and aware of the excess of energy that was accumulated throughout the centuries in the deep wells of the people’s souls during the spiritual slavery which they lived in, Şaguna, a careful man, comforted them with kindness and fatherly wisdom, telling them to stay safe before the torrent, or else they will drown: *‘I had to compose this law and I knew that it would have harmful consequences, especially in the beginning; our nation is not ready for this reform, but I had to use this occasion; it was now or never.’*”<sup>118</sup>

In spite of all the problems related to “The Organic Statute”, its value and efficiency is persuasively expressed in the next opinion, after fifty years of application: “If this victimized, humble and poor Church, this ‘Cinderella’ of Transylvania, has risen since 1868 to the stage of today, it is because of the effective and uninterested support given by the laymen who, according to Şaguna, no longer felt out of place after the elaboration of ‘The Organic Statute’, being believers with equal rights.”<sup>119</sup>

An evaluation of the implementation of “The Organic Statute” made by Gheorghe Ciuhandu in 1920, in the middle of the discussions on the harmonization of the

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<sup>117</sup> Cf. the chapter IV.4.1 herein.

<sup>118</sup> E. CIORAN, *Mitropolitul Şaguna și comuna Răşinari*, 229.

<sup>119</sup> V. MOLDOVAN, *Biserica Ortodoxă Română și problema unificării*, 51.

ecclesiastical organization of the Romanian unified state<sup>120</sup>, showed the following gaps: the excessive bureaucratization of the ecclesial life in Transylvania and the administrative formalism. The evaluator noticed the fact that the formal perspective, missing the spiritual sense of the Church “has mastered our ecclesial life almost all the time [after 1870], seeming to be the only one that presides over the ecclesiastical administrative authority, and it has almost removed all the concepts of spiritual nature on the ecclesiastical life and administration.”<sup>121</sup> However, he emphasized that not “The Organic Statute” itself was the cause of those, but the people who had an important contribution to its application. Although some statutory dispositions “are not among the bests”<sup>122</sup>, having to be corrected, these gaps were not essential, but their application “which lacked the true ecclesiastical inspiration”<sup>123</sup> or their narrow interpretation. The constitution of the Transylvanian Orthodox Church was meant to satisfy the interests of a good ecclesiastical administration by its organization, but it “did not put an end to the protection of the Church’s spiritual interests. ‘The Organic Statute’, in §85, leaves untouched the eparchial bishops’ sphere of sovereignty over the spiritual affairs; in the same way it is left place the spiritual agenda of the bishops’ synod in the Church.”<sup>124</sup> Even the mixed eparchial synod was invited, in point 12 of §96, to have an active contribution in promoting the spiritual life of the Church too. That way, “The Organic Statute” “does not have an aggressive tendency toward the purely spiritual matters of the Church; on the contrary, it is involved in creating all those establishments which could underline the Church’s spirituality, and it should promote the spiritualization of the Church and its administration.”<sup>125</sup>

The conclusions of this evaluation were the following: it was possible and not against the spirit and letter of “The Organic Statute” to introduce reforms in order to

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<sup>120</sup> On December 1<sup>st</sup>, 1918, the union of the Romanian provinces Bessarabia (nowadays the Moldavian Republic), Bukovina (now divided between Romania and Ukraine), Banat, Crişana, Maramureş and Transylvania with Romania/the Old Kingdom (Moldavia and Wallachia) was proclaimed, since then dating, with the territorial changes made by the Second World War, the present-day Romania. After the union of 1918, Romania kept the monarchic form of government, until the coming in power of the Communism, on December 30, 1947, when it was proclaimed a republic. Cf. History of Romania. Compendium, 526-532; 612 et seqq. See also the map in the annex VI herein.

<sup>121</sup> Gh. CIUHANDU, *Reorganizarea Mitropoliei transilvane*, 6.

<sup>122</sup> *Ibid.*, 7.

<sup>123</sup> *Ibid.*, 7.

<sup>124</sup> *Ibid.*, 7-8.

<sup>125</sup> *Ibid.*, 8.

spiritualize the bureaucratized ecclesiastical life; the half century experience of a misunderstood and wrongly applied statute had to determine, on the one hand the modification of its shortcomings, and on the other hand its more spiritual interpretation and application; the revitalizing of the liturgical-sacramental life of the Church and of the Christian philanthropy were necessary: “Our ecclesiastical administrative conception from ‘The Organic Statute’s’ era was exposed in a very little degree to the holy and life-bringing blast of the spiritual problems, by which it has to differ from any other worldly administration. [...] it was thought that it would be enough, in the Church, to take care of the external order that could be promoted in the consistorial, protopopiate, and parish offices, and to make sure that the Church property is continually increasing. The accent was not enough put on the religious education - in all its disciplines -, on the liturgical or holifying life of the Church, and it was even less put on the propagation of the religious and moral awareness among the great mass of the believers.”<sup>126</sup>

The author of the evaluation had in mind the following proposals of amendment: the completion of the church organization (a proportional distribution of the eparchies and protopopiates, the completion of the administrative ecclesiastical staff in the eparchial centres, a diocesan technical-ecclesiastical office, the reorganization of the metropolitan consistory, the surveillance of the implementation of the administrative measures by the ecclesiastical control bodies, a statistical office of the Metropolitanate and shematisms); the strengthening of the liturgical-sacramental life of the Church (the organization of the cathedrals’ clergy by introducing of such offices as the protopope of the cathedral, of preacher, deans, singers/choirs, itinerant preachers, the purification and standardization of the liturgical life); the placement on new solid bases of the theological education and the establishment of schools for church singers; the enhancement of the pastoral life, of catechesis (including printings and the organization of an internal missionary service); the organization of the pastoral clergy; the state material assistance. If the solution for the improvement of the ecclesiastical life in Transylvania was not the revision of “The Organic Statute” (“this completion of the ecclesiastical life would be possible without the amendment of ‘The Organic

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<sup>126</sup> Ibid., 8-9.

Statute”<sup>127</sup>), its adoption “literally and especially in its actual form of application, as an exclusive departure point in our ecclesiastical reorganization, would be a disaster.”<sup>128</sup> Not lastly, Gheorghe Ciuhandu also pleaded for the maintaining of the metropolitan organizational system<sup>129</sup> in the new state frame. This system adopted in Șaguna’s organization was considered so positive and welcome, that “the total elimination of the metropolitan system and its reduction to the simple priority of the metropolitan-bishop in front of his suffragan bishops would do more harm than good the Church in its present and future organization.”<sup>130</sup> On the contrary, there were enough reasons which justified “the revival of the metropolitan organization, even where it was suppressed by the necessities of the times or by people’s ambitions.”<sup>131</sup>

The excessive bureaucratization, the formalism were described as the most important shortcomings of “The Organic Statute” by the future Romanian Patriarch Miron Cristea (1925-1939) too: “We, in Transylvania, have often lost many years fighting against empty formalities, but the Church did not advance; it was only damaged in its most vital interests because of the many excessive forms. That is why the formalities must be reduced, simplified, even the corporations created only where necessary; especially because - having too many corporations, established with difficult formalities in parishes, protopopiates, eparchies, metropolitanates etc. then in villages, counties, or country - the people will be sick of all their running and waste of time.”<sup>132</sup> The same future patriarch noticed yet another weak point of the “The Organic Statute” which had to be corrected: “Șaguna’s statute [in fact, it was the statute of the church congress of 1868] leaves the [ecclesiastical] justice in the hands of the church administration. I pity that justice, if the state entrusts its administrative authorities to do justice! Everybody

<sup>127</sup> Ibid., 41.

<sup>128</sup> Ibid., 42.

<sup>129</sup> In the primary times of the Church flourished the metropolitan system of Church’s organization: for each ecclesiastical province there was a metropolitanate consisted of several suffragan bishoprics, the metropolitanates being coordinated to one another, therefore independent. The centre of the life of the Church was the metropolitanate, not the bishopric and the bishops’ synod of the patriarchate, as in the case of the eparchial-patriarchal system of Church’s organization nowadays. Cf. V. PHIDAS, *Droit canon*, 114 et seqq.

On this subject see also Grigorios D. PAPATHOMAS, *Le Patriarcat œcuménique de Constantinople (y compris la Politeia monastique du Mont Athos) dans l’Europe unie (approche nomocanonique)*, Katerini 1998; Gh[eorghe] SOARE, *Mitropolia în dreptul canonic ortodox*, București 1939.

<sup>130</sup> Gh. CIUHANDU, *Reorganizarea Mitropoliei transilvane*, 45.

<sup>131</sup> Ibid., 47.

<sup>132</sup> M. CRISTEA, *Principii fundamentale*, 23.

can see that not even the ecclesiastical justice made and applied by church administrative authorities can be perfect.”<sup>133</sup>

More categorical in the evaluation of the implementation of “The Organic Statute” was “The Romanian Telegraph” newspaper, which blamed the partial failure of the mixed synodality, the deviations that occurred, not on “The Statute” itself, but on the hierarchy, on the bishops “who - lacking a thorough theological culture - did not know, as episcopal synod, how to validate a guiding and beneficial moral influence toward the ecclesiastical constitutional bodies. Moreover, the lay element being superior in what the general culture concerns, has introduced a lay mentality within the Church. In the struggles for the episcopal sees the lay deputies interceded in some candidates’ favour, disparaging the others, libelling them both politically and socially.”<sup>134</sup>

## **VII.5 The role of “The Organic Statute” in the ecclesiastical reorganization in the Romanian State after 1918; “The Statute” of 1925**

After the First World War, not only the unification of the Romanian territories - the Old Kingdom (Moldavia and Wallachia), Bessarabia<sup>135</sup>, Bukovina and Transylvania -, but

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<sup>133</sup> Ibid., 28.

<sup>134</sup> Telegraful Român, No. 35, 36/1912; No. 21/1920 as quoted in E. ROȘCA, Monografia Mitropoliei Ortodoxe Române a Ardealului, 163.

<sup>135</sup> Bessarabia is the territory between the rivers Pruth and Dniester, an important part of it belonging nowadays to the Moldavian Republic, the southern part and the northern part belonging to Ukraine.

The region’s name comes from a Romanian reign family - the Basarabs. In 1350, Nicolae Alexandru, Basarab I’s son, ruler of Wallachia, took a campaign against the Tartars, managing to push them across the river Nistru and registering in the maps the territory of about 45,000 sq.km., between the rivers Nistru and Prut and the Danube’s mouths, which he named Bessarabia. In the following centuries, the territory became part of the historical province Moldavia.

In 1812, through the Bucharest Treaty, concluded after the Russian-Turkish war provoked by the “Oriental issue”, the Ottomans surrendered the south of Bessarabia to the Tsarist Empire, but the Russians occupied the whole territory between the Pruth and the Dniester.

Bessarabia remained under Russian domination (with a break between the general Peace Treaty signed in 1856, after the “Crimean War” and the Treaty of San Stefano of 1878) until 1917, when it became a republic for a short time, and voted for the union with Romania.

On June 28, 1940, Bessarabia (as well as northern Bukovina) was occupied by the Soviet troops, as a result of the Ribbentrop-Molotov Pact, of 1939.

After the dismemberment of the Soviet Union, on August 27, 1991, the Moldavian Soviet Republic declared itself independent under the name Republic of Moldova.

Cf. History of Romania. Compendium, 399, 465, 484, 509, 526-528, 580-581, 604-609. See also the map in the annex VI herein.

also the advancement of the Romanian Orthodox Church to the rank of an autocephalous Patriarchate by the Tomos of recognition from 1925<sup>136</sup> imposed a unitary ecclesiastical legislation.<sup>137</sup> In this way, “The Organic Statute” was brought into discussion as a main reference point for the new organization of the Romanian Orthodox Church.

In the Church of the Old Romanian Kingdom prevailed a mentality which was absolutist, too hierocratic-hierarchical and tributary to the state, and “it missed the organization, because the state’s attributions and position toward the Church and vice versa were not specified.”<sup>138</sup> The ecclesiastical life was in a continuous unrest in the absence of a clear perspective on the position which the Church had within the state.

Even before Andrei Şaguna’s “Project of Regulation” was officially recognized, it was taken into consideration by the government of Romania after 1859, and transposed into an attempt of the state to confer autonomy the Romanian Metropolitanates of Moldavia and Wallachia from the Patriarchate of Constantinople. The attempt - entitled “The Organic Decree for the Establishment of a Central Synodal Authority for the Romanian Religious Affairs” - was promulgated on December 6, 1864. This Decree - developed and completed with two further regulations, with the permission of the Ecumenical Patriarchs Gregory VI (1867-1871) and Anthimos VI (1871-1873) and after diplomatic correspondences between the Romanian government, the Ecumenical Patriarchate and other local Orthodox Churches - was voted in 1872 as “The Organic Law of the Romanian Orthodox Church”, better known as “The Synodal Law of 1872”.<sup>139</sup> The law was devised by the State Council and took as a standard the ecclesiastical organization introduced by Andrei Şaguna in Transylvania, transposing it in Romania with some changes: “it is a faulty replica of Şaguna’s law, which was taken as a standard.”<sup>140</sup>

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<sup>136</sup> See The Tomos of the Recognition of the Romanian Orthodox Patriarchate, in: T. SIMEDREA, *Patriarhia românească. Acte și documente*, 131-133.

The autocephaly of the Romanian Orthodox Church of the Old Romanian Kingdom had been already recognized by the Patriarchate of Constantinople, in 1885. See The Tomos of Recognition of the Romanian Orthodox Church’s Autocephaly, in: *Candela IV* (1885), No. 6, 361-364.

<sup>137</sup> Details on the process of the ecclesiastical unification of the Romanian Orthodox Church after the First World War and on its advancement to the rank of patriarchate see at N. ŞERBĂNESCU, *Patriarhia română la 70 de ani (1925-1995)*, 245-267.

<sup>138</sup> L. STAN, *Mitropolitul Nicolae*, 220. Cf. also the chapters III.2.8 and V.1.3 herein.

<sup>139</sup> See *Rumänisches Gesetz vom 14. December 1872*, in: *AfkKR*, 42 (1879), 423-426.

<sup>140</sup> C. DRĂGUŞIN, *Legile bisericesti ale lui Cuza Vodă*, 95.

The Church of Bessarabia had experienced the convulsions of the transformations in the Russian Church, which part it was from 1812 to 1917. The hierarchical absolutism was the legacy of the tsarist absolutism. However, the mentality that ruled in the Church of Bessarabia was more progressive than the one in the Old Romanian Kingdom or in Bukovina, the conception on the Church was more developed and the ecclesial consciousness more pronounced.<sup>141</sup>

The Church in Bukovina with its “Religious Fund”<sup>142</sup> had a very hierarchical mentality, tributary to “The Religious Fund” and the emperor, the mentality of a Church which belonged more to “The Fund” and the emperor than to the people. It had an old-fashioned organization, which was convenient more the state and some ecclesiastical office holders than the Church itself.<sup>143</sup>

In such conditions, the positive and stable contribution to the elaboration of a new church constitution of the entire Romanian Orthodox Church could have only the Transylvanian Church, because it had “an organization which was appropriate for a right and generous conception on the Church and its purpose, for that time and even exceeding that time ...”<sup>144</sup> The first discussion between the representatives of all the Romanian Metropolitanates regarding the unification of the ecclesiastical organization held at Sinaia from 12<sup>th</sup> to 25 June 1919<sup>145</sup> decided the following: “In the process of organizing the Church on canonical and autonomous bases, from a representative, administrative, legislative, and judicial perspective, one has to take as a starting point

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<sup>141</sup> Cf. L. STAN, *Mitropolitul Nicolae*, 220.

<sup>142</sup> After the incorporation of Bukovina in the Habsburg Empire (1775), emperor Joseph II decided to drastically reduce the Orthodox monastery settlements (from twenty-five to three), their consistent fortunes being administrated by the state; the same thing happened in 1789 with the properties of the Orthodox Eparchy of Rădăuți. The Church’s fortunes and their income, known as “The Religious Fund”, were meant - according to the “Spiritual Regulation” (“Geistlicher Regierungsplan”) of April 29, 1787, - to cover the expenditure of the Orthodox cult and of the confessional schools in Bukovina, and the surplus “for the benefit of the clergy, religion and mankind.” The emperor himself was called the protector of the fund, its administration, conservation and use, all depending on him and being declared “official affair”, of public interest. Emperor Francis Joseph I strengthened these stipulations by the resolution from December 10, 1869. A new regulation of the same fund was given by the imperial decision of January 19, 1900, but maintaining the second role of the Bukovinian metropolitan and of the consistory in the administration of it. After 1918, it started the “fight” between the Romanian state and the Orthodox Church of Bukovina for the administration of “The Religious Fund”. Cf. P. CIOBANU, *Fondul Bisericesc Ortodox Român din Bucovina*, 6-8.

<sup>143</sup> Cf. L. STAN, *Mitropolitul Nicolae*, 220.

<sup>144</sup> *Ibid.*, 220.

<sup>145</sup> Cf. N. ȘERBĂNESCU, *Patriarhia română la 70 de ani (1925-1995)*, 246-247.



for the debates ‘The Organic Statute’ of the Romanian Orthodox Metropolitanate of Transylvania...”<sup>146</sup> As one of the participants in that first discussion argued: “The most advanced ecclesiastical organization on the Romanian territory belongs to the Metropolitanate of Transylvania and this is the only reason why its ‘Organic Statute’ has been taken as a starting point for the discussion regarding the establishment of a unitary organization of the entire Romanian Orthodox Church.”<sup>147</sup>

The project presented by the spokesmen of the Metropolitanate of Bukovina for the future ecclesiastical organization of Romania proposed the selective adoption of: “a) the organization of the Holy Synod [bishops’ synod] and possibly of the Superior Consistory of the Old Kingdom [...]; b) the organization of the eparchial consistory of Bukovina; c) the organization of the eparchial congresses (‘synods’) and the participation of the laymen in the administration of the ecclesiastical affairs of Transylvania.”<sup>148</sup> Returning to Andrei Şaguna’s “Project of Regulation”, it is noticeable that it was practically proposed by the representatives of Bukovina fifty years later, as an organizational basis for the entire Romanian Orthodox Church. The very deviations from Şaguna’s concept - by changing some fundamental aspects of the Project, introduced by the church congress of 1868<sup>149</sup> - had to be corrected by “borrowing” the institutions of the consistory of Bukovina and of the bishops’ synod of the Old Kingdom. At the same time, the essential points of Şaguna’s canonistical doctrine and ecclesiastical organization were mentioned as absolutely necessary to the future organization of the Romanian Church: the mixed synodality and the Church autonomy.<sup>150</sup> The independence of the Metropolitanate from state - achieved by Andrei Şaguna - was particularly appreciated, even half a century after it was proclaimed: “This is undoubtedly a sign of progress, when we know that in Bukovina many important ecclesiastical issues had to be approved by the Austrian emperor or his government. It was the same situation in Bessarabia under the Russian tsars’ régime, as well as in the Church of our Mother Country [The Romanian Old Kingdom] under ‘The

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<sup>146</sup> “Înştiinţarea dată de Conferinţa de la Sinaia” (“The notice given by the Conference in Sinaia”), in: The Holy Synod’s Archives of the Romanian Orthodox Church, File No. 147, 106, as quoted in: N. ŞERBĂNESCU, *Patriarhia română la 70 de ani (1925-1995)*, 247.

<sup>147</sup> V. ŞESAN, *Reflexiuni asupra unificării*, 11.

<sup>148</sup> V. ŞESAN, *Proiect de unificare*, 2.

<sup>149</sup> Cf. the chapter V.3.2 herein.

<sup>150</sup> Cf. V. ŞESAN, *Proiect de unificare*, 3-6.

Synodal Law of 1872', 'The Law of the Lay Clergy of 1893', and 'The Law of the Church Finance of 1902'”<sup>151</sup>

Even so, “The Organic Statute” of Transylvania imposed itself quite difficultly in front of the Romanians from the other provinces. It “faced more opposition from our brothers than from the foreign domination under which it was established and introduced in the Church’s life.”<sup>152</sup> During the negotiations and discussions held after 1919, there “appeared obstacles that seemed undefeatable, because politicians and numerous narrow-minded and bigoted spirits from the Church’s men - some of whom were ‘great canonists’, ‘authorities’ etc. - wanted just one thing: to remain with their disorganized old rules in order to prevent themselves from falling away from the pure faith.”<sup>153</sup> The ecclesiastical unification works concluded on May 6, 1925, when “The Law for the Organization of the Romanian Orthodox Church” and “The Statute for the Organization of the Romanian Orthodox Church”<sup>154</sup> were passed.

The new organization, although elaborated on the basis of “The Organic Statute”, was not safe from un-canonical stipulations. The central mixed synod was a church congress made of the members of the Holy Synod (all the hierarchs in the country) and six members (two clergymen and four laymen) of each eparchy. The attributions of this congress were the administrative, cultural, foundational and trusteeship affairs.<sup>155</sup> Each eparchy had a mixed eparchial assembly made of two thirds laymen and one third clergymen, as a forum with external administrative attributions.<sup>156</sup> It was criticisable the not complete canonical way in which these mixed synods were constituted, because the bishops as members of the congress were treated as equals with the laymen. It was theoretically possible for the lay majority to impose its decisions, even against the bishops’ will. On the eparchial level, the decisions of the mixed eparchial assembly did

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<sup>151</sup> V. ȘESAN, *Reflexiuni asupra unificării*, 12. Details on the legislation of the Romanian Orthodox Church at the beginning of the twentieth century see at M. COSTANDACHE, *Măsuri noi de organizare în Biserica Ortodoxă Română la începutul veacului al XX-lea*, 756-766.

<sup>152</sup> L. STAN, *Mitropolitul Nicolae*, 222.

<sup>153</sup> *Ibid.*, 222.

<sup>154</sup> See C. COSTESCU, *Legea și Statutul pentru organizarea Bisericii Ortodoxe Române din 6 mai 1925, Adnotate cu debaterile parlamentare și Jurisprudențele referitoare (Colecțiunea de legiuri bisericești și școlare adnotate, volumul II)*, București 1925.

We use this statute under the abbreviated name “Statutul (1925)” (“The Statute (1925)”), in order to differentiate it from the next one, from 1948.

<sup>155</sup> Cf. *Statutul (1925)*, art. 8.

<sup>156</sup> *Ibid.*, art. 129-131.

not require the bishop's confirmation, as they were self-imposed. If the bishop protested, the case had to be decided by the church congress<sup>157</sup>, a fact which was uncanonical; this situation could lead to the "judgement" of a bishop by a mixed ecclesiastical forum where the bishops did not have a decisive word. Practically, despite these un-canonical formal statutory stipulations, they have never been uncanonically applied.<sup>158</sup>

## VII.6 From "The Organic Statute" to "The Statute" of 1948

The discussions between the representatives of the Orthodox Church of the Romanian reunified provinces, determined especially by the diversity of the historical and ecclesiastical traditions, did not come to an end with the adoption of the unitary legislation of 1925, on the contrary.

Thus, in the inter-war period, the disputes between the upholders of "Şaguna's tradition" and its demolitionists continued. Less than ten years after the unification decreed by the legislation of 1925, the Orthodox Romanians seriously raised the problem of the change of the ecclesiastical legislation. The Central Ecclesiastical Council itself made a project for the modification of the law and statute from 1925, which was presented to the church national congress of October, 1935. There were voices for modification<sup>159</sup> and against it<sup>160</sup>. Among the proposals of the project were: the right of the bishops' synod to dissolve the superior ecclesiastical corporations, if they turn away from the law; the reduction of the number of the mixed church assemblies' members in eparchies and on the patriarchate's level; the elimination of the believers' universal vote by the selection of their deputies in the mixed ecclesiastical corporations; the reinforcement of the hierarchical principle on all levels; the reduction of the disciplinary instances to two instead of three and the recruitment of the judicial

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<sup>157</sup> Ibid., art. 135.

<sup>158</sup> Cf. L. STAN, *Mirenii în biserică*, 237.

<sup>159</sup> See Valerian ŞESAN, *Modificarea Legii și Statutului pentru organizarea Bisericii Ortodoxe Române*, in: *Candela*, XLVI (1935), 117-185.

<sup>160</sup> See Grigorie COMŞA, *Modificarea legii de organizare a Bisericii noastre*, Arad 1932; Valer MOLDOVAN, *Principiile fundamentale ale organizației bisericești de astăzi*, Cluj 1933; Nicolae POPOVICI, *Opinii asupra proiectului de modificare a Legii și Statutului pentru organizarea Bisericii Ortodoxe Române*, Sibiu 1936.

personnel by appointment, not by election.<sup>161</sup> A proposal coming from Czernowitz raised also the problem of changing the ratio between clergymen and laymen: two thirds clergymen and one third laymen.<sup>162</sup> Therefore, the mixed synodality was again a stumbling rock. This was because of the un-canonical stipulations introduced in the statute of 1925, but also the exaggerations and deviations which appeared by its enforcement.

The inter-war discussions on the modification of the church legislation in Romania did not come to a result. After the Second World War, the Romanian Orthodox Church - now with some canonical territories lost<sup>163</sup> - elaborated a new “Statute for the Organization and Functioning of the Romanian Orthodox Church”<sup>164</sup>, completed with a series of regulations which settled all its spheres of activity.<sup>165</sup> Initially, there were elaborated ten regulations which developed the principles of the statute<sup>166</sup>, later in time

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<sup>161</sup> Cf. N. POPOVICI, *Opinii asupra proiectului de modificare*, 5.

<sup>162</sup> Cf. V. ȘESAN, *Modificarea Legii și Statutului pentru organizarea Bisericii Ortodoxe Române*, 126-129.

<sup>163</sup> After the Second World War, Romania lost the north of Bukovina and the whole Bessarabia.

<sup>164</sup> See *Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române*, in: *Legiuirile Bisericii Ortodoxe Române sub Înalt Prea Sfințitul Patriarh Justinian 1948-1953*, București 1953, 5-50.

The last updated edition of the Statute from 1948 together with three regulations was edited by the Romanian Patriarchate in 2003. See *Legiuirile Bisericii Ortodoxe Române - extras*, București 2003.

We use this statute under the abbreviated name “Statutul (1948)” (“The Statute (1948)”), in order to differentiate it from the previous statute of 1925.

<sup>165</sup> The Statute of 1948 together with the first ten regulations, some decisions of the Holy Synod and patriarchal decisions on issues regarding ecclesiastical organization composed the “law code” of the Romanian Orthodox Church after 1949: “*Legiuirile Bisericii Ortodoxe Române sub Înalt Prea Sfințitul Patriarh Justinian 1948-1953*”, 526 pages, București 1953.

<sup>166</sup> The first ten regulations are: 1. The regulation of procedure of the disciplinary and judiciary instances in the Romanian Orthodox Church; 2. The regulation for the organization and functioning of the educational institutions for the instruction of the ecclesiastical personnel and for the recruitment of the Romanian Patriarchate’s teaching staff; 3. The regulation for the determination of the patriarch’s attributions and for the functioning of the central deliberative, administrative and executive authorities in the Romanian Patriarchate: the Holy Synod, the Permanent Synod, the National Ecclesiastical Council, the Patriarchal Administration, the Patriarchal Office and the annexed institutions; 4. The interior regulation of the National Ecclesiastical Assembly of the Romanian Orthodox Church; 5. The regulation for the election, functioning and dissolution of the deliberative and executive authorities in the parishes, protopopiates and eparchies of the Romanian Patriarchate; 6. The regulation for appointing and transferring of the clergy from parishes, the capacity, tenure, promotion and selection exams for the capital, of the deacons and priests in the Romanian Orthodox Church; 7. The regulation for the administration of the ecclesiastical fortune; 8. The regulation for the organization and functioning of the Mutual Aid Fund for the clergy and the ecclesiastical employees in the Romanian Orthodox Church’s eparchies; 9. The regulation for the organization and functioning of the Insurance Fund of the ecclesiastical goods; 10. The regulation for the organization of the monastic life, and for the administrative and disciplinary functioning of the monasteries.

others being added<sup>167</sup> to the firsts.

The new statute came into force on February 23, 1949.<sup>168</sup> It included, beside the general dispositions (art. 1-4 ), four parts: Part I - The organization of the Romanian Orthodox Church (the central organization, art. 8-38; the local organization, art. 39-114); Part II - Dispositions on clergy (art. 115-158); Part III - Institutions annexed to the Romanian Orthodox Church (The Biblical Institute and of Orthodox Mission, The Insurance Fund of the Church Goods, The Mutual Help House of the clergy and the Church wage-earners, art. 159-176); Part IV - Miscellaneous dispositions (the parish cemeteries, the ecclesiastical buildings, the juridical personality, incompatibilities, the right of succession of the hierarchs and monks, the eparchial emblems, art. 168-199). There are also some final and transitory dispositions (art. 200-205).

As the fundamental principles the ones already stipulated in “The Organic Statute” were kept, namely the Church’s autonomy toward the state<sup>169</sup>, and the mixed synodality. Besides these were explicitly added: the principle of autocephaly<sup>170</sup> and - derived from it - the organization of the religious assistance in the Romanian Diaspora<sup>171</sup>. Regarding the Diaspora, we should bear in mind this affirmation: “Because in this domain the last years’ experience did not bear fruit, it has been decided that the religious assistance, the ecclesiastical organization, as well as the sending of leaders for the Orthodox Romanians across the borders should be realized by the Romanian Patriarchate, which should carry out this new mission in accordance with the country’s government.”<sup>172</sup>

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<sup>167</sup> Some of the later regulations are: The interior regulation of the theological institutes’ boarding schools; The regulation for the organization and functioning of the Pension and Aid Fund of the wage earners in the Romanian Orthodox Church; The regulation for the organization and functioning of the parish and monastic cemeteries of the eparchies in the Romanian Orthodox Church.

<sup>168</sup> Cf. Gh. SOARE, *Însemnări asupra noului Statut de organizare*, 65.

<sup>169</sup> Statutul (1948), art 3.

<sup>170</sup> Statutul (1948), art. 2.

<sup>171</sup> Statutul (1948), art. 6.

<sup>172</sup> L. STAN, *Statutul Bisericii Ortodoxe Române*, 648.

Out of the “accordance with the country’s government” have resulted, among others, a schism of the Romanian Orthodox Diaspora of North America which organized itself in two separate bishoprics, as well as many suspicions and distrust between the Orthodox Romanians across the borders, most of whom left Romania after the Second World War because of the Communist régime, whose government now “organized” their religious assistance.

Fortunately, after more than sixty years of separation, the two Romanian bishoprics of North America and Canada started, in July 2008, the process of their reunification under the jurisdiction of the Romanian Patriarchate.

Elaborated during Patriarch Justinian Marina's<sup>173</sup> productive leadership, "The Statute" from 1948 is a work of the best exponents of the Romanian theological school - the golden generation of the Orthodox Romanian theology, educated in the period of the maximum economic, social and cultural development of Romania, between the two world wars. Canonist Liviu Stan - with theological and juridical studies at Europe's prestigious university centres (Czernowitz, Athens, Warsaw, Rome, Munich)<sup>174</sup>, a specialist in the mixed synodality and implicitly in Andrei Şaguna's works through his 1936' doctoral thesis called "The Laymen in the Church"<sup>175</sup> - was the one who precisely transposed Şaguna's canonistical-organizational conception in the new church constitution of the Orthodox Romanians.

But for a realistic and objective evaluation, one cannot evade the historical context of the 1948 statute's elaboration<sup>176</sup>: the very first years of Communism in Romania. Although it was more than well conceived and implemented, "The Statute" can be criticised from a few viewpoints<sup>177</sup>, which rather depended on the social-political context which it was elaborated in, than on the canonical fund.

After 1989, the qualified church authorities, the Holy Synod of the Romanian Orthodox Church and the Church National Assembly, amended and reformulated some articles of "The Statute" and other regulations. The amendments, imposed by the new political-social context of the post-Communist Romania, hinted especially at the elimination of the stipulations which implied the presence of some state authorities in the Church's life and activity, of the ones which restricted the Church mission, of some incongruities regarding the names of the eparchies.<sup>178</sup>

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<sup>173</sup> Justinian Marina (born Ioan Marina), was the third patriarch of the Romanian Orthodox Church between 1948 and 1977. Despite many difficulties and some controversial or disputed actions, during the twenty-nine years of Patriarch Justinian's leadership a series of important events and changes took place, which greatly raised the prestige of the Romanian Orthodoxy in the Christian world and made him a representative figure for the entire Orthodox Church.

<sup>174</sup> Cf. S. JOANTĂ, *Contribuția Pr. Prof. Dr. Liviu Stan la dezvoltarea dreptului bisericesc*, 4-5.

<sup>175</sup> See Liviu STAN, *Mirenii în biserică. Importanța elementului mirean în Biserică și participarea lui la exercitarea puterii bisericești*, Sibiu 1939.

<sup>176</sup> Cf. L. STAN, *Statutul Bisericii Ortodoxe Române*, 638-641.

<sup>177</sup> Something on this subject at M. STAN, *Die Rumänisch-Orthodoxe Kirchenverfassung und ihre ekklesiologischen Grundlagen*, 95-110.

<sup>178</sup> Cf. C. PÎRVU, *Organizarea și dezvoltarea Bisericii Ortodoxe Române în spiritul autonomiei și autocefaliei*, 27. See also Alexandru ARMAND-MUNTEANU, *Compendiu alfabetic și tematic din Hotărârile Sfântului Sinod al Bisericii Ortodoxe Române (1986-2001)*, Constanța 2003.

Finally, following long-years debates on this issue, a new organizational law of the Romanian Orthodox Church was agreed by the members of the Holy Synod at the end of 2007. With the beginning of the year 2008, Romania has a new “Statute for the Organization and Functioning of the Romanian Orthodox Church”<sup>179</sup>, an improved form of that of 1948.<sup>180</sup>

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<sup>179</sup> See Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române, București 2008.

<sup>180</sup> Due to the complexity and dimensions of this dissertation it was impossible for us to approach in detail the current Orthodox Church’s organization of Romania - a heritage from Metropolitan Andrei Șaguna.

## VIII. CONCLUSIONS AND PERSPECTIVES

This chapter includes the basic conclusions we have dropped as a final result of the research on Andrei Şaguna's life, political activity, canonistical works and ecclesiastical-organizational activity. It also tries to draft some hallmarks for the present religious law and canon law.

### VIII.1 Formal results of the research

One of the first visible, formal results of the present research is its somewhat unusual dimension and complex structure. It is so because of some topics which in the beginning was not previewed to be so long treated, but during the work it became useful to do.

Firstly, for an objective, right presentation of Andrei Şaguna's person, political activity and canonistical works, but also taking into account the actual European context, it was not without importance to outline the Transylvanian social-political and religious configuration in the modern times and to show the fact that Transylvania developed still at the end of the sixteenth century the first state-legally embodied religious tolerance in Europe, four Christian denominations being recognized by law. But it was not without meaning too, to underline the fact that even the Orthodox Romanians - the majority in the principality - were excluded more than three hundred and fifty years from any political or religious right, out of ethnic and religious criteria.

Secondly, it followed an extensive presentation of Andrei Şaguna's biography as well as of him as a canonist.

In the first part of the thesis some points of Andrei Şaguna's biography became a special, quite long place, being clarified by sometimes *in extenso* cited documents, for to counteract and clear misapprehensions that circulated during the time and are still used by some scholars, or for to point out too little known aspects of Andrei Şaguna's personality.



One of the clarified things is Andrei Şaguna's Orthodox confession. Baptised Orthodox shortly after his birth, the child Anastasie together with his brother and sister had to convert to Roman Catholicism because of the conversion of his father, according to the laws which regulated the conversions in the Austrian Monarchy, favourable to the Catholic Church. It followed the struggles of the Orthodox mother for the right to educate her children and the difficult reversion of the children to Orthodoxy.

Another clarified thing is Andrei Şaguna's understanding of his identity, nationality. Rooted in an Orthodox Macedo-Romanian family with strong affiliation to their own religious and ethnic traditions, born and grown up in Hungary and consequently, having Hungarian citizenship, educated in Catholic schools, living more than a decade among the Orthodox Serbians of the Austrian Monarchy, and finally becoming the religious leader of the Orthodox Transylvanian Romanians, the metropolitan understood himself just as a Romanian, considering the Romanian language his mother tongue and the Romanians his people. In spite of this understanding, or even because of his cosmopolitanism, he was in no case a nationalist, but a promoter of the individuality of each people, religion and culture within Austrian Monarchy, in equality and respect for law. In actual language, one can describe Andrei Şaguna as an example of European Romanian.

It was also underlined, especially by original quotations from his political petitions and speeches, a little known side of Andrei Şaguna's personality, that of a gifted lawyer.

The second part of the thesis, apart from the presentation of Andrei Şaguna's canonical works and thinking in the context of the Orthodox doctrine and Tradition, of the historical time in which he lived, and of the entire political and ecclesiastical European context in the second part of the nineteenth century, tried to find and describe all the canon law topics which are present in the works of the metropolitan, because during the time he was analysed almost only as a promoter of the ecclesiastical constitutionalism.

Such issues as the theological foundation of the Orthodox canon law, the relationship Church - state in Andrei Şaguna's conception, and the Orthodox ecclesiology reflected in Andrei Şaguna's canonical works and ecclesiastical-organizational activity are extensively presented, because of their importance.

Then, it was clarified the synodal principle and particularly the principle of church constitutionalism as expressed in Andrei Şaguna's ecclesiastical organization. The

criticisms, denials and misunderstandings of Andrei Şaguna's canonical-organizational activity are presented as well. The participation of the laymen in exercising the Church power, officially restored in the Orthodox Transylvanian Metropolitanate by "The Organic Statute" of 1868, seems nowadays something natural both for the Orthodox and Catholic Churches, but it was described nearly one century, up to the Second Vatican Council, as Andrei Şaguna's "Protestant innovation" introduced in the Orthodox Church. While in Romania the critics of Andrei Şaguna are still long successfully defended by the canonist Liviu Stan, on abroad Andrei Şaguna was quickly and long time especially by the Catholic canonists criticised, but by nobody defended, even after the Second Vatican Council itself promoted a more active participation of the laymen in the Church's life. We considered a moral restoration of Andrei Şaguna's memory to comprise in the present work both the foreign and Romanian critics and to show their shallowness or tendentious intention.

## **VIII.2 Andrei Şaguna - a bishop, canonist and ecclesiastical organizer who had to struggle personally for the legal rights of his Church**

### VIII.2.1 Andrei Şaguna - a priest and bishop by call

During the second half of the twentieth century, the sacerdotal dimension of Andrei Şaguna's personality was quite ignored, too little emphasized.<sup>1</sup> Along the last sixty years Andrei Şaguna as a bishop and canonist was surpassed in the scientific researches by the politician Andrei Şaguna. Although, primarily and basically he was a bishop, only secondarily and subsidiarily he was a politician, not one in the proper sense of the word. Moreover, by his writings and especially by his concrete activity Andrei Şaguna revived the episcopal ministry and laid it on the primary foundations of the Church's Tradition. In an age of clericalism, of the First Vatican Council in the Western Church,

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<sup>1</sup> In this respect, it is worth to be mentioned a very recent contribution: Mihai IOSU, Mitropolitul Andrei Şaguna - Arhipăstorul, in: Mitropolitul Andrei Şaguna - creator de epocă în istoria Bisericii Ortodoxe din Transilvania, Sibiu 2008, 318-327.

but also of some abuses and disorders in the Church of the East<sup>2</sup>, Andrei Şaguna displayed his ministry in the true spirit of the Gospel, serving the faithful in love, not wishing to dominate. *“And thus, I have sometimes worked alone to accomplish our ecclesiastical wish, as canons dictated me, but not to introduce and establish any hierarch’s absolutism, which I have always opposed to ...”*<sup>3</sup>

His sacerdotal quality as a priest and then bishop is the main premise of both his ecclesiastical and social activities. Metropolitan Nicolae Bălan of Transylvania (1920-1955) - Andrei Şaguna’s truthful successor - noticed persuasively: “Şaguna was above all a priest. Not a theologian, a man belonging to school, or a man of public life, but first of all he was a character of a priest, fully shaped on the foundation of the Gospel. Out of the clear and deep consciousness of this divine mission sprang the wealth of great deeds, which - from his place as a priest of the Church - he shed over the Romanian people. This consciousness was the core of his personality; and who does not see this centre of light in his soul, cannot see the rays he sent everywhere.”<sup>4</sup>

From serving the altar he took the force to serve his fellow men: “As a priest Şaguna was a model of piety. Those, who met him personally, those, who had the opportunity to see him celebrating a Holy Liturgy say that his reverence, piety, and majestic tenure when he appeared in the front of the altar made an unforgettable impression. His pastoral letters present him the same way: a priest who believes in his ministry; a priest

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<sup>2</sup> “As far as the position of the Church of the Principalities [Moldavia and Wallachia] is concerned, this was showed by the obligations and especially the rights they have been honoured by. The high ranked leaders of the Church, the hierarchs, kept for themselves most of the obligations and especially of the rights of the Church. They were considered the princes’ main advisors and held the main offices in the country’s councils or assemblies. By their involvement in a series of responsibilities - basically strange from their ecclesiastical concerns - they strengthened even more their position and, indirectly, the Church’s position within the state. Also, the hierarchy and the Church, in general, enjoyed a very attractive material standard. The monasteries, the bishoprics, the bishops themselves had important properties and material rights, which they used according to their own wish.” C. DRĂGUŞIN, *Legile bisericeşti ale lui Cuza Vodă*, 87.

One may not forget the caesaropapist system introduced at the beginning of the eighteenth century by the Tsar Peter the Great in the Russian Orthodox Church, later adopted by the Church of Greece too. As for the Patriarchate of Constantinople, there the millet system introduced by the Ottomans after 1453 was also not the most canonical one.

<sup>3</sup> *Protocolul Congresului Naţional Bisericesc... 1868*, 4 et seqq.

<sup>4</sup> N. BĂLAN, *Despre Mitropolitul Andreiu Şaguna*, 5.

endowed with a deep sense of responsibility; a priest with an intact spirit, who knows how to kneel and pray.”<sup>5</sup>

The metropolitan himself was conscious of his call: *“I hope that Your Highness, who have known me for more than thirty years and have known my life, you won’t doubt the truth that my character suits my call.”*<sup>6</sup> Just because he knew, followed and accomplished his call, Andrei Șaguna succeeded in imposing another social perception on the Orthodox bishop: *“He was a well known personality at Vienna, well seen in the highest circles from there. Very often, when he went out for a walk the Viennese stopped and looked at him with pleasure, some greeted him, others mentioned his name by their accent ‘Zaguna’ and hearing them he bowed his head smiling.”*<sup>7</sup>

Under the most different circumstances, Andrei Șaguna had always in his soul the image of his fundamental mission, that of shepherd of souls. He bore in his heart the ideal of redeeming the people whose bishop he was. The feeling of loving and responsible sacrifice toward the clergy and faithful mastered him since the beginning of his episcopal ministry: *“I feel I know the size and weight of my episcopal call, and I do my best to accomplish it; I feel in my heart overwhelmed with sorrow for one thing only, namely that the circumstances and my force do not let me do as much as I would like to do for my clergy and faithful.”*<sup>8</sup> The Orthodox understanding of the bishop as “the bridegroom of the Church” was assumed and lived by Andrei Șaguna at high pitch: *“I live for the Church only, for my call and there is not any moment to think of something else but the welfare of our Orthodoxy ... ”*<sup>9</sup>

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<sup>5</sup> Gh. TULBURE, *Mitropolitul Șaguna*, 75-76.

<sup>6</sup> “Andrei Șaguna către Emanuil Gojdu” (“Andrei Șaguna to Emanuil Gojdu”), dated Sibiu, April 29/May 11, 1861, in: A. ȘAGUNA, *Corespondența I/1*, 338-346 here 339.

<sup>7</sup> N. POPEA, *Archiepiscopul și Mitropolitul*, 348-349.

<sup>8</sup> Andrei Șaguna’s circular letter No. 115/1858, in: Gh. TULBURE, *Mitropolitul Șaguna*, 432-433.

<sup>9</sup> “A.B.M. 2591”, Bishop Andrei Șaguna’s letter to Metropolitan Josip Rajačić, dated Sibiu, November 13, 1857, in: T. BODOGAE, *Un capitol din istoria relațiilor culturale sârbo-române*, 546-547 here 546. Cf. also A. ȘAGUNA, *Corespondența I/2*, 140-141 here 140.

## VIII.2.2 The premises of Andrei Şaguna's involvement in politics

The politician Andrei Şaguna was not identical with the outstanding Transylvanian intellectual politicians of his time, whose majority was Greek Catholic, first of all because the very basics of their politics were considerably different.<sup>10</sup> If for the intellectuals politics was almost a profession, a way of life, for the bishop it was an additional responsibility of his ministry in the Eparchy of Transylvania. After his researches on Andrei Şaguna's political activity, Keith Hitchins concluded: "Şaguna was, in fact, not primarily interested in politics as a career or in achieving purely political goals. Nor, it must be said, was he a particularly creative political leader. Although he was certainly the major figure in Rumanian political life of his time, he conducted the affairs of the nation in accordance with the traditional ways of his Orthodox and Uniate predecessors. He did not, for example, try to organize a regular political party and he seems even to have shunned the practice of politics as divisive and inefficacious. [...] He preferred to think in terms of spiritual and moral values rather than political parties and ideologies."<sup>11</sup>

**Objectively, the social-political responsibilities of both the Greek Catholic and Orthodox bishops of Transylvania were a tradition developed at the end of the eighteenth century.** As the involvement in politics of the Serbian Orthodox leaders in the Habsburg Monarchy was decreed by the "Illyrian Privileges", all the more the Romanian ones, who lacked political representatives of their nation, had come in the nineteenth century to take over political assignments, above all in cases of social disturbances, on behalf of the faithful who were in their subordination.

**Subjectively,** Andrei Şaguna's political activity had **many arguments**. The **first** of them was **the necessity to outline his Church a legal framework** that other four confessions in Transylvania had consolidated in the last three hundred and fifty years.

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<sup>10</sup> This difference did not prevent Andrei Şaguna from cooperating well with the intellectuals, politicians of his time, especially when he was invested by the people to represent them, together with the above named. See in this respect "Scrisori dela mitropolitulu Andreiu br. de Siaguna cu incepere din an. 1847 si cateva dela fostii sei secretari adresate lui Georgie Baritiu" ("Metropolitan Andrei Şaguna's letters since 1847, and some letters of his former secretaries, to George Bariţiu"), in: G. BARITIU, *Parti alese din istori`a Transilvaniei*, 564-588.

<sup>11</sup> K. HITCHINS, *Orthodoxy and Nationality*, 283.

The legal recognition of the Orthodox Church was *condicio sine qua non* for its organization on canonical principles, in a modern society. This necessity had to be included in the bishop's agenda - as he was the official representative of that Church - and the situation had to be improved as a basically political act. As Andrei Şaguna personally confessed to the Austrian minister of the interior during the beginning years of his ministry in Transylvania, the political approach was a zero priority, in order he could hope to accomplish the Church's mission of his eparchy: "*It appears necessary, that the existence of the Church should be ensured first of all from the political perspective, so that it would fully dedicate itself to the accomplishment of its high objective ...*"<sup>12</sup>

The stormy changes in the Austrian Empire in the second half of the nineteenth century had a great impact on the ecclesiastical life in Transylvania too, sometimes disturbing it. So, when in the end, on December 24, 1864, Vienna had legally reactivated the Orthodox Metropolitanate of Transylvania and Metropolitan Andrei Şaguna could deal with its organization on canonical bases, the resignation of the State Minister Anton von Schmerling came up, followed by the moving of the political-administrative centre of the principality from Vienna to Budapest, through the Dualism of 1867. The legal documents issued by the Transylvanian Diet of Sibiu in 1863-1864 were all annulled, inclusive the Article of Law of 1863, by which the Romanian nation and its confessions, the Greek Eastern (Orthodox) and Greek Catholic Churches, were recognized as equal with the other nations and confessions of the country. The plan to organize the Metropolitanate was in danger so long it was not legally recognized by the new state. A provident spirit, Metropolitan Andrei Şaguna was once more obliged to get involved in the political affairs, because only in this way he could hope to create a proper church organization, after the definite legal recognition of the Metropolitanate.

**Second, the disastrous situation of the Transylvanian Orthodox Church itself was a consequence not only of the ethnic-confessional society with no room for the Romanians, as legalized in Transylvania in the sixteenth century, but also of the**

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<sup>12</sup> "Propunerile episcopului Şaguna prezentate ministrului pentru conferinţele episcopesci dela Viena" ("Bishop Şaguna's suggestions presented to the minister for the bishops' conferences of Vienna"), November 16, 1850, in: II. PUŞCARIU, *Metropolia, colecţia de acte, 73-87* here 75: "Es erscheint also als höchst nothwendig, dass vorerst politischerseits die Existenz der Kirche gesichert werde, damit sie dann sich mit allen Kräften der Erreichung ihres hohen Zieles widme ..."

**brutal interference of the political power in the religious sphere**, through the intention of the Viennese Court to annihilate the Orthodoxy in Transylvania, in the seventeenth and eighteenth centuries, **by the encouraged and sustained church Union** with Rome. The coming back to a normal status of Orthodoxy might have been carried out by the political power too. As this power should be convinced to do something, no one could better get involved and convince to solve the problems of a confession which a great injustice had been done to, than the ecclesiastical officials themselves. An energetic person like Andrei Şaguna could not wait for anybody else's involvement in this respect, the more that the Orthodox Romanians had any political representatives at the time; he had no other way but to get involved personally.

**Third, the poor condition of the Romanian Orthodox**, on the one hand as a distinct religious community yet not legally recognized, on the other hand as individuals belonging to an oppressed nation which was not recognized either, **could not be a matter of indifference for the ecclesiastical leadership**. To provide corporate rights for the Orthodox Church was a bishop's natural main concern<sup>13</sup>, but he could not omit the political rights of a nation which identified itself with this Church, although not entirely. This was the more so, since all these rights had been denied simultaneously the Romanian Orthodox people of Transylvania, at the beginning of the sixteenth century. It was also necessary that the state become receptive, so that the Church could accomplish its social-philanthropic mission. The abolishment of the serfdom, the legal granting of the Orthodox people's religious rights, a new Constitution of Transylvania which would provide the right public responsibilities and taxes, all this supposed approaches to the legal institutions of the time. Furthermore, to offer material and moral prosperity to the faithful in the modern age could not be accomplished by the Church by its own resources, which in the case of the Orthodox Church of Transylvania did not really exist, but the financial state support was a pre-requisite. And this did not occur by itself. Thus, "in spite of the opinions of many of his contemporaries and the subsequent judgments of scholars, who regarded him first and foremost as the consummate

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<sup>13</sup> "Şaguna has the merit to have turned the Orthodox Church of Transylvania into a lawful institution, determining its right place in the state life." Gh. TULBURE, *Activitatea literară*, III.

politician, he engaged in the art not to fulfill political ambitions but primarily to assure the welfare of the Orthodox Church and its faithful.”<sup>14</sup>

Not in the least, **his status as a lawyer and theologian defined the Bishop Andrei Şaguna as an unusual ecclesiastical personality; he was deeply convinced of the necessity of law and order in the social life, as well as within Church:** “*I have not waited for our rightful statute to come out of somebody’s pity, but out of the law.*”<sup>15</sup> The legal process of renewal, a political act so necessary to a society frozen in feudal laws, took its benefits from Andrei Şaguna, who participated responsibly and was fully aware to it. Although his goal was not getting involved in politics “his special features imposed him as a leader. A tactful diplomat, a polished, cultural perfectly balanced spirit, ready for both abstract speculations and positive actions, [...] he brought along a new psychological element on the line of impetuous and courageous daring, a revolutionary and conspiring temperament, an atavistic relic of Macedonia’s turbulent soul. Endowed with a multiple and rich personality, Şaguna became the guide of our political destinies in Transylvania.”<sup>16</sup>

Finally, “**he had more political sense than many of his contemporaries:** he has always detested the policy of passivity and his opinion turned out, decades after his death, as the only true and proper one.”<sup>17</sup> Although he avoided politics, once he was involved in it Andrei Şaguna had an efficient work taking advantage - in a just, moral, honest way - of each situation, in order to obtain for the Romanians everything that could be obtained. He was not stoutly tied neither by the autonomy of Transylvania, when it was lost, nor by the national autonomy, when the evolution of monarchy went over it, just like that, nor by the Diet of Sibiu, when it drowned in the tumult of events, neither did he deny the Diet of Budapest. He knew so well that all these were problems whose solution did not pertain to his competences and power. That is why all these changes were almost indifferent to him, his main thought was to wake and fortify his people and Church, in order to survive.<sup>18</sup>

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<sup>14</sup> K. HITCHINS, *Orthodoxy and Nationality*, 278.

<sup>15</sup> A. ŞAGUNA, *Memorii*, 54.

<sup>16</sup> O. GOGA, *Discurs*, 23.

<sup>17</sup> R. CÂNDEA, *Andreiu Şaguna*, 188.

<sup>18</sup> Cf. V. BRANISCE, *Andrei, Baron de Şaguna*, 18-19.



His political vision, as well as the sincerity and morality of all the actions he did, brought Andrei Şaguna the Emperor Francis Joseph's respect: "We might say that no Romanian, before and after him, until today - as we know the past - has ever enjoyed so much imperial grace, or acquired so high state offices as Metropolitan Şaguna has!"<sup>19</sup>

We should not forget **an essential fact**, namely that **Andrei Şaguna was not a politician in the genuine sense**; he never had a political doctrine or a political party. He believed in the independent function of the Church, as a category separated from state or nation as a politically constituted body.<sup>20</sup>

**Basically, his deeds and endeavours on the political scene were aimed at accomplishing a threefold ecclesiastical objective:** first, the emancipation of the Romanian Orthodox Church of Transylvania by its recognition as a Church having equal rights with the other recognized confessions - **corporate religious rights within the state for the Romanian Orthodox Church of Transylvania** -; second, the acquisition of the **autonomy of the Orthodox Romanian hierarchy from the Serbian one**, by the reestablishment of the Transylvanian Metropolitanate; third, the **organization of the Transylvanian Metropolitanate in accordance with the canonical provisions and the primary Christian institutions.**

### VIII.2.3 The principles of Andrei Şaguna's political involvement

The intransigent **morality** and the **illuminating patriotism** were the guiding principles in metropolitan's political activity. His involvement in politics did not mean at all to take upon himself the political nationalistic ideals of the lay intellectuals of his time: "*Generally speaking, I can see that it is not right to mix ecclesiastical and educational with national matters, as they are distinct. So we have to discern between them, as their mixture might bring about damages and harm that we could hardly mend.*"<sup>21</sup>

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<sup>19</sup> N. POPEA, *Archiepiscopul și Metropolitul*, 337.

<sup>20</sup> Cf. P. TEODOR, Preface at K. HITCHINS, *Ortodoxie și naționalitate*, 11.

<sup>21</sup> "Andrei Şaguna către Emanuil Gojdu" ("Andrei Şaguna to Emanuil Gojdu"), dated Sibiu, April 29/May 11, 1861, in: A. ŞAGUNA, *Correspondența I/1*, 338-346 here 344.

Within the context of the nationalistic politics which dominated Transylvania in his time, “his own policy was to foster understanding and confidence among all the peoples of Transylvania, so that they might settle their differences through reason, rather than violence.”<sup>22</sup> Within the general context of the Austrian Monarchy, his “nationalism” “was not of the emotional variety that made the nation or Volk the be-all and end-all of human endeavors and set it up as a law unto itself; he was too cosmopolitan and too rational to indulge in such fantasies.”<sup>23</sup>

Although there is even the opinion that, in fact, Andrei Şaguna did not have the ecclesiastical autonomy as an objective, but the creation within the Church’s autonomy and constitution of the necessary conditions which had to lead to the flourishing of the national life, and consequently, he subordinated the Church and its organization to his nationalistic views<sup>24</sup>, yet, recent studies, especially those of Keith Hitchins, deny this theory. Deeply rooted in the genuine, traditional Orthodoxy the bishop saw and faced the danger of nationalism, first of all within the Orthodox Church, for which the nineteenth century was one of the nationalism drawn to the extreme. All the more, he avoided the trap of the nationalism in politics, seeing the danger of the Magyar, Serbian, Romanian, Saxon nationalism within the Austrian Monarchy and that is why he had always controversies with the Romanian ideologists of the nationalism of that time, such as Simeon Bărnuţiu.

As compared to the lay intellectuals, who would have liked that the Church get involved in supporting their nationalistic desiderata, Andrei Şaguna on the contrary, tried to **keep the Church away from partisan political strife**.<sup>25</sup> He wrote to the faithful of his eparchy, in 1863: “*As until now, so you should do in the future, that is to say discuss only religious and scholastic issues in the parish and protopopiate synods and personally take care that no political issue be introduced in such church synods, but always be alert to the nature and distinction of religious or scholastic matters from the clearly political ones. [...] Likewise the local rectors are obliged to personally take care of the discussion of clearly religious or scholastic issues only, during the parish*

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<sup>22</sup> K. HITCHINS, *Orthodoxy and Nationality*, 53.

<sup>23</sup> *Ibid.*, 175.

<sup>24</sup> See Gh. TULBURE, *Activitatea literară*, III-IV and 13-16.

<sup>25</sup> Cf. K. HITCHINS, *Orthodoxy and Nationality*, 175.

*synods; seeing that the members of such synods bring in discussion political matters, they should disperse the parish synods and promptly notify such an event to the protopopiate see ...*<sup>26</sup>

The steadiness concerning the **non-involvement of politics or ideologies into religion** was one of his constant strategies, till the end of his life: “[...] *... serving the altar, growing old in this call and wishing to correspond and honour it, I have so many concerns and official occupations, that I do not have time to deal with worldly things and even if sometimes I take part in some of them, I do this especially on the faithful’ request, so that, on the one hand the worldly things do not influence Church’s matters to the detriment of religion and its inner peace, and on the other hand, in such situations to be preached the morality, without which no society can succeed in solving the social problem, to the contentment of the righteous requests of modern times.*”<sup>27</sup>

In addition to morality, patriotism, and separation politics-religion, we should add Andrei Şaguna’s **dynastic loyalty**, easy to explain because he had to fight in Transylvania on several fronts and the elements of Transylvania’s public life - the privileged of the old feudal constitution - often laid obstacles on his way, which he could eventually remove only with the emperor’s help. A good connoisseur of the history, Andrei Şaguna settled a strategy as realistic as possible toward the Viennese Court. Taking into account that the Tsarist Empire was the principal rival of the Habsburg Monarchy in the Eastern European area, it was natural that Vienna was cautious and even suspicious toward the Orthodox of Transylvania, close to Russian Orthodox, with whom - in the view of Court - they could ally any time against it. Under the circumstances, the bishop chose a constant loyalty toward the monarchy, the only one which could eliminate suspicion and implicitly determine Vienna to support the Romanians’ emancipation. He stayed loyal to the House of Habsburg during the long fight, because he considered that the Romanians, with their poor resources and experience, could get rid of Magyarization and could accomplish their aspirations only

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<sup>26</sup> Andrei Şaguna’s circular letter No. 134/1863, in: Gh. TULBURE, Mitropolitul Şaguna, 333-335 here 334-335.

<sup>27</sup> “Andrei Şaguna către Emanuil Gojdu” (“Andrei Şaguna to Emanuil Gojdu”), dated Sibiu, April 29/May 11, 1861, in: A. ŞAGUNA, Corespondența I/1, 338-346 here 339.

supported by the Habsburgs. He also used his considerable influence in order to fight against them who wanted to abandon the Romanians' dependence on Austria.<sup>28</sup>

Thus, between two possible attitudes toward the Court: loyalty and insistent diplomatic struggle for the cause of his Church and nation, or opposition and plain war for the same cause with almost nonexistent means, Bishop Andrei Şaguna chose the first one - with highest results as the time later showed.

The fact that he was first of all not a political fighter with inflexible nationalistic targets, but a bishop who served the Church<sup>29</sup>, was not forgiven by the intellectuals of his time, even by some of those who judged him after his death. He was not forgiven for his pro-monarchic political attitude either.

#### VIII.2.4 The “originality” of Andrei Şaguna’s ecclesiastical organization

**The ecclesiastical organization conceived by Andrei Şaguna - definitely based on the Orthodox ecclesiology - can be regarded neither as a Protestant innovation nor as a result of the liberal ideas of that time, but only as a revival of the primary Church’s tradition without transgressing the Orthodox canonical frame.**

If Andrei Şaguna composed **a church constitution containing a mark of originality**, which during his lifetime did not exist in the Orthodox Church, its boldness **springs from the author’s doctrine on the mobility of the disciplinary canons** “performed of course in the spirit of the original Christianity”<sup>30</sup>.

Assessing the organization of the Transylvanian Orthodox Church, one should not forget to mention Andrei Şaguna’s conception on canons. He thoroughly dwelt on the problem of **canons** in his works, unreservedly recognizing their authority **as a constitutive part of the Church, quite similar to the word of God**: “*Deswegen*

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<sup>28</sup> Cf. K. HITCHINS, Andrei Şaguna și românii din Transilvania în timpul decadei absolutiste, 30.

<sup>29</sup> “Şaguna agiert primär als Bischof für die orthodoxe Kirche und nur dann und solange es der orthodoxen Kirche und den Gläubigen dient, für die sozial-politischen Interessen der Rumänen in Siebenbürgen eintritt.” J. SCHNEIDER, Der Hermannstädter Metropolit, 3.

<sup>30</sup> I. MATEIU, Contribuțiuni la istoria dreptului bisericesc, 194.

lehren wir [...] daß der Mittelpunkt der Kirche auf Erden die Heilige Schrift und der allgemeine Kanonen-Codex ist, welche das allgemeine öffentliche Kirchenrecht enthalten, und daß der Mittelpunkt der Kirche auf Erden, durch keinen Oberhirten repräsentiert werden kann, denn er ist geistig, sondern er kann nur durch eine ökumenische aus Oberhirten, Priestern und Laien bestehende Synode unter dem geistigen Oberhaupte, welcher Christus ist, repräsentiert werden.”<sup>31</sup> However, Andrei Şaguna did not irrationally understand the canons; on the contrary, he had a balanced and justified opinion regarding their value, which was derived from the object the canon legislates upon. He distinguished the dogmatic and moral canons from the ones regarding the ecclesiastical discipline, dividing them in two categories: dogmatic and disciplinary. The first category - the dogmatic - “stays unchanged and unharmed forever”<sup>32</sup>. As for the disciplinary canons, he opined that “they can be changed, but only to the extent that a disciplinary canon should be adapted to the local conditions, but carefully, so that not to harm the original intention of the canon, given to it by the Holy Fathers who made it.”<sup>33</sup> The theory of relativity of the disciplinary canons is of great importance, because it offers, principally, the explanation and the justification of the ecclesiastical organization conceived by Andrei Şaguna.<sup>34</sup>

The manual “The Elements of Canon Law” contains the following important explanation: “Regarding the confession of the creed and the article of faith, there can be no difference in the Church of Christ, for He is only one; but the ecclesiastical discipline can differ, subsequent to the time period and conditions, namely if these conditions are related to the Church as a whole or only to a part of it. Because what is not against the dogmas, that can be used from any local Church, when the external conditions urge it. So, if the unity of the creed and dogmas is unharmed and the limbs of the Universal Church remain in the same faith and share the Holy Ghost, then the

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<sup>31</sup> A. Freiherr von SCHAGUNA, Compendium, 92; A. Baronu de SIAGUN’A, Compendiu, 95.

<sup>32</sup> Actele Soboarelor...1850 și 1860, 80.

<sup>33</sup> Ibid., 80.

<sup>34</sup> The above-mentioned conception of Andrei Şaguna on canons could easy counteract affirmation like: “Das Kirchenrecht wird letzten Endes von der orthodoxen Theologie nicht als mittragendes Element der kirchlichen heilbringenden Wahrheit betrachtet, sondern allein als eine kirchlich-soziale Überstruktur, die im Namen einer eigentlich auf dem Bereich des Dogmas liegenden Wahrheit immer wieder überholt werden kann. In der kirchlichen Rechtsetzung wird nicht wie im lateinischen Kirchenrecht der Versuch unternommen, die Wahrheit der Lehre institutionell festzuhalten, damit eine unbedingte Übereinstimmung zwischen Dogma und Recht entsteht.” E. CORECCO, Ordinatio Fidei, 7.

*ecclesiastical discipline can differ from one part or period to another; because this does not alter the unity of faith. Consequently, the disciplinary canons of the local Churches can be different.*"<sup>35</sup>

The people who disputed the canonicity of Andrei Şaguna's ecclesiastical organization evaded the difference mentioned above, between the dogmatic and disciplinary canons, relying either on a strictly formal understanding of canons, without catching the meaning and context of their elaboration, or on the biased interpretation of historical facts or even of the metropolitan's theoretical and practical work. One should also bear in mind the fact that in Orthodoxy "almost all official dogmatic definitions have been brought about by heresies, and these definitions were limited only to the disputed dogmas, without defining the others in a complete system and connecting them with all the dogmatic consequences and the related dogmas; all the same, its laws of organization and administration appeared progressively, in accordance with the necessities and circumstances, being limited to filling the blanks left behind by the passage of time. The Church has never undertaken a complete and final work of legislation."<sup>36</sup>

As it was shown, the "Project of Regulation" - Andrei Şaguna's work - cannot be, by any means, suspected of lack of canonicity.<sup>37</sup> One cannot say the same about "The Organic Statute" - the work of the church congress of 1868, with changes made by the Hungarian Ministry of Public Worship. However, with all its gaps or "derailments" from Şaguna's initial project, "The Organic Statute" meant a major progress concerning the organization of the Orthodox Church at that time.

**Andrei Şaguna's canonical-organizational doctrine** can be summarized as it follows: **the Orthodox Church can only have a synodal constitution, based on the principle of hierarchical leadership, with the participation of the lay people in the executive function.**

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<sup>35</sup> A. Baronu de ŞAGUNA, *Elementele dreptului canonic*, 21855, 24-25.

<sup>36</sup> L. STAN, *Mirenii în biserică*, 314.

<sup>37</sup> See the chapters V.2 and V.3 herein.

One can find Andrei Şaguna's special merit in the way he knew how to legislate the rights of the clergy and the people within the framework of the Church leading power.<sup>38</sup> He respected the Orthodox canonical principle according to which the Church power in its entirety (teaching, holifying and leading power) belongs to the hierarchy, the laymen's involvement being limited at the leading power.

Only the hierarchy as a synod can exercise unrestricted the leading power.<sup>39</sup> The highest manifestation of the leading power - the legislative function - was given by Andrei Şaguna only to the hierarchy. The second manifestation of the leading power - the judicial function - was also assigned to the hierarchy or clergy, namely to the protopopes, bishops, the local Synods and the Ecumenical Councils.<sup>40</sup> Finally, the third and last manifestation of the leading power in the Church - the executive function - does not belong exclusively to the hierarchy and clergy anymore, but also to the believers, who can exercise it. Only in this aspect of the leading power did Andrei Şaguna accept the collaboration of the clergy, the hierarchy, with the lay people.

Respecting the Orthodox Church's hierarchical-synodal character, according to which any mixed synod around the bishop or the episcopacy must be considered a consultative forum, not a decisive one, **Andrei Şaguna "added to it [the hierarchical-synodal character] a correction, or a completion."**<sup>41</sup> Şaguna's correction which was added to the hierarchical-synodal principle is that **the decisions of the mixed ecclesiastical synods are not limited exclusively to a consultative character. They can have a decisive character, on condition they are not un-canonical and correspond to the interests of the Church.** What is more, the hierarchy cannot simply reject a decision of a mixed ecclesiastical synod, without giving reasons for its attitude.

In essence, it is about making the members of the ecclesial body more responsible: both the hierarchy - which is not allowed to take groundless decisions -, and the believers - who are encouraged to involve themselves actively in finding canonical solutions for the problems of the Church, specific to each historical period.

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<sup>38</sup> Cf. I. MATEIU, *Contribuții la istoria dreptului bisericesc*, 199.

<sup>39</sup> Cf. A. Baronu de SIAGUN`A, *Compendiu*, 293.

<sup>40</sup> Cf. A. Baronu de ŞAGUNA, *Elementele dreptului canonic*, 21855, 172-174; A. Baronu de SIAGUN`A, *Compendiu*, 399-413.

<sup>41</sup> L. STAN, *Mirenii în biserică*, 198.

In this way, **the church constitution of the Transylvanian Orthodox Church** “**respected the hierarchical-synodal principle**, which imposes a consultative character to the decisions of the mixed synods, **but it also abolished the episcopal absolutism which was supported by this principle**, too narrowly understood and far too exclusively applied. [...] it was imposed the welfare of the Church above all narrow canonical dispositions, which were even more superficially interpreted by a cluster of retrograde ‘canonists’, both Romanian and foreigners.”<sup>42</sup>

What is and will always remain **decisive in Şaguna’s regulation of the participation of the laymen in exercising the Church power is the avoiding of any possible extremes in this case: the exaggerate and not well-regulated participation of the laymen**, which consequently can lead to the secularization of the Church up to the point that it becomes alike any other civil society, by erasing the charismatic and christocratic character, by replacing the hierarchical-synodal system with the lay, democratic one, where the power emanates from the people; **or the total exclusion of any participation of the laymen in exercising the Church power**, the replacement of the hierarchical-synodal character of the Church with an absolutist one. Actually, the Orthodox Church has always maintained a balance<sup>43</sup> between these two extreme attitudes.

The understanding of the Church’s needs in the spirit of the age, “setting” the Church in the perspective of the historical evolution, facing the future - in opposition with what the Roman Catholic Church did in the same epoch especially through the First Vatican Council - is the key of Şaguna’s ecclesiastical organization. He was not inspired by any political doctrine to do so, but only by his episcopal responsibility.

A righteous assessment of Andrei Şaguna’s activity as a whole, and of his ecclesiastical-organizational one in particular, might have a starting point in the following: “Metropolitan Şaguna was a great talent, just as the centuries make, when the Providence disposes that talents be born within the peoples, by whose work new

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<sup>42</sup> Ibid., 199.

<sup>43</sup> “The deviations recorded by history are concomitant with the periods and the moments of crisis that the Church went through.” L. STAN, *Mirenii în biserică*, 22.



impulses and a better direction be given to their way to progress and advancement. At the same time, Şaguna was a great far-seeing spirit, quickly observing and providing everything, exactly predicting and combining things - a spirit of genuine creative force.”<sup>44</sup>

### **VIII.3 The reception in time of Andrei Şaguna’s personality**

Even it was not intended in the beginning, after the estimation of the entire bibliography an adjacent result of the present research became evident: the survey of the way in which Andrei Şaguna’s personality was regarded and interpreted by his contemporary and by his posthumous researchers, according to the dominant trends in different epochs. Now, when we celebrate the bicentenary of the metropolitan’s birth, it is worthy to have a general view on his reception, so that the future researchers, especially the canonists, would have a better approach.

From this point of view, we can distinguish the following epochs, more or less similar or different:

**I. During his lifetime** Andrei Şaguna was differently regarded by the members of the Transylvanian, Hungarian and Austrian societies. Practically, every social class had another expectance from the Transylvanian Orthodox leader, according to its goals.

Thus, **the simple believers**, his “parishioners” - who did not have any minimal political and social protection, being even oppressed by the state for ethnic and religious reasons - **considered him as the real shepherd, the spiritual father** who offered them protection, love, appreciation and help. Actually, this was the message the new bishop transmitted to his believers and clergy by his first pastoral letter. This programmatic aim on his agenda was constantly accomplished and this is why after his death the people kept him long time alive in the collective memory.

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<sup>44</sup> A. HAMSEA, Din vieața pastorală a mitropolitului Şaguna, 455.

On **the level of the Romanian (thin) intellectual class in Transylvania**, deeply influenced by the political nationalism, **the sympathy which Andrei Şaguna had gathered in his first two-three years of activity turned to antipathy** after the revolution of 1848-1849 and then during the Neoabsolutist era (1849-1860). The main reason of this change was the idea **that the bishop had betrayed the nationalistic ideal**. Later, during the constitutional experimentation in Austria (1860-1864), the sympathy and appreciation came again, but then disappeared for ever and Andrei Şaguna was subjected to false accusations and hard polemics by some intellectuals.

**The political circles of Vienna and Budapest regarded him exclusively from the viewpoint of their own problems and social-political plans.** Andrei Şaguna's loyalty to the monarchy - which attracted the severe hate of the Hungarian ultranationalists - did not automatically imply receptivity from the part of the Viennese Court for his right demands. His major goal - the legal recognition of the reactivated Orthodox Metropolitanate of Transylvania - faced great difficulties and delays, depending on the political context and the interests the monarchy had with one or other confession and ethnic group.

While his skills as a leader were recognized (even more in the political frame) by the political circles, **Andrei Şaguna as a canonist and ecclesiastical organizer was less appreciated** at that epoch. The comprehension of his church constitution was subordinated by his co-nationals to the political demands of the Romanians in Transylvania. At the international level, the critical opinions and the praise of his canonistical works were connected with the religious context: the Protestants - as a gesture against the Catholic clericalism - praised the ecclesiastical constitutional principle, which was brought to life again by Andrei Şaguna in his Metropolitanate; the Catholics named him Protestant - which was quite natural in that context of the Catholic Church - because of the same above-mentioned principle; the Orthodox Serbians, who experienced a great process of national revival in the nineteenth century, disregarded Andrei Şaguna and his ecclesiastical reforms meant to develop the Orthodox Church in Transylvania irrespective of the Serbian Church.

**II. After his death (1873) until the end of First World War**, his main biographers (Nicolae Popea and Ioan Lupaş) cultivated **the nationalist-patriotic image of Andrei Şaguna**. On the one hand, this could be explained by the political nationalistic trend which overwhelmed the Balkans and Romania during the second half of the nineteenth and the beginning of the twentieth century. The wish to counteract the acid attacks of the nationalist intellectuals in Transylvania against the bishop - which had poisoned his life until the death - could be the second explanation.

During this epoch, Andrei Şaguna **as a canonist was studied only by chance and insignificantly**. Thus, we can mention only the Russian Orthodox Church, which paid attention to the church constitution conceived by Andrei Şaguna when it tried, by the Synod of 1917-1918, to change the church organization inherited from the Tsar Peter the Great, an attempt interrupted by the instauration of the Communist rule in Russia.

**III. The inter-war period is the most prolific as far as the analysis of Andrei Şaguna's activity as a canonist and ecclesiastical organizer is concerned.**

The commemorative articles and writings of this period are compilations of the pre-war ones, having in addition a higher level of patriotism, which can be easily explained as the inter-war period was the most favourable historical context of the Romanians' history in the twentieth century.

After the dissolution of the Austrian Monarchy and the unification of all Romanian territories, in 1918, Andrei Şaguna became, for the first time, an important topic for canonists, theologians and intellectuals from all Romania. The major problem which came into discussion was the implication of the laymen in exercising the Church power. The mixed synods that had already been organized for half a century in Transylvania were still unused in the Church of the other Romanian provinces; in addition these synods were sharply criticized by the Catholic and Greek Catholic theologians and canonists, who considered them a Protestant innovation in the Orthodox Church. Finally, **the polemics led to at least two major results**: first, **the elaboration of historical-canonical studies** on this issue; second, following this studies after the Second World War the new organization of the Romanian Orthodox Church was agreed, and in 1948 the same church constitution for the entire country issued. That church constitution - **“The Statute for the Organization and Functioning of the**

**Romanian Orthodox Church” of 1948 - inheriting Andrei Şaguna’s canonistical conception on ecclesiastical organization helped the Orthodox Church of Romania to stay alive even during the fifty years of Communist dictatorship.**

**IV.** The Second World War, followed by **the instauration of the Communism in Romania (1947), interrupted any discussion on Andrei Şaguna.** Even when some Romanian theological and historical circles brought the topic back into debate, they did it only on the grounds of the nationalistic-Communist ideology. There was still a foreign exception - Keith Hitchins’s historical writings - which saved Andrei Şaguna from oblivion and put him into the contemporary scientific international circuit. However, Andrei Şaguna as a canonist was not the basic topic of the North American historian’s research. That is why this dimension of the metropolitan’s personality did not become popular in the academic international circles, in spite of the fact that he were worthy to receive - after the Second Vatican Council - at least so much recognition of his canonical-organizational principles, as much criticisms and denials before.

**V. After the fall of the Communism (1989),** there are some relevant approaches on Andrei Şaguna, but the Romanian and foreign scholarly climate is still influenced by the previous epoch. While Keith Hitchins’ elaborated studies considered almost completely the social-political dimension of the Transylvania’s most famous metropolitan, **Andrei Şaguna as a canonist is still waiting for researchers who are interested in studying his canonistical heritage** and consequently in adding him the patrimony of the great canonists.

#### VIII.4 Şaguna's scientific perspectives for the twenty-first century

From the viewpoint of the above summary of Andrei Şaguna's reception according to the trends and requirements of every epoch, one could draft some ideas important for present and future.

While the revival of the ecclesiastical constitutional principle and the establishment of the autonomy of the Church toward the state were undoubtedly, in the nineteenth century, the most visionary features of Andrei Şaguna's thinking - today implicitly recognized by both the Eastern and Western Church -, **the classical Orthodox ecclesiology, the metropolitan system of ecclesiastical organization based on the apostolic canon 34 and the pentarchy**, persuasively supported by Andrei Şaguna, **would be considered the most actual point of his canonistical thinking, for the entire Orthodoxy, but not only for it.**

**Another important point in his thinking as a canonist and lawyer**, which was insufficiently analysed in its original dimension and importance, is **the relationship between Church and state**. Both the contemporary canonists and lawyers could find important ideas for their research in "Compendium", "Anthonismos" and in other works written by Şaguna. Within the contemporary globalizing and technical context, **the return to his theory on the main goal and role of the Church within state - to provide the spiritual peace to the people - is worth considering.**

Especially for the Orthodox it is also important to check the way in which the present ecclesiastical organization suits the canons. **Turning back to a more severe canonicity in the organization of the Orthodox Church** should be compulsory nowadays, at least with the same intensity as for Andrei Şaguna in the nineteenth century.

The Romanian Orthodox Church could offer to the United Europe, to the Orthodox Diaspora **a model of a more visible Orthodox unity**, through **Şaguna's view on the reorganization of the Orthodoxy in the Austrian Monarchy** in the nineteenth century: **the periodical multi-ethnic episcopal synods** as an obvious element of the dogmatic, canonical and organizational unity of the Orthodox Diaspora.

One of the most important points of Andrei Şaguna's thinking is **the understanding of the spirit of the age**. The contemporary globalizing context represents a challenge for both the politics and religions. While the politicians together with the lawyers are supposed to answer it by efficient legislation, the theologians and the canonists are pressed **to clearly and powerfully express the common consciousness of the Church**. The latter aspect imposes the Orthodox and Catholic Churches, as well as the whole Christianity **a serious reflection on the ecumenical synodality of the first Christian millennium**, for to confess credible - in a world which is above all materialist - that the crucified and resurrected Jesus Christ is "the way, the truth and the life"<sup>45</sup>.

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<sup>45</sup> Cf. John 14.6: "Jesus said to him, 'I am the way, and the truth, and the life; no one comes to the Father, but by me.'"

## RESÜMEE

In der vorliegenden Dissertation wird die Persönlichkeit Andrei Şagunas (1809-1873), Metropolit der orthodoxen Rumänen aus Siebenbürgen und Ungarn und Urvater der Rumänisch-Orthodoxen Kirchenverfassung dargestellt. Obwohl ursprünglich das Forschungsvorhaben in erster Linie den Kanonisten und kirchlichen Organisator Andrei Şaguna im Blick hatte, ist schließlich eine Gesamtdarstellung der zwei wichtigen Merkmale seiner Person – Kanonist und „Politiker“ – daraus geworden. Der Politiker wurde unter Anführungszeichen gesetzt, weil er sich selbst niemals mit einer politischen Doktrin oder einer bestimmten Partei identifiziert hätte; er hat sich nur als Mönch und Bischof gesehen. Dass er als Kirchenleiter der orthodoxen Rumänen in Siebenbürgen im 19. Jahrhundert auch politische Verantwortung übernehmen musste, ist vor allem eine Konsequenz der Geschichte der Rumänen in Siebenbürgen in der Neuzeit, nicht eine Entscheidung seinerseits. Fallweise wurden insbesondere in den ersten vier Kapiteln auch andere Aspekte aus seiner Tätigkeit als Bischof oder damit in Verbindung stehende Aktivitäten, einbezogen.

In der Analyse der kanonistisch-organisatorischen Werke Andrei Şagunas war zu berücksichtigen, dass seine kirchliche Mission in Siebenbürgen in einer Zeit angefangen hatte, in der sowohl die Rumänisch-orthodoxe Kirche als Körperschaft und auch ihre Gläubigen als Volk seit Jahrhunderten – genauer seit dem Jahre 1514 – staatlich nicht anerkannt, sondern vom öffentlichen Leben der Gesellschaft gesetzlich ausgeschlossen waren. Praktisch hatte seine kirchliche und kanonistisch-organisatorische Tätigkeit in einer Ortskirche begonnen, die *de jure* nicht existierte, da sie seit etwa 350 Jahren, aufgrund ethnisch-religiöser Kriterien kein korporatives Recht genossen hatte. Auch hat am Ende des 17. und Anfang des 18. Jahrhunderts die politische Macht in Zusammenarbeit mit der staatlichen Konfession (die Römisch Katholische Kirche) primär aufgrund politischer Interessen versucht, die orthodoxe Kirche Siebenbürgens auch *de facto* zu annullieren, durch die Einführung der kirchlichen Union mit der Kirche von Rom. Obwohl am Ende des 18. Jahrhunderts, der Staat – die Habsburgermonarchie – sich verpflichtet gesehen hatte, die faktische Existenz der Orthodoxie in Siebenbürgen anzuerkennen, wurden in gesetzlicher Hinsicht wenige Maßnahmen unternommen, die aber völlig ungenügend waren, um

dieser Kirche minimale Stabilität und Aufschwung in der Zukunft zu garantieren. Aus diesem Grund ließ sich die Forschung über Andrei Şaguna als Kanonist und kirchlichen Organisator nicht trennen von seinem Bemühen um die staatliche Anerkennung und somit die gesetzlichen Grundlagen seiner Kirche zu schaffen.

Als **Quellen für die Arbeit** dienen: die kanonistischen Werke Andrei Şagunas, aber auch andere von seinen zahlreichen Schriften (historische und pastorale Werke, Korrespondenz, Artikel in Zeitschriften, politische Reden, Zirkulare), Archivalien, Monografien und Artikel über Andrei Şaguna sowie theologische, historische und kulturelle Zeitschriften, Gesetzes- und Kanonensammlungen, juristische, kanonistische und historische Fachbücher, Kompendien, Enzyklopädien, Wörterbücher.

**Ziel der Arbeit** ist die Analyse in einer neuen, aktuellen Perspektive, der kanonistischen Werke und der kirchlichen organisatorischen Tätigkeit Andrei Şagunas in einem engen Zusammenhang mit seinen Bemühungen, den gesetzlichen Zustand seiner Kirche und seines Volkes in der Monarchie zu verbessern.

Der **erforschte Zeitraum** umfasst grundsätzlich die Lebenszeit Andrei Şagunas (1809–1873). Die Zeit aber, in der er Kirchenleiter der orthodoxen Rumänen in Siebenbürgen war (1846–1873) findet besondere Beachtung. Der Hintergrund der Forschung ist jedoch schon viel früher anzusetzen, nämlich am Anfang des 16. Jahrhunderts. Das ist die Periode, in der die ethnisch-konfessionalisierte Gesellschaft in Transsylvanien ihren rechtlichen Rahmen zu konstituieren begonnen hatte. Die Rumänen haben aber weder ethnisch (als Nation) noch auch religiös (als Orthodoxe) ihren Platz bekommen. Zudem unternimmt die Arbeit den Versuch, die Rezeption von Andrei Şagunas kanonistischem Werk und seiner kirchlichen Organisation zu beleuchten. Die Rezeption, die Entwicklung und die Perspektiven seiner Arbeiten bis in die Gegenwart werden skizziert.

Die Dissertation ist in **acht Kapitel eingeteilt**, die grundsätzlich zu den zwei wissenschaftlichen Fächern, nämlich dem Religionsrecht und dem orthodoxen Kirchenrecht gehören.



Im **ersten Kapitel** werden sowohl die rechtliche als auch die kirchliche Problematik der Rumänen in Siebenbürgen im 19. Jahrhundert durch einen historischen Exkurs beleuchtet. Als einen sekundären, aber dennoch wichtigen Punkt der Forschung könnte in diesem Kapitel die Beschreibung der staatlichen Struktur und der religiösen Rechte im Fürstentum Siebenbürgen in der frühen Neuzeit erwähnt werden. Besonders beachtenswert ist das System der konfessionellen Toleranz – das erste dieser Art in Europa –, das in Siebenbürgen im Jahre 1571 endgültig eingeführt wurde. Obwohl diese Toleranz keinesfalls perfekt war, denn sogar die orthodoxen Rumänen, die keine Vertretung in den Ständen des Landes mehr hatten, wurden nicht offiziell anerkannt, so bleibt trotzdem Siebenbürgen „Pionierregion der Religionsfreiheit“ in Europa.

Das **zweite, dritte und vierte Kapitel** folgen chronologisch dem Lebenslauf von Andrei Șaguna. Sie stellen – mit Hilfe der primären Bibliographie (Dokumente des 19. Jahrhunderts und Șagunas Schriften) – das Leben, die kirchliche und die politische Tätigkeit Andrei Șagunas, mit besonderer Rücksicht auf einige zu wenig bekannte, aber relevante Episoden seiner persönlichen Geschichte dar. Diese Kapitel sind dem Fach Religionsrecht zuzuordnen, wobei primär die deskriptive Methode zur Anwendung kommt.

Auf der Grundlage der Dokumente der Epoche und der Hinzuziehung der Forschungsergebnisse des Historikers Keith Hitchins werden die Gründe der politischen Aktivitäten des orthodoxen Bischofs und späteren Metropoliten von Transsylvanien deutlich gemacht. Einerseits gab es einen objektiven Grund für seine politischen Aufträge: die „Tradition“ in der Österreichischen Monarchie, schon im 18. Jahrhundert entwickelt, dass die kirchlichen Oberhäupter der siebenbürgischen Rumänen (sowohl griechisch-katholisch als auch orthodox) gleichzeitig soziale und politische Verantwortung übernehmen mussten. Das war vom Wienerischen Hof verlangt, weil gerade in der Abwesenheit irgendeiner politischen Vertretung für die Rumänen, überhaupt in den Fällen sozialer Unruhe und Revolten ein Gesprächspartner notwendig war. So wurden die Bischöfe als solche Gesprächspartner behandelt. Andererseits gab es aber auch einen subjektiven, bewussten Grund für sein Tätigwerden in politischen Angelegenheiten. Näherhin verlangten sowohl die Notwendigkeit einer gesetzlichen Anerkennung und Verankerung der Orthodoxen

Kirche Transsylvaniens als auch die Reaktivierung des alten orthodoxen Metropolitansitzes, der durch die kirchliche Union vom Jahre 1700 „begraben“ worden war, Şagunas politischen Einsatz. Hierzu kam auch das tatsächliche Verständnis von Andrei Şaguna hinsichtlich der Aufgabe eines Bischofs, der kirchlichen Mission in der Welt.

Wesentliche Prinzipien für eine Beteiligung von Metropolit Andrei an der Politik waren: der Patriotismus, nicht der Nationalismus, die Trennung von Religion und Politik sowie die Loyalität zum Hause Habsburg bzw. zur Monarchie.

Die wichtigsten Punkte der Kapitel zwei, drei und vier und damit des ersten großen Teils der Dissertation sind zunächst der biographische Werdegang Andrei Şagunas, sodann die Darstellung der Schritte zur Verbesserung des gesetzlichen Zustands der orthodoxen Rumänen in Transsylvanien sowie der gesetzlichen Anerkennung der reaktivierten orthodoxen Metropole, weiters die Hervorhebung des subjektiven Grundes für Andrei Şagunas politische Bemühungen, um die gesetzliche Anerkennung und Organisation der orthodoxen Kirche Transsylvaniens. Hierbei ist zu betonen, dass die politischen Aktivitäten seinen bischöflichen Aufgaben und seiner wissenschaftlichen Tätigkeit als Kanonist wie auch seinem Wirken als kirchlicher Organisator nachgeordnet waren.

Parallel mit diesen Punkten, aber nicht weniger wichtig, für die Kenntnis des religiös-juristischen Klimas im Siebenbürgen des 19. Jahrhunderts wird die Biographie des Metropoliten auf einige weniger bekannte, aber relevante Episoden hin betrachtet. In den Blick gerückt werden näherhin die Konversion seines orthodoxen Vaters zum Katholizismus und damit die komplexen religiös-juristischen Konsequenzen für die schon orthodox getauften Kinder, aber auch für die orthodoxe Mutter, des weiteren die Prozesse zwischen der Mutter – Anastasia Şaguna – und den kirchlichen und staatlichen Behörden um das Recht, die eigenen Kinder erziehen zu dürfen sowie schließlich die gesetzlich gebremste Reversion der volljährigen Kinder zur Orthodoxie.

Zu diesem Teil der Arbeit gehören die pazifistische Einstellung des Bischofs Andrei Şaguna, das Überwinden des interkonfessionellen „Kriegs“ neben ständigen Schritten und Bemühungen, eine Mindeständerung des gesetzlichen Rahmens zu erreichen

hinsichtlich der Multikonfessionalität und der Vielzahl der Völker in Transsylvanien einschließlich einer staatlichen Anerkennung aller Konfessionen und Völker.

Bei diesen Anliegen sind die juristische Argumentation, die Begründung der religiösen Rechte der orthodoxen Rumänen in Siebenbürgen auf natürlichem Recht, auf göttlichem Recht und nicht zuletzt auf der Idee des Rechtsstaates durch zahlreiche Zitate hervorgehoben worden, um die juristischen Fähigkeiten Andrei Şagunas (der eigentlich in erster Linie Jura und Philosophie, dann Theologie studierte), die in den bisherigen Forschungsarbeiten zu wenig Beachtung fanden, zu unterstreichen.

Das **fünfte, sechste und siebte Kapitel** beschäftigt sich jeweils mit den kanonistischen Werken Andrei Şagunas, mit seiner kirchlich-organisatorischen Tätigkeit und der siebenbürgischen rumänisch-orthodoxen Kirchenverfassung („Das Organische Statut“) sowie mit der Rezeption und Entwicklung seiner kirchlichen Organisation im 19. und 20. Jahrhundert. Diese Kapitel sind dem Kirchenrecht zuzuordnen, wobei die induktive Methode zur systematischen Darstellung des Kanonisten Andrei Şaguna dient.

Der zweite Teil der Dissertation umfasst neben einer möglichst systematisierten Darstellung und Analyse der kanonistischen Werke, der kanonistischen Denkweise und Doktrin von Andrei Şaguna auch die Enthüllung einiger wenig bekannter oder sogar noch unbekannter Seiten seiner kanonistischen Werke und organisatorischen Tätigkeit. In diesem Sinne wurde die Ausarbeitung einerseits in den breiten politisch-kirchlichen Kontext des 19. Jahrhunderts, andererseits in den Kontext des orthodoxen Kirchenrechts und der Tradition, aber auch der westlichen Kirchenrechtswissenschaft gestellt, um den Kanonisten Andrei Şaguna für die Gegenwart leichter verständlich und zugänglich zu machen. So konnten mindestens zwei wichtige Themen der katholischen und der protestantischen Kirchenrechtswissenschaft im 19. Jahrhundert, auch von einer orthodoxen Perspektive vorgestellt werden, nämlich die theologischen Grundlagen des Kirchenrechts und das Verhältnis der Kirche zum Staat bei Andrei Şaguna.

Ein besonderer Platz ist der orthodoxen Ekklesiologie, so wie sie in den Werken Andrei Şagunas reflektiert ist, gewidmet. Die Treue zum orthodoxen ekklesiologischen Prinzip der Pentarchie – das im ersten Jahrtausend des Christentums bis zum Schisma von 1054 ein gemeinsames kanonisches Prinzip für die östliche und die westliche Kirche war,

und das, einerseits der Stolperstein des Dialoges zwischen der katholischen und der orthodoxen Kirchen bis heute ist, andererseits sogar seit dem 19. Jahrhundert, durch die Einrichtung mehrerer autokephaler Patriarchate, von den Orthodoxen selbst nicht genug beachtet worden ist – sowie die genaue Annahme der klassischen orthodoxen Kanones durch Andrei Şaguna, die aber traditionell und gleichzeitig dynamisch von ihm interpretiert wurden, sind vielleicht zum ersten Mal mit umfangreichen Querverweisen und Zitaten aus seinen Werken offenkundig vorgelegt worden.

Nach der Klärung des Synodalprinzips – als Merkmal der Orthodoxie – insgesamt und besonders des Prinzips des kirchlichen Konstitutionalismus oder der Beteiligung der Laien an der Kirchenleitung bzw. Kirchenverwaltung durch die gemischten Synoden (d. h. kirchlich beratende Körperschaften aus Klerus und Laien), sind sowohl die Kritiker, Şagunas und seiner kirchlich-organisatorischen Arbeit, als auch die Entwicklung seiner Kirchenverfassung bis zum Ende des 20. Jahrhunderts dargestellt. Was heute für die orthodoxe wie für die katholische Kirche selbstverständlich ist, wurde bei seiner Wiedereinführung ins Kirchenleben der siebenbürgerischen orthodoxen Metropole, und fast ein Jahrhundert später, bis zum Zweiten Vatikanischen Konzil (1962-1965), als eine „protestantische Innovation“ von Andrei Şaguna in die orthodoxe Kirche eingeführt, klassifiziert.

Die Verwendung von zwei wesentlichen kanonistischen Werken Andrei Şagunas – das „Kompendium“ und der polemische „Anthonismos“ – hat Priorität im zweiten Teil der Arbeit. Wenn der Kirchenverfassungsentwurf von Andrei Şaguna – „Proiectu de unu Regulamentu“ („Entwurf einer Regel“) – und die siebenbürgerische orthodoxe Kirchenverfassung – „Statutul Organic“ („Das Organische Statut“) – in einigen Studien vom 20. Jahrhundert mindestens in Erinnerung gebracht worden sind, so wurden die oben genannten wichtigen kanonistischen Werke in der wissenschaftlichen Forschung des 20. Jahrhunderts sowohl in Rumänien als auch im Ausland fast vergessen bzw. kaum erwähnt; Werke, die sonst von größter Bedeutung für das Verständnis des Gesamtbildes des Kanonisten Andrei Şaguna sind.

**Das achte Kapitel** umfasst die Endergebnisse und Perspektiven der beiden großen Teile der Dissertation. Außer der Wiederherstellung des kirchlichen

Konstitutionalismus – der Teilnahme der Laien an der Leitung der Kirche –, die „revolutionär“ im 19. Jahrhundert war, hat der Jurist und Kanonist Andrei Şaguna durch seine Denkweise, seine Werke und Taten dem gegenwärtigen Religionsrecht und dem Kirchenrecht, den Juristen und den Kanonisten, der Orthodoxie wie auch der anderen Konfessionen noch viel anzubieten.



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- BBKL Biographisch-bibliographisches Kirchenlexikon, hrsg. von Friedrich Wilhelm Bautz, fortgef. von Traugott Bautz, Hamm 1975 et seqq.
- BOR Biserica Ortodoxă Română (The Romanian Orthodox Church), București 1874 et seqq.
- EKL Evangelisches Kirchenlexikon. Internationale theologische Enzyklopädie, hrsg. von Erwin Fahlbusch u.a., 5 Bde., Göttingen <sup>1</sup>1986-1997.
- GB Glasul Bisericii (The Voice of the Church), București 1941 et seqq.
- LThK Lexikon für Theologie und Kirche, hrsg. von Michael Buchberger, 10 Bde., Freiburg im Breisgau <sup>1</sup>1930-1938; hrsg. von Josef Höfer – Karl Rahner, 10+4 Bde., Freiburg im Breisgau u.a. <sup>2</sup>1957-1968; hrsg. von Walter Kasper u.a., 11+1 Bde., Freiburg im Breisgau u.a. <sup>3</sup>1993-2001.
- MA Mitropolia Ardealului (The Metropolitanate of Ardeal), Sibiu 1956-1990.
- MB Mitropolia Banatului (The Metropolitanate of Banat), Timișoara 1951-1989.
- MMS Mitropolia Moldovei și Sucevei (The Metropolitanate of Moldavia and Suceava), Iași 1924-1947, June 1950-1989; named Mitropolia Moldovei (The Metropolitanate of Moldavia) Iași 1948-June 1950.
- MO Mitropolia Olteniei (The Metropolitanate of Oltenia), Craiova 1950 et seqq.
- ÖAKR Österreichisches Archiv für Kirchenrecht, Wien 1950 et seqq.
- RT Revista Teologică (The Theological Magazine), Sibiu 1907-1916, 1921-1947, 1991 et seqq.
- RSPhTh Revue des sciences philosophiques et théologiques, Paris 1907 et seqq.
- ST Studii Teologice (Theological Studies), București 1929-1940, 1949 et seqq.
- TRE Theologische Realenzyklopädie, hrsg. von Gerhard Krause – Gerhard Müller, 36 Bde., Berlin-New York 1976-2004.

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Bishop Andrei Șaguna - gravure dated 1855, with the bishop's signature  
Source: *Mitropolitul Andreiu baron de Șaguna. Scriere comemorativă la serbarea centenară a nașterii lui*, Sibiu 1909, 104.







Bishop Andrei Şaguna in 1863/1864 - photography by Theod. Glatz & Carl Koller  
Source: The personal Collection of Mrs Ana Grama from Sibiu





Metropolitan Andrei Șaguna - oil painting by Sava Henția (1848 - 1904) preserved in the assembly hall of the Orthodox Theological Faculty “Andrei Șaguna” in Sibiu  
Source: Andreiana Publishing House - Sibiu





Metropolitan Andrei Șaguna - oil painting from 1890 by Mișu Popp (1827-1892)  
preserved in the Museum of the first Romanian school in Șcheii Brașovului  
Source: Museum of the first Romanian school - Șcheii Brașovului





“The big emblem” of Bishop Andrei Șaguna  
Source: *Mitropolitul Andreiu baron de Șaguna. Scriere comemorativă la serbarea centenară a nașterii lui*, Sibiu 1909, cover.

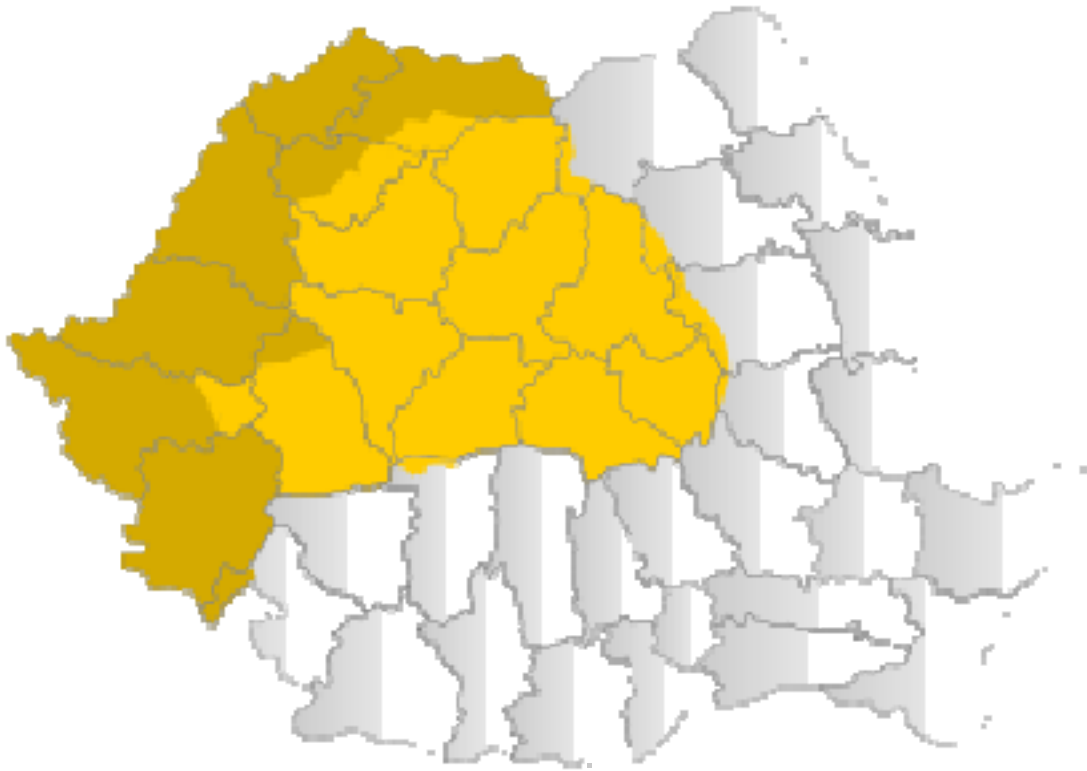






Map of the Romanian historical provinces and regions  
Source: [http://ro.wikipedia.org/wiki/Imagine:Romanian\\_provinces.jpg](http://ro.wikipedia.org/wiki/Imagine:Romanian_provinces.jpg) (09.11.2007)





Map of Romania with Transylvania today

The light yellow areas correspond to the core territory of the historic Voivodeship (Transylvania in narrow sense)

The regions marked in dark yellow, corresponding to Maramureș, Crișana and the Romanian Banat, are today considered part of Transylvania (Transylvania in broader, contemporary sense)

Source: <http://en.wikipedia.org/wiki/Transylvania> (9 September 2008)





Location of Romania and Transylvania in Europe  
Source: <http://en.wikipedia.org/wiki/Transylvania> (9 September 2008)



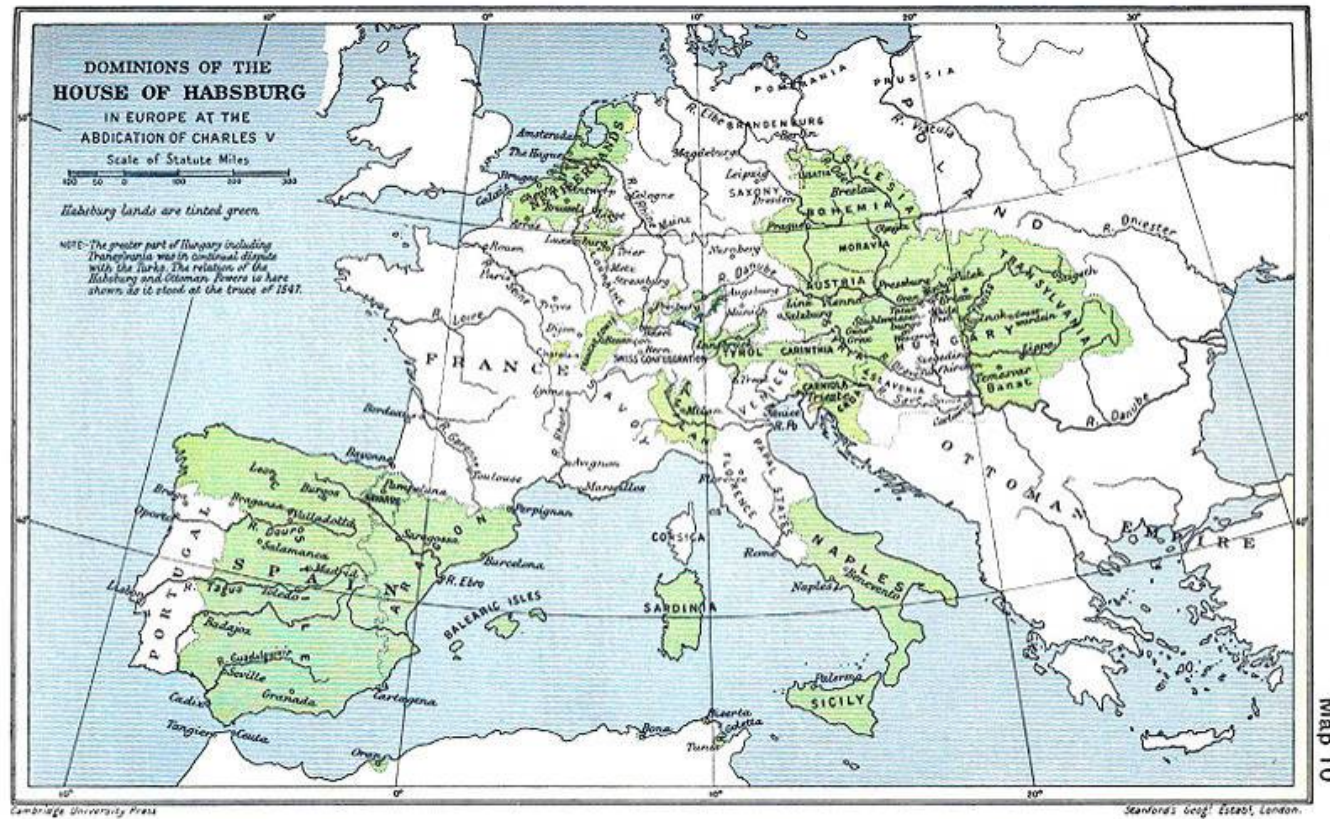
Politisch-administrative Gliederung Siebenbürgens bis 1869 (1876)												
Nation der Ungarn (zu S. 22 – 33)		Nation der Szekler (zu S. 33 – 36)		Nation der Sachsen (zu S. 39 – 51)								
Bis 1526: Leitung Woiwode, später Landesfürst		Bis 1526: Leitung Szeklergraf, später Landesfürst		Leitung der Nationsuniversität: Sachsenkomes								
Komitat	Distrikt	Stuhl		Stuhl								
<i>Leitung des Komitats:</i> Obergespan (főispán, supremus comes). Wegen der großen Ausdehnung der Komitate amtierten meistens zwei Obergespanne	<i>Leitg. d. Distrikts:</i> Oberkapitän (főkapitány, capitaneus supremus) Sein Stellvertreter: Vizekapitän	<i>Leitung des Stuhls:</i> Oberkönigsrichter (főkirálybíró, supremus iudex regius) (in Kriegszeiten: Oberkapitän (főkapitány, capitaneus supremus))		<i>Leitung des Stuhls:</i> Königsrichter In Hermannstadt, Mediasch, Schäßburg: Bürgermeister								
Jeder Komitat: 2 – 3 Kreise (Zirkel) Jedem Kreis (Zirkel) stand ein Oberrichter (főbíró, supremus iudex nobilium) und ein Vizegespan (alispán, vicecomes) vor		Vor der josephinischen Gebietsreform (1784) gliederten sich die 3 größten Stühle auch in Filialstühle: Udvarhely in Bardocz und Keresztur, Háromszék in Sepsi, Kézdi, Orbai und Miklósvár, Csik in Gyergyó und Kászón. Maros und Aranyos hatten keine Filialstühle. Nach Auflösung der josephinischen Komitate (1790) blieben 5 Stühle: Udvarhely, Háromszék, Csik, Maros und Aranyos. Außer Aranyos gliederten sich die vier großen Szekler Stühle in je 2 Kreise (Zirkel), die Kreise in je 2 – 6 Bezirke (Prozesse). Die Leitung des Filialstuhls – später: des Kreises – hatte der Vizekönigsrichter (Királybíró, viceiudex regius). In den Bezirken stand die Leitung den Dullonen (= dullók, dullones) zu.		Die Stühle und Distrikte wiesen keine weiteren freien Gebietskörperschaften auf. Hermannstadt besaß folgende Nationalgüter: die Filialstühle Talmesch und Säljste sowie die Siebenrichtergerüter; Kronstadt verwaltete das Törzburger Dominium und die Siebendorfer, Bistritz den Rodnaer Kreis (1763 zur Militärgrenze genommen).								
Jeder Kreis: 2 – 7 Bezirke (Prozesse) Jeder Bezirk (Prozeß) stand unter der Leitung eines Vize-(Unter-) Richters (szolgabíró, viceiudex nobilium)	Die beiden Distrikte Fogarasch und Kővár gliederten sich nur in je vier Bezirke (Prozesse)			<table border="1"> <thead> <tr> <th>Städte</th> <th>Gemeinden</th> </tr> </thead> <tbody> <tr> <td>Bürgermeister bzw. Stadtrichter (in den Distrikten)</td> <td>Dorfrichter (Bürgermeister)</td> </tr> <tr> <td>Magistrat aus 6 – 10 Senatoren</td> <td>Hann, Geschworene</td> </tr> <tr> <td>Stadtkommunität aus 50 – 100 Mitgl. (Gemeinderat)</td> <td>Altschaft (Gemeindevertr.)</td> </tr> </tbody> </table>	Städte	Gemeinden	Bürgermeister bzw. Stadtrichter (in den Distrikten)	Dorfrichter (Bürgermeister)	Magistrat aus 6 – 10 Senatoren	Hann, Geschworene	Stadtkommunität aus 50 – 100 Mitgl. (Gemeinderat)	Altschaft (Gemeindevertr.)
Städte	Gemeinden											
Bürgermeister bzw. Stadtrichter (in den Distrikten)	Dorfrichter (Bürgermeister)											
Magistrat aus 6 – 10 Senatoren	Hann, Geschworene											
Stadtkommunität aus 50 – 100 Mitgl. (Gemeinderat)	Altschaft (Gemeindevertr.)											
Insgesamt 13 Gebietskörperschaften		Insgesamt 5 Gebietskörperschaften		Insgesamt 11 Gebietskörperschaften								
7 Komitate vor der Teilung – 1774 – in Unter- und Oberweissenburg: Weissenburg, Hunyad, Kokelburg, Thorenburg, Klausenburg, Doboka und Inner-Szolnok. Diese Komitate umfaßten jeweils 2 Kreise, Hunyad hatte drei. Die Partes gliederten sich in Mittel-Szolnok (mit 2 Kreisen), Kraszna und Zaránd (ohne Kreise). Hinzukamen noch die beiden Distrikte Fogarasch und Kővár (s. o.)				Neun Stühle: Hermannstadt, Broos, Mühlbach, Reußmarkt, Leschkirch, Mediasch, Schäßburg, Großschenck, Reps, Kronstadt, Bistritz.								
Die Freistädte, Adelsstädte und Taxalorte genossen auf den Gebieten der Ungarischen und Szekler Nation eine gewisse Sonderstellung. Sie übten einige Rechte in corpore aus, die sonst nur einzelnen begüterten Adligen zustanden, wie z. B. Sitz und Stimme im Landtag, wobei jedoch die Zurechnung zu der Nation erfolgte, auf deren Territorium die Stadt oder der Ort lag (Näheres s. S. 37 – 38).				Zwei Distrikte:								

The political-administrative organization of the three nations of Transylvania until 1869 (1876)

Source: Rolf KUTSCHERA, *Landtag und Gubernium in Siebenbürgen 1688-1869*, Köln u.a. 1985, 396.





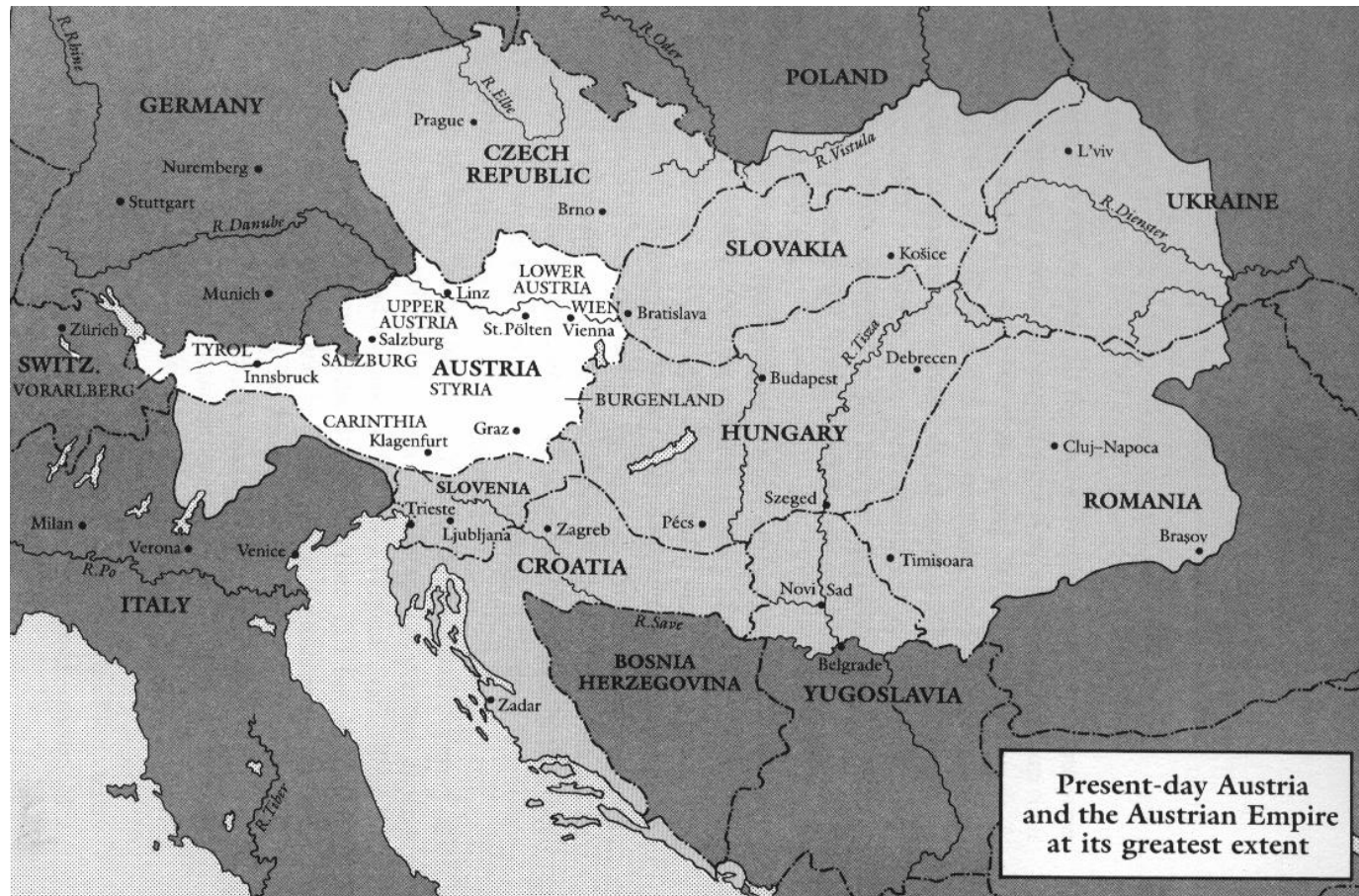


### Map of the Habsburg Empire in 1556

A digitally cleaned up map of the dominion of the Habsburgs following the Battle of Mühlberg (1547). Taken from The Cambridge Modern History Atlas, edited by Sir Adolphus William Ward, G.W. Prothero, Sir Stanley Mordaunt Leathes, and E.A. Benians. Cambridge University Press: London, 1912.

Source: [http://en.wikipedia.org/wiki/Image:Habsburg\\_Map\\_1547b.jpg](http://en.wikipedia.org/wiki/Image:Habsburg_Map_1547b.jpg) (09.12.2008)





Map of the Austrian Empire

Source: <http://www.geocities.com/historyofaustria/austriamaps1.html> (09.12.2008)





Map of Austria-Hungary

Source: [http://encarta.msn.com/media\\_461520427/Austria-Hungary.html](http://encarta.msn.com/media_461520427/Austria-Hungary.html) (09.12.2008)





Ethnic map of regions inhabited by Vlachs/Romanians  
Source: <http://de.wikipedia.org/wiki/Aromunen> (19.01.2008)





“IX. Gesetzartikel. In Angelegenheit der griechisch-orientalischen Gläubigen”

Source: [*Ungarische*] *Landesgesetz-Sammlung für die Jahre 1865/67 und 1868*, Pest<sup>2</sup> 1872, 81-83.

§. 13.

Der Expropriirende ist verpflichtet, bevor er die Bauarbeiten in Angriff nehmen würde, den zwanzigfachen Betrag des in den Steuer-Grundbüchern aufgenommenen Reinertrages des in Arbeit zu nehmenden Flächenraumes, nach Belieben in Baargeld, oder ungarischen öffentlichen Kreditpapieren, oder aber in Kreditpapieren der ungarischen Bodenkredit-Anstalt, deren Werth nach dem Pester Börsenkurse berechnet, in die Depositenkassa jener Jurisdiktion zu deponiren, in deren Gebiet die zu expropriirende Piegenschaft sich befindet. Nach Beendigung des Expropriations-Verfahrens aber ist die festgestellte Entschädigungssumme dem gesetzlich Berechtigten binnen 15 Tagen in baarem Gelde auszuzahlen.

§. 14.

Nachdem übrigens auch alle übrigen Punkte des vorgelegten, in einem Exemplare im Archive des gesetzgebenden Körpers zu hinterlegenden Vertrages bestätigt werden, wird der Minister für öffentliche Arbeiten und Kommunikationen beauftragt, die Konzessions-Urkunde auf Grund dieses Vertrages, mit Rücksicht auf den §. 6, für die Konzessionäre auszufertigen, dieses Gesetz einvernehmlich mit dem Finanzminister durchzuführen und darüber zu wachen, daß die in dem Vertrage enthaltenen sämtlichen Bedingungen durch die Unternehmer in Allem pünktlich vollzogen werden.

## IX. Gesetzartikel.

### In Angelegenheit der griechisch-orientalischen Gläubigen.

(Sanctionirt am 24. Juni 1868. Kundgemacht im Abgeordnetenhaufe am 27. Juni 1868, im Oberhaufe am 30. Juni 1868. In d. R. G. S. erschienen am 30. Juni 1868.)

§. 1.

Der im Jahre 1864 einberufene und 1865 zu Karlowitz continuativ abgehaltene serbische National-Kongreß wird, — inwiefern derselbe vom §. 8 des XX. Gesetzartikels vom Jahre 1847/8 abweichend konstituirt wurde, — nachträglich für gesetzlich anerkannt.

§. 2.

Die Erhebung sowohl der für die Rumänen griechisch-orientalischer Religion errichteten selbstständigen, mit jener der Serben gleichberechtigten Metropole, als auch des siebenbürgischen griechisch-orientalischen Bisthums zum Erzbisthum, wird gesetzlich inartikulirt,

und die Bestimmung des Gesetzartikels 10 vom Jahre 1792 hierauf ausgedehnt.

§. 3.

Da sonach die Trennung der orientalischen Glaubensgenossen in zwei von einander unabhängige Kirchenprovinzen die Ausübung des im §. 8 des Gesetzartikels XX vom Jahre 1847/8 zugesicherten Selbstverwaltungsrechtes nothwendig macht, sind die Gläubigen der obbenannten zwei Metropolen — mit Aufrechthaltung des konstitutionell auszuübenden obersten Aufsichts-Rechtes Sr. Majestät — berechtigt, ihre kirchlichen, Schul- und hierauf bezüglichen Stiftungs-Angelegenheiten innerhalb der Grenzen der Landes-Gesetze abgesondert auf ihren — von den betreffenden Metropoliten vorläufig Sr. Majestät anzumeldenden — periodisch einzuberufenden Kirchen-Kongressen selbstständig zu erledigen, zu ordnen, und im Sinne der auf diesen Kongressen festzustellenden, durch Se. Majestät zu genehmigenden Statuten durch ihre eigenen Organe selbstständig zu verwalten und zu leiten.

§. 4.

Die Gläubigen beider Metropolen haben das Recht, mit Vorbehalt des allerhöchsten Genehmigungsrechtes, ihre Kirchen-Kongresse zu organisiren.

§. 5.

Zu diesem Behufe wird das Ministerium beauftragt, die Einberufung des nach altherkömmlicher Gepflogenheit außer den betreffenden Oberhirten aus 25 geistlichen, 40 weltlichen, und unter diesen aus 25 aus der Militärgrenze zu wählenden Ablegaten bestehenden serbischen National-Kirchen-Kongresses griechisch-orientalischer Konfession durch den Karlowitzer Erzbischof und serbischen Patriarchen zu bewerkstelligen.

§. 6.

Ebenso wird das Ministerium über Vortrag der rumänischen Episkopal-Synode griechisch-orientalischer Konfession die ehebaldige Einberufung des außer den betreffenden Oberhirten aus 30 geistlichen, 60 weltlichen, und unter diesen aus der Militärgrenze zu wählenden 10 Ablegaten bestehenden rumänischen National-Kirchen-Kongresses griechisch-orientalischer Konfession bewerkstelligen.

§. 7.

Die erste Aufgabe der auf solche Art einzuberufenden beiderseitigen Kirchen-Kongresse wird sein, den Organismus des Kongresses mit Genehmigung Sr. Majestät festzustellen.

§. 8.

Die aus der Trennung der zwei Metropolen entstehenden Ansprüche, inwiefern diese im Vergleichswege nicht auszugleichen wären, ebenso die, sowohl die ganze Metropole, als auch die Diözesen oder Kirchengemeinden, oder allfällig einzelne Individuen betreffenden Ansprüche, sind vor einem durch Se. Majestät mit Gegenzeichnung des betreffenden Ministers zu delegirenden Gerichte geltend zu machen, und wird bei diesem Vorgehen mit Beseitigung aller übrigen Rechtsmittel lediglich die zweifache ordentliche Appellation aufrecht erhalten, wobei die auf solche Art appellirten Prozesse durch die Appellationsgerichte außer der Reihenfolge zu erledigen sind.

§. 9.

Die Gläubigen griechisch-orientalischer Religion weder serbischer noch rumänischer Nationalität werden auch fernerhin in all' jenen Rechten belassen, welche sie mit selbstständiger Erledigung ihrer Kirchengemeinde- und Schulangelegenheiten, in der freien Benützung ihrer Kirchensprache, so auch in der Verwaltung ihres Kirchengemeinde-Vermögens und ihrer Stiftungen bisher ausgeübt haben.

§. 10.

Die mit diesem Gesetze nicht im Einklange stehenden Bestimmungen des §. 8 des XX. Gesetzartikels vom Jahre 1847/8 werden aufgehoben.

## X. Gesetzartikel.

Ueber die vom 1. Juli 1868 bis 30. September desselben Jahres zu tragenden öffentlichen Lasten.

(Sanctionirt am 28. Juni 1868. Kundgemacht in beiden Häusern des Reichstages am 30. Juni 1868. In d. L. G. S. erschienen am 30. Juni 1868.)

Nachdem der im Gesetzartikel IV v. J. 1868 hinsichtlich der Tragung der öffentlichen Lasten festgesetzte Termin am 30. Juni l. J. abgelaufen sein wird, und die Verhandlung des vom Ministerium eingebrachten Budgets und der auf die öffentlichen Lasten bezüglichen Gesetzentwürfe bis dahin noch nicht beendet werden kann, wird angeordnet :

§. 1.

Die in den Ländern der ungarischen Krone gegenwärtig bestehenden sämtlichen direkten und indirekten Steuern, so auch die Staatsgefälle bleiben vom 1. Juli 1868 bis zum 30. September -



The texts of the Orthodox canons which the thesis is referring to

Source: *The Rudder of the Orthodox Catholic Church*. The Compilation of the Holy Canons by Saints Nicodemus and Agapius, translated into English by D. Cummings, Reprinted, New York 1983. Online version of several sections available under: <http://www.holytrinitymission.org/books/english/> (20.01.2009)

### **Apostolic Canons:**

**Ap. c. XXXIV:** “It behoves the Bishops of every nation to know the one among them who is the premier or chief, and to recognise him as their head, and to refrain from doing anything superfluous without his advice and approval: but, instead, each of them should do only whatever is necessitated by his own parish and by the territories under him. But let not even such a one do anything without the advice and consent and approval of all. For thus will there be concord, and God will be glorified through the Lord in Holy Spirit, the Father, and the Son, and the Holy Spirit.”

**Ap. c. XXXVII:** “Twice a year let a council of bishops be held, and let them examine one another in regard to dogmas of piety, and let incidental ecclesiastical contradictions be eliminated: the first one, in the fourth week of Pentecost, the second one, on the twelfth of Hyperberetaeus.”

**Ap. c. XXXVIII:** “Let the Bishop have the care of all ecclesiastical matters and let him manage them, on the understanding that God is overseeing and supervising. Let him not be allowed to appropriate anything therefrom or to give God’s things to his relatives. If they be indigent, let him provide for them as indigents, but let him not trade off things of the Church under this pretext.”

**Ap. c. XLI:** “We command that the Bishop have authority over the property of the church. For if the precious souls of human beings ought to be entrusted to him, there is little need of any special injunction concerning money, so that everything may be entrusted to be governed in accordance with his authority, and he may grant to those in need through the presbyters and deacons with fear of God and all reverence, while he himself may partake thereof whatever he needs (if he needs anything) for his necessary wants, and for brethren who are his guests, so as not to deprive them of anything, in any manner. For God’s law has enjoined that those who serve at the altar are to be maintained at the altar’s expense. The more so in view of the fact that not even a soldier ever bears arms against belligerents at his own expense.”

### **Canons of the First Ecumenical Council (Nicaea 325):**

**C. IV of the 1<sup>st</sup> Ec. C.:** “It is most fitting that a Bishop should be installed by all those in his province. But if such a thing is difficult either because of the urgency of circumstances, or because of the distance to be travelled, at least three should meet together somewhere and by their votes combined with those of the ones absent and joining in the election by letter they should carry out the ordination thereafter. But as for the ratification of the proceedings, let it be entrusted in each province to the Metropolitan.”

**C. V of the 1<sup>st</sup> Ec. C.:** “As regards those who have been denied communion, whether they be members of the clergy or belong to a lay order, by the bishops in each particular province, let the opinion prevail which expressed in the Canon prescribing that those rejected by some are not to be received by others. But let an investigation be made as to whether or not they have been unchurched on account of small-mindedness or quarrelsomeness or any other such disgustfulness of the Bishop. In order, therefore, that a proper investigation may be made, it has seemed well that synods be held every year twice a year in each province and in a common discussion held by all the Bishops of the province assembled together for this purpose let such questions be thrashed out. And thus those who have admittedly clashed with the Bishop would seem to be reasonably excluded from communion until such time as by common consent of the bishops it may seem better to let a more philanthropic vote be given in their behalf. As for these synods, let one of them be held before Lent, in order that, with the elimination of all small-mindedness, the gift may be offered to God in all its purity; and let the second one be held sometime in autumn.”

**C. VI of the 1<sup>st</sup> Ec. C.:** “Let the ancient customs prevail which were in vogue in Egypt and Libya and Pentapolis, to allow the bishop of Alexandria to have authority over all these parts, since this is also the treatment usually accorded to the bishop of Rome. Likewise with reference to Antioch, and in other provinces, let the seniority be preserved to the Churches. In general it is obvious that in the case in which anyone has been made a bishop without the Metropolitan’s approval, the great Council has prescribed that such a person must not be a Bishop. If, however, to the common vote of all, though reasonable and in accordance with an ecclesiastical Canon, two or three men object on account of a private quarrel, let the vote of the majority prevail.”

### **Canons of the Second Ecumenical Council (Constantinople 381)**

**C. II of the 2<sup>nd</sup> Ec. C.:** “Bishops must not leave their own diocese and go over to churches beyond its boundaries; but, on the contrary, in accordance with the Canons, let the Bishop of Alexandria administer the affairs of Egypt only, let the Bishops of the East govern the Eastern Church only, the priorities granted to the church of the Antiochians in the Nicene Canons being kept inviolate, and let the Bishops of the Asian diocese (or administrative domain) administer only the affairs of the Asian church, and let those of the Pontic diocese look after the affairs of the diocese of Pontus only, and let those of the Thracian diocese manage the affairs of the Thracian diocese only. Let Bishops not go beyond their own province to carry out an ordination or any other ecclesiastical services unless (officially) summoned thither. When the Canon prescribed

in regard to dioceses (or administrative provinces) is duly kept, it is evident that the synod of each province will confine itself to the affairs of that particular province, in accordance with the regulations decreed in Nicaea. But the churches of God that are situated in territories belonging to barbarian nations must be administered in accordance with the customary practice of the Fathers.”

**C. VI of the 2<sup>nd</sup> Ec. C.:** “Because many men, in a spirit of enmity and for purposes of slander being desirous to confound and subvert ecclesiastical discipline, connive to fabricate certain charges against Orthodox Bishops managing the churches, in an attempt designing nothing else but to sully the reputation of the priests and to raise disturbances among peoples who are at peace; on this account it has pleased the holy Council of the Bishops who have convened in Constantinople to decree that informers are not to be admitted without examination, nor are all men to be allowed to bring accusations against those managing the churches, nor yet are all to be excluded. But if anyone lay a personal grievance, that is, a private complaint, against a Bishop, on the ground that he has been a victim of the Bishop’s greed or other unjust treatment, in the case of such accusations neither the personality nor the religion of the accuser is to be inquired into. For then the conscience of the Bishop must be clear in every respect, and the man who claims to have been wronged should receive justice whatever be his religion. But if the indictment brought against the Bishop be of an ecclesiastical nature, then the personality of the informers must be considered, in order, first of all, not to allow heretics to make charges against Orthodox Bishops in regard to ecclesiastical matters. We call heretics those who have of old been proscribed from the Church, and those who have thereafter been anathematized by us; and in addition to these those who, though pretending to confess the sound faith, have schismatically separated and have gathered congregations in opposition to our canonical Bishops. Further, as regarding those who have previously been condemned by the Church on certain charges and have been ousted therefrom or excluded from communion, whether they belong to the clergy or to the ranks of laymen, neither shall these persons be allowed to accuse a Bishop until they have first cleared themselves of their own indictment. Likewise as regarding those who are themselves being accused from before, they are not to be permitted to accuse a Bishop, or other clergymen, until they have first proved themselves innocent of the charges placed against them. If, however, certain persons are neither heretics nor excluded from communion, nor condemned, nor previously charged with any offences, should declare that they have an accusation of an ecclesiastical nature against a Bishop, the holy Council bids these persons to lodge their accusations before all the Bishops of the province and before them to prove the charges against the Bishop involved in the case. But if it so happen that the provincial Bishops are unable to or incompetent to decide the case against the Bishop and make the correction due, then they are to go to a greater synod of the Bishops of this diocese summoned to try this case. And they are not to lodge the accusation until they themselves have in writing agreed to incur the same penalty if in the course of the trial it be proved that they have been slandering the accused Bishop. But if anyone, scorning what has been decreed in the foregoing statements, should dare either to annoy the emperor’s ears or to trouble courts of secular authorities or an ecumenical council to the affrontment of all the Bishops of the diocese, let no such person be allowed to present any information whatever, because of his having thus roundly insulted the Canons and ecclesiastical discipline.”

### **Canons of the Third Ecumenical Council (Ephesus 431)**

**C. VIII of the 3<sup>rd</sup> Ec. C.:** “Our fellow Bishop Reginus, most beloved by God, and with him the most God-beloved Bishops of the province of the Cypriotes Zeno and Evagrius, has announced an innovation, a thing which is contrary to the ecclesiastical laws and the Canons of the Holy Apostles, and one which touches the freedom of all. Hence, since common ailments require more drastic treatment, on the ground that they do greater damage, and especially in view of the fact that the Bishop of Antioch, far from following the ancient custom, has been performing the ordinations in Cyprus, according to information given in libelli and by oral statements made by most pious gentlemen who have approached the Holy Council; therefore those who preside over the churches in Cyprus shall retain their privilege unaffected and inviolate, according to the Canons of the Holy Fathers and ancient custom, whereby they shall themselves perform the ordinations of the most reverent Bishops. The same rule shall hold good also with regard to the other diocese and churches everywhere, so that none of the Bishops most beloved by God shall take hold of any other province that was not formerly and from the beginning in his jurisdiction, or was not, that is to say, held by his predecessors. But if anyone has taken possession of any and has forcibly subjected it to his authority, he shall regive it back to its rightful possessor, in order that the Canons of the Fathers be not transgressed, nor the secular fastus be introduced, under the pretext of divine services; lest imperceptibly and little by little we lose the freedom which our Lord Jesus Christ, the Liberator of all men, has given us as a free gift by His own blood. It has therefore seemed best to the holy and Ecumenical Council that the rights of every province, formerly and from the beginning belonging to it, be preserved clear and inviolable, in accordance with the custom which prevailed of yore; each Metropolitan having permission to take copies of the proceedings for his own security. If, on the other hand, anyone introduce any form conflicting with the decrees which have now been sanctioned, it has seemed best to the entire holy and Ecumenical Council that it be invalid and of no effect.”

### **Canons of the Fourth Ecumenical Council (Chalcedon 451)**

**C. XXV of the 4<sup>th</sup> Ec. C.:** “Whereas some Metropolitans, as we have been informed, neglect the flocks committed to their care, and postpone the ordinations of Bishops, the holy Council has decreed that they must perform ordinations within three months, unless some unavoidable necessity require the time to be lengthened. If they fail to carry out this rule, they shall be liable to ecclesiastical penances; and the means profits of the widow church shall be preserved to be retained by the Steward (or *Oeconomus*) of the same church.”

### **Canons of the Fifth Ecumenical Council (Constantinople 553)**

### **Canons of the Ecumenical Quinisext/Quinisextine Council (Constantinople 691)**

### **Canons of the Seventh Ecumenical Council (Nicaea 787)**



## **Canons of the regional Synods**

### **Antioch 341**

**C. XX of Antioch:** “In regard to ecclesiastical needs, and the settlement of disputes, it has seemed well that Synods of the Bishops of each province should be held twice a year. Once after the end of the third week of the festival of Easter, so that the Synod may be finished its business by the fourth week of Pentecost, the Bishop in the metropolis reminding the provincials of it. As for the second Synod, it shall be held on the ides of October, which is the tenth day of the month of Hyperbetaeus. So that these very Synods shall be attended by Presbyters and Deacons in addition and by all those who deem themselves to have been treated unjustly or to have been wronged in any way, and who wish to have their cases reviewed by the Synod. But let it not be permissible for any persons to hold any such meetings in the way of Synods without the presence of those who have been entrusted with the metropoleis.”

### **Laodicea, 343?/364?**

**C. XIII of Laodicea:** “Concerning the necessity of not permitting others to conduct the election of candidates for the priesthood.”



## LEBENS LAUF

Ich, Maria Stan (Sr. Mihaela), wurde am 24. September 1970 in Urecheni, Kreis Neamț, in Rumänien als das dritte und letzte Kind der Eltern Ana und Vasile Stan geboren. Zwischen 1977 und 1985 besuchte ich die Schule Ingărești-Neamț, von 1985 bis 1989 die Gymnasien „Calistrat Hogaș“ (IX. und X. Klasse) und „Petru Rareș“ (XI. und XII. Klasse) in Piatra Neamț, wo ich 1989 die Matura im Handelszweig ablegte.

Im Wintersemester 1990 begann ich das Studium der Rechtswissenschaften an der Rechtswissenschaftlichen Fakultät der Universität „Alexandru Ioan Cuza“ in Iași, im August 1993 trat ich ins Kloster Clocociov, Kreis Olt ein. Nach fünf Jahre Studium schloss ich mit einer Diplomarbeit – *„Das Recht und die Religion“* – das Rechtswissenschaftenstudium ab.

1998–2003 war ich als Referentin, dann als eparchiale Inspektorin bei juristischen Problemen in der Erzdiözese Bukarest, am Rumänischen Patriarchat und an der Metropole Olteniens tätig. In dieser Zeit beschäftigte ich mich nicht nur mit der Verfassung der Rumänisch-Orthodoxen Kirche, sondern auch mit der Problematik des Religionsrechts in Rumänien und nahm an Symposien und Kongressen im In- und im Ausland teil.

Auf Einladung, an einem Forschungsprojekt über „orthodoxe Politiker und Kanonisten in der Donaumonarchie“ teilzunehmen, habe ich im Wintersemester 2003 das Doktoratsstudium im Fach Religionsrecht an der Rechtswissenschaftlichen Fakultät der Universität Wien begonnen.

In Wien interessierte mich neben dem Studium des österreichischen und des europäischen Religionsrechts besonders das Kirchenrecht der Katholischen und Orientalisch-Katholischen Kirchen. Hierzu besuchte ich wiederholt auch Lehrveranstaltungen und Tagungen. Als erste Ergebnisse meiner Forschungen in Wien habe ich drei Aufsätze veröffentlicht: Andrei Șaguna - model de român european (Andrei Șaguna – Vorbild eines europäischen Rumänen), in: Mitropolia Olteniei LVI (2004), Nr. 9–12, 131–135; Frauenrollen und Frauenrechte in der Rumänisch-Orthodoxen Kirche, in: Kanon XVII (2005), 122–139; Die Rumänisch-Orthodoxe Kirchenverfassung und ihre ekklesiologischen Grundlagen, in: Kanon XIX (2006), 95–110.

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