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# The Hungarian Ecclesiastical Patronage in the Vision of Protopresbyter Gheorghe Ciuhandu. Historical-Canonical Study

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## Abstract

The present paper represents a historical, political, and canonical study on the valuable contribution made by the priest Gheorghe Ciuhandu. He was an important historian and scholar from the Bishopric of Arad, who wanted to clarify the institution of the ecclesiastical patronage of Hungary and its implications in the life of the Orthodox Romanians in Transylvania before and after the time of the Romanian united state. Gheorghe Ciuhandu analyzes the problem of the ecclesiastical patronage from the perspective of the historical reality, as well as of the political and ecclesiastical impact. He establishes the nature of the patronage laws, as laws emanating from the sovereign quality of the kings of Hungary and not following the quality of apostolic kings, received based on personal merits from Rome. His contribution in establishing the basis of the supreme patronage laws was intended to clarify the situation of the relationship between cults and the state in Romania after the Great Union, inscribing his work within works of special importance for the study and development of Church Law.

## Keywords

Gheorghe Ciuhandu, Lazar Iacob, Canon Law, Orthodox Church, Catholic Church, inter-confessional, Great Union, the right of patronage, Patrimonial Law, ownership right, concordat, Hungarian kingdom, Hungarian law.

## I. Biographic landmarks

Priest Gheorghe Ciuhandu was born on April 23, 1875 in a priest family from Bihor, his father Petru being a priest in Roșia, the native village of the Ciuhandu family. His mother Maria Papp was from a family of good Romanians from Beiuș, and she was the one who organized the life of her house around the Church and “nourished the love of her sons for the Holy Altar”<sup>1</sup>. He attended the primary school from his native village during the period 1882-1885, then the Greek Catholic Gymnasium in Beiuș, where due to administrative problems, he passed the maturity exam a few years later, in “spring of 1899”<sup>2</sup>. Wishing to continue the old tradition within the priest families, in 1893, he started the theological studies at the Theological Institute of Arad for the joy of his parents, and in 1897, he participated at the examination of “priest qualification”<sup>3</sup> to be able to opt for a first class parish. Although his father wanted him to become a chaplain priest at the Rosia parish - Bihor, the young graduate chose to be a teacher at the confessional school from Căbești - Bihor, and during 1899-1900, he was a “teacher in Șiria”<sup>4</sup>.

While he was teacher at Căbești, a series of changes took place in the Diocese of Arad by the appointment of Bishop Iosif Goldiș at the head of the Episcopate. In the opinion of the young theologian, HH Iosif was the man capable of bringing the balance among the Orthodox faithful from Arad, affected by internal struggles to win the Episcopal seat. At the proposal of the new bishop, Gheorghe Ciuhandu became a practitioner at the eparchial Consistory, receiving also a scholarship of 1000 crowns annually for the continuation of the doctoral studies at the University of Chernovitsy. In 1905, he received the title of doctor in theology with a thesis in Church history: “Eastern Rite on the Hungarian Territory”<sup>5</sup> coordinated by Eusebiu Popovici. In 1902, he began his professional career as an external professor for a short period at the Theological Institute of Arad. After obtaining the

<sup>1</sup> Pavel VESA, *Clerici cărturari arădeni de altădată*, coll. *Biografii Arădene*, seria *Personalități Clericale*, Editura Guttenberg Univers, Arad, 2008, p. 299.

<sup>2</sup> Pavel VESA, *Clerici cărturari arădeni de altădată*, p. 300.

<sup>3</sup> Tribuna Poporului, anul I, nr. 29, 9/21 februarie 1897, p.123, apud Pavel VESA, *Clerici cărturari arădeni de altădată*, p. 304.

<sup>4</sup> Library of the Archdiocese of Arad, Gheorghe Ciuhandu filed, *Notițe Autobiografice*, dosar 132, f.60., apud Pavel VESA, *Clerici cărturari arădeni de altădată*, p. 304.

<sup>5</sup> Candela, nr.7/1907 apud Pavel VESA, *Clerici cărturari arădeni de altădată*, p. 310.

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title of doctor in theology, he becomes “cultural referee and advisor at the Bishopric of Arad”<sup>6</sup>. He actively participated in the Great Union, an important moment for which he “prepares a series of solemn Prayers, read during the ceremonial”<sup>7</sup>.

In 1922, he became president of the Association of Orthodox Clergy in Transylvania. Author of theological and especially historical works where he studied the Church history of the Romanians from Arad and Bihor, the problems for choosing a Romanian bishop in Arad, the “Greek-Catholic” action in Arad, and the old manuscripts in Bihor<sup>8</sup>. He was honorary member of the Romanian Academy (May 30, 1946). He died on April 29, 1947 at Vața de Jos, Hunedoara County.

## II. His work

Gheorghe Ciuhandu’s work is mainly focused on local history issues, trying to determine and clarify the delicate situation in the Western part of the country and the legal, canonical, and statistical aspect of the Romanian Orthodox in relation to the administration of the Austro-Hungarian Empire. For this reason, almost all his works are not just simple history but also canonical or “Church political” research<sup>9</sup> as it can be seen in his works: *Our People’s School and Cultural Tribute* (*Școala noastră poporală și darea culturală*) - Arad 1918, *Dr. Georgiu Popa, a Teacher and a Scholar* (*Dr. Georgiu Popa, un om de școală și cultură*), Arad -1934, *The Unification of the Romanian Orthodox Churches in Great Romania and the Relationship between the Church and the State* (*Împreunarea Bisericii ortodoxe române din România Mare și raportul Bisericii cu Statul*), Arad - 1919, *Reorganization of the Metropolitan of Transylvania* (*Reorganizarea Mitropoliei Ardelene*), Arad - 1920, *Points of Guidance in the Issue of Administrative Church Unification* (*Puncte de orientare în chestiunea unificării administrative bisericești*) in “Analele Asociației Clerului”, Sibiu - 1922, *Reorganization of Hierarchical Centres and Church Unification* (*Reorganizarea centrelor ierarhice și unificarea bisericească*), București

<sup>6</sup> [http://enciclopediaromaniei.ro/wiki/Gheorghe\\_Ciuhandu\\_\(preot\)](http://enciclopediaromaniei.ro/wiki/Gheorghe_Ciuhandu_(preot)), 16.09.2019.

<sup>7</sup> [http://enciclopediaromaniei.ro/wiki/Gheorghe\\_Ciuhandu\\_\(preot\)](http://enciclopediaromaniei.ro/wiki/Gheorghe_Ciuhandu_(preot)), 16.09.2019.

<sup>8</sup> Mircea PĂCURARIU, *Dicționarul Teologilor Români*, Editura Enciclopedică, București, 2002, p. 106.

<sup>9</sup> <http://biserica.org/WhosWho/DTR/C/GheorgheCiuhandu.html>.

- 1923, *Hungarian Ecclesiastical Patronage in Relation to the Rights of the Romanian State. Historical-Statistical and Political-Ecclesiastical Study (Patronatul eclesiastic ungar în raport cu drepturile statului român. Studiu istoric-statistic și politic-bisericesc)*, Arad -1928, *Romanian Schism or "Union with Rome" (Schisma românească sau "unirea cu Roma")*, Sibiu- 1921, *Orthodox Romanians and Greek-Catholic Romanians or Two Romanian Church Organizations in Transylvania (Români ortodocși și uniți români sau două organizații bisericești românești din Ardeal)*, Sibiu-1922, *Papism and Orthodoxy in Transylvania or Purple and Crown of Thorns (Papism și ortodoxism în Ardeal sau porfiră și cunună de spini)*, Arad- 1922, *The Religious Division of the Transylvanian Romanians. Falsification of Faith and History (Dezbinarea religioasă a românilor ardeleni. Falsificarea credinței și a istoriei)*, Arad- 1927, *The Monks Visarion and Sofronie and the Martyrs of Orthodoxy in Transylvania (Călugării Visarion și Sofronie și mucenicii Ortodoxiei din Ardeal)*, Sibiu - 1932, *Unionist Plague in the County of Arad and the Orthodox Reaction (Urgia unionistă din județul Aradului și reacțiunea ortodoxă)*, Arad - 1924, *Union and the Return of Galsa to Orthodoxy (Unirea și întoarcerea Galșei la Ortodoxie)*, Sibiu - 1924, *Hungarian Catholic Propaganda at Macău within the Orthodox Diocese of Arad (1815-1864) (Propaganda catolică maghiară de la Macău în coasta diecezei ortodoxe a Aradului (1815-1864))*, Arad -1926, *How the Union with Rome was done in Ohaba Forgaci (Banat). Description of Some Violations and Frauds (Cum s-a făcut unirea cu Roma în Ohaba Forgaci (Banat), Descrierea unor siluiri și fraude)*, Sibiu -1929, *Books of Malediction or Curse in Transylvania (Cărțile de afurisanie sau de blestem din Ardeal)*, Sibiu - 1930, *Bogomilism and Romanians (Bogomilismul și românii)*, Sibiu - 1933, *The Mystery of the Holy Confession at the Romanians, Ritual Notes. With Two Annexes: Serbian (1524), and Romanian (1681) (Rânduiala sfintei mărturisiri la români, însemnări rituale. Cu două anexe: ritualul sârbesc (1524), și românesc (1681))*, Cernăuți - 1933, *A Few Moments from the Past of the Bishopric of Arad 1767-1830 (Câteva momente din trecutul Episcopiei Aradului, 1767-1830)*, Arad - 1929, *Two Ioanovici on the Orthodox Episcopal Throne of Arad (Doi Ioanovici pe tronul episcopesc ortodox de la Arad)*, Arad - 1929, *Aspects from Nestor Iovanovici's Life, the Bishop of Arad, 1767-1830 (Din viața lui Nestor Iovanovici episcopul Aradului, 1767-1830)*, Arad - 1929, *Sketches from the Past of the Romanians of Arad*

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*from the Eighteenth Century (Schite din trecutul românilor arădeni din veacul al XVIII-lea), Arad - 1934, Bishops Samuil Vulcan and Gherasim Raț. Moments Especially from the History of the Romanians from Criș (1830 - 1840) (Episcopii Samuil Vulcan și Gherasim Raț. Pagini mai ales din istoria românilor crișeni (1830 - 1840)), Arad - 1935, Greek Traders in the Hungarian Regions and Especially in the Arad Region (Comercianții greci în părțile ungurene și în special în ținutul Aradului), in vol. "Fraților Alexandru și Ion Lapedatu", București - 1936, The Romanians from the Plain of Arad Two Centuries Ago. With a Historical Excursus up to 1752 and Subsequent Political-Historical Notes (Românii din Câmpia Aradului de acum două veacuri. Cu un excurs istoric până la 1752 și însemnări istorice-politice ulterioare), Arad - 1940, (work awarded by the Romanian Academy).*

### III. The Hungarian Ecclesiastic Patronage

Although he was a professor of Church history and historical researcher, Gheorghe Ciuhandu focused his attention on the problems of Church law. There were important events, which affected the Orthodoxy from the diocese of Arad and subsequently from the re-united Romania, and jeopardized the fragile but important achievement of the Romanians, namely the creation of the Romanian unitary state. These entire events contemporary to him, were burning issues that required an appropriate response. Being written by a Romanian scholar and ardent theologian, a participant in the Great Union of Alba Iulia, his studies had a special impact. They were subsequently cited in important works of ecclesiastical law, such as Professor Lazăr Iacob's work entitled *The Legal Nature of the Supreme Patronage and the Sovereign Rights of the Romanian State (Natura Juridică a Patronatului Suprem și drepturile suverane ale Statului Român)*. In this Church law work, Lazăr Iacob clearly established the supreme patronage rights of the Romanian State in the assets that came from state donations. In the mentioned work, Gheorghe Ciuhandu is quoted especially in the chapters that try to clarify and deepen the supreme patronage right exercised by the Hungarian state. In addition, what were the laws that determined the supreme patronage right of the kings of Hungary and whether these laws were state laws or simply concessions of the papacy

given by personal merits to the first kings of Hungary, “dealing especially with the origin of the patronage and the origin of the larger conflicts with the popes for its defence”<sup>10</sup>. All these realities in Austro-Hungary became legal and canonical dilemmas in re-united Romania, because after the moment of unification, the Hungarian Catholics in Romania did not want to accept the supreme patronage that was due to the King of Romania as head of state, which had been exercised by the King of Hungary until then and by the Hungarian parliament. The refusal was sufficiently motivated from the Catholic perspective, that the King of Romania did not have the quality of apostolic king. The problems of Church and civil law related to denominations, were complex problems that required a careful study on all levels, historical, canonical and judicial, to clarify what is the situation of the Christian denominations in Romania after the Union and how extend is the state right of inspection and control.

Gheorghe Ciuhandu analyzed the situation in Hungary where the problem was particularly clear due to sovereignty, the state having the right of supreme inspection and control over the assets that came from state donations. He recommends that in Romania, the problem of the Catholic Church should be solved in the same way; otherwise, in the absence of a clear law of the Christian denominations immediately after the union, it could lead to certain unfavourable or even harmful interpretations for the Romanian state.

One of Gheorghe Ciuhandu’s major concerns was to clarify the relations between the two Orthodox and Catholic churches from the former Austro-Hungary, not only from a historical point of view, but canonical - juridical. This also meant the implications of the former Hungarian imperial laws on the relationship between the Romanian state and the Catholic Church in Transylvania after the unification. Thus, during his doctoral studies he wrote a paper entitled “*Christianization of the Hungarians; the Duchies from the Left Side of the Danube; the Eastern Rite*” (Încreștinarea ungarilor, ducatele din stânga Dunării, ritul răsăritean)<sup>11</sup> published in *Tribuna Poporului* newspaper, where he emphasized the Romanians’ continuity on these territories: “*Papism and Orthodoxy in Transylvania or Porphyry and Crown of Thorns*” (*Papism și ortodoxism în Ardeal sau porfiră și cunună*

<sup>10</sup> Lazăr IACOB, *Natura Juridică a Patronatului Suprem și Drepturile suverane ale Statului Român*, Institutul de Arte Grafice Ardealul, Cluj, 1938, p. 6.

<sup>11</sup> Pavel VESA, *Clerici cărturari arădeni de altădată*, p. 327.

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*de spini*), written in Arad in 1922, which addressed the inter-confessional problems in the Diocese of Arad from a canonical, statistical, historical and legal perspective. He demonstrates the way the law of the cults was applied in Austro-Hungary, which clearly favoured the Hungarian Catholic element, both in terms of Church assets, state subsidies attributed to the cults and in the confessional education in the Romanian language.

The issues discussed in the important work “*Hungarian Ecclesiastical Patronage in Relation to the Rights of the Romanian State*” (*Patronatul eclesiastic ungar în raport cu drepturile Statului Român*) comes to the support of the general public to clarify some unpleasant aspects faced by simple believers. Without knowing the old law of the empire, immediately after Union they bought agricultural lands from the dismantling of the old estates. However, in the worksheets these lands were placed under the patronage duties of the Catholic Church, tasks that remained valid even after the change of the owner. It was the situation of Count Zigray’s estate located in Chereleş - Arad County, where the patron duties of the Church united with Rome were taken over by the landowner, later the “*Catholic religious fund*” being associated with these tasks<sup>12</sup>. After the estate was dismantled into smaller lots for sale, the patrimonial tasks were maintained and claimed by the united Church to the new owners. The new owners were mostly Orthodox Romanians, and they were put in a position to take care of the united Church and to do what the former Catholic patrons did not do at the proper time, i.e. “*to repair the Greek Catholic church in Chereleş*”<sup>13</sup>.

Such situations were not unique, so Gheorghe Ciuhandu wrote a complex study to clearly show the aspects regarding the historical genesis, the statistical situation, as well as the implications deriving from the exercise of the supreme and private patronage, first in Hungary and then in Romania after the Union. Then, in the absence of a clear law of the cults to determine the proper relationship between the state and the Catholic Church in Romania, there was the possibility of old legislative interpretations that had a fairly large framework and from which the Hungarian Catholics from Transylvania created considerable advantages for their cult.

<sup>12</sup> Gheorghe CIUHANDU, “Patronatul eclesiastic Ungar - Neoiobăgia României”, in: *Biserica și Școala*, XLVIII (1924), Ianuarie 7/20, p. 2.

<sup>13</sup> Gheorghe CIUHANDU, *Patronatul Eclesiastic Ungar în raport cu Drepturile Statului Român, Studiu Istoric –Statistic și Politic Bisericesc*, tiparul Tipografiei Diecezane Arad, 1928, p. 136.

### III.1 The origin of the ecclesiastical patronage in Gheorghe Ciuhandu's vision

Referring to the genesis of the ecclesiastical patronage, Gheorghe Ciuhandu defines it as a tutorial right, joining the line of the canonical thinking of law teachers from the beginning of the 20th century. The right of founding was gained, being a personal right, acquired because of the building, endowing, caring, and donating the church site. Because of this action, the natural or legal person could exercise a certain influence “*regarding the administration of the institution*”<sup>14</sup> on the destination of donated goods, established by common understanding with the Church administration. In this way, in accordance with the Catholic law of Hungary, the state can become a patron “as any private person”<sup>15</sup> and can establish patronage relationships with the Church in activities of common interest. The canonical Catholic law in practice in the Hungarian civil law does not know a patronage as “*an emanation of the state sovereignty*”<sup>16</sup>, but admits those asserted by the Hungarian canonist Kosutány Ignác, that the state can legally establish and donate patrimonial benefits like any natural person. This aspect of Hungarian civil law is extremely interesting and we will see that in Hungary the state became a strong ally of the Catholic Church in the field of patronage. He assumed not only the mentioned aspects arising from the quality of patron, but especially those of supreme patronage, which the kings of Hungary exercised over the Catholic Church. These rights went beyond the influence allowed by canon law rules, the kings of Hungary having the right to appoint bishops, to set up higher administrative structures, practically reaching tacit independence from the papal power.

If in Hungary the state patronage received a totalitarian aspect, maintained for centuries, in the East we note a different approach of the private and state patronage. The founder, regardless whether he was a natural or legal person (in the rare cases in which the patronage funds

<sup>14</sup> Constantin POPOVICI, *Drept bisericesc grec ortodox*, manuscris 183, Cernăuți 1902, apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p.1.

<sup>15</sup> Ignác KOSUTÁNY, *Egyházjog. A magyarországi egyházak alkotmánya és közigazgatása*, (Drept bisericesc) ediția III, Cluj, 1906, p. 396.

<sup>16</sup> Lazăr IACOB, *Natura Juridică a Patronatului Suprem și Drepturile suverane ale Statului Român*, p. 9.



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belonged to the royal crown) was in perfect agreement with the bishop of the place, without interference in the administrative problems related to the appointments of bishops, founding of metropolises or bishops and their jurisdiction. According to Gheorghe Ciuhandu's studies, the patronage or the founder privileges were established based on the personal merits of the founders, merits that could be inherited, but which were also accompanied by a series of duties that the founders would carry out. In this sense, there is the famous Novel 123 of Justinian, quoted by the author. In chapter 18 it is mentioned that

“if any man built a church and sustains it with its clergy altogether, he has the right to appoint those clergy, and his heirs also have this right, if they too are indebted to uphold the church and its clergy; and the bishop should ordain the one appointed if he finds it worthy, otherwise he should appoint another who is worthy”<sup>17</sup>.

From the text stated by Gheorghe Ciuhandu to illustrate the situation of the patronage in the Eastern Church, it is clear that the founders could exercise the right of patronage within certain limits. That is, they could appoint priests only if they committed themselves to keeping the church and the clergy in full agreement with the bishop in charge of the canonical interrogation of the one proposed and only following this purpose the one desired by the founders could be ordained a priest or not. The final decision belonged to the bishop who was not restricted as in the case of the Hungarian patronage right to approve or refuse the candidate for priesthood. The inheritance of the right of patronage was also conditional on the new founders assuming the tasks that arose from this quality. It was a clear commitment to the bishop that they would further take care of the church and the members of the clergy. In the East, the institution of the patronage did not take root as in the west, where the kings exploited this opportunity to get involved in Church problems but it was a practice permitted under certain conditions, without being clearly regulated by any synod.

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<sup>17</sup> Constantin POPOVICI, *Drept bisericesc greco-ortodox*, manuscris 183, Cernăuți 1902, apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 2.

### III. 2. Genesis of the ecclesiastical patronage of Hungary

Between the aspects regarding the genesis of the patronage institution covered by canon law and Hungarian civil or public law, there are major differences in Gheorghe Ciuhandu's opinion. This is because the canon law supports the emergence of the patronage as an "ecclesial authorization"<sup>18</sup> from the pope, being in this sense a papal indulgence, and Hungarian public law sees the origin of the patronage as sovereign of the king, therefore a political exercise of state power represented by the sovereign. The distinction between the two aspects is fundamental, because in practice, the entire Hungarian patronage law was centred on the political aspect of ecclesiastical patronage. This fact often drew tensions between the kings of Hungary and the papacy, but in Transylvania after the Union, the Catholic Hungarians denied the King of Romania this right by virtue of the fact that according to the canonical Catholic norms, the patronage is a benefit related to the quality of apostolic king, and the kings of Hungary were apostolic kings and "in this capacity they exercised the supreme patronage"<sup>19</sup>. With this norm considered the rule of law by the Hungarian Catholic circles in Transylvania, the transfer of the state patronage exercise was attempted. That is from the one who exercised this power, i.e. the Hungarian state, and after the union - the Romanian state naturally, within the sphere of influence of the Catholic Church from Transylvania, which never had this power in history, but which by this legal modification brought immense privileges to the Hungarian Catholics in re-united Romania. Gheorghe Ciuhandu analyzed both aspects related to the genesis of the Hungarian patronage, in order to determine the way to exercise the supreme patronage and on what basis the king of Hungary exercised it. He considers plausible the opinion of most Hungarian canonists and lawyers: in the past when there was no clear separation between ecclesiastical and state power and "when there was no idea of church autonomy in relation to the state"<sup>20</sup>, the state patronage, more precisely of the kings who exercised political power,

<sup>18</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 8.

<sup>19</sup> Lazăr IACOB, *Natura Juridică a Patronatului Suprem și Drepturile suverane ale Statului Român*, p. 4.

<sup>20</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 8.

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was also admitted from the point of view of canon law, that is, the state had an important role in the administration of the Church business not always strictly economically. In his work *A vallás körüli felségjogok* published in Budapest in 1894, Boncz Ferencz, one of the Hungarian canonists quoted by Gheorghe Ciuhandu, deals with the royal rights on the problem of patronage, determining the supreme patronage right as a right that emerges from the sovereignty of the state, because “the crowning of kings is always according to the will of the inhabitants of the country and the power of the Crown is conditioned by their approval”<sup>21</sup>.

Unlike other authors dealing with the problem of the ecclesiastical patronage genesis in Hungary, Gheorghe Ciuhandu considers that this is the result of “two ecclesiastical political influences”<sup>22</sup>, which started at the same time, both from the Eastern practices of patronage mentioned above, and from the West ones. Recalling the Eastern practices, Gheorghe Ciuhandu draws attention to the Hungarians Christianization, who initially received Christianity in the form of the Eastern rite and maintained links with Byzantium even after the year 1000 when King Stephen of Hungary began his links with the West. Gheorghe Ciuhandu considers plausible the hypothesis that the Hungarian ecclesiastical patronage put into practice starting with King Stephen, should be based more on Byzantine origins, with the Eastern practice characteristic of the east, than the Western traditions.

In support of this hypothesis, the author also brings the historical-cultural argument, which attests King Stephen’s closeness to Byzantine culture, this being attested by the buildings of that period, built by Greek architects, who printed a strong Eastern tradition in their works. The ideas of the East also took shape at King Stephen’s court due to the cultural influences exerted by the existence of a well-organized Orthodox bishopric on Mures and the fact that around 1001-1002 Byzantium was “bordering on Hungary”<sup>23</sup>, which will determine not only political alliances but also cultural influences, of course, dominated by the Eastern Christianity.

<sup>21</sup> Boncz FERENCZ, *A vallás körüli felségjogok*, p. 45, apud Lazăr IACOB, *Natura Juridică a Patronatului Suprem și Drepturile suverane ale Statului Român*, p. 26.

<sup>22</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 9.

<sup>23</sup> Szilágyi SÁNDOR, *A magyar nemzet története*, Athenaeum Irodalmi és Nyomdai Részvénytársulat, Budapest, 1894–1898, p. 294, (*Istoria poporului maghiar*), apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 10.

Hungarians became acquainted with both forms of Christianity, later choosing Western Christianity due to political circumstances. Regarding the exercise of the patronage rights, although there were Eastern influences, the model followed by King Stefan in diplomacy and the regulation of Church affairs can be found in the political vision of King “Charles the Great”<sup>24</sup> contained in the letter addressed in 813 from Aachen “to his son Louis”<sup>25</sup>, as a result of his appointment as co-regent.

Hungarian historians unanimously agree that the intentions of forming a national church according to the Eastern model but with a Latin Catholic rite was an ideal of King Stephen, which he was to fulfil, by firmly asserting that his royal rights would extend to the Catholic Church as well, in order to keep away the papacy from the assets and interests of the Hungarian Catholic Church. Historian Boncz Ferenc, quoted by Gheorghe Ciuhandu, mentions that Stefan I wanted an independent church not only because of the papacy and its catching tendencies, but also “because of the German empire that advanced”<sup>26</sup>, so the pope even came to support Stefan’s efforts against the Germans who wanted new political and church alliances.

When organizing the Church life, Stefan I acted alone, without waiting for the approval or opinion of the pope. Although there are some historians who mention that the pope had given the quality of apostolic legate and delegated the Hungarian king to make this effort to organize the religious life in his kingdom, some “question the quality of legate”<sup>27</sup> king Stephen owned. By virtue of this quality of legate, he divided the kingdom in bishoprics, set up monasteries and endowed the church with

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<sup>24</sup> Charles the Great, was king of the Franks from 768 until his death, and founder of the Carolingian Empire. During his reign he conquered Italy and was crowned Emperor Augustus by Pope Leo III on December 25, 800, some historians seeing this as an attempt to revive the Western Roman Empire. In a sense, the Carolingian Empire was a rival state to the Eastern Roman Empire, with the capital at Constantinople (also called the Byzantine Empire). Charles the Great is part of the Carolingian dynasty, and is sometimes seen as the founding father of both France and Germany, and as the father of Europe by some historians. He was the first ruler of an empire in Western Europe since the collapse of the Roman Empire with the capital in Rome. [https://ro.wikipedia.org/wiki/Carol\\_cel\\_Mare#cite\\_ref-34](https://ro.wikipedia.org/wiki/Carol_cel_Mare#cite_ref-34), 25 septembrie 2019.

<sup>25</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 10.

<sup>26</sup> Boncz FERENCZ, *A vallás körüli felségjogok*, p. 6, 7, apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 10.

<sup>27</sup> Ignác KOSUTANY, *Egyházjog. A magyarországi egyházak alkotmánya és közigazgatása*, Kolozsvár, 1903, apud, Lazăr IACOB, *Natura Juridică a Patronatului Suprem și Drepturile Suverane ale Statului Român* p. 11.

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all that was necessary for its proper functioning. Following this step, theoretically of insubordination, but a practical one according to the controversial Hungarian history, approved by Rome, the pope not only did not take disciplinary measures, but he invested Stephen I with the title of “apostolic king ..... and head of to his church”<sup>28</sup>. This title contains full authorization for the management of the Church interests in Hungary, practically creating a church independent of the papacy influence. From the right to organize the Church, apparently received as a personal right by King Stephen, a whole complex of royal rights and privileges has been created that concerns the ecclesial patronage, known under the generic name of “*Ius patronatus Regii*”<sup>29</sup>.

As a result of these patronage rights, only the king could offer patronage rights to the natural persons, because he was the only patron. Of course, this right was first based on the quality of legate, and then on that of apostolic king. This quality has been challenged by many Hungarian historians and canonists, such as Dr. Karácsonyi János, Kosutány Ignác, Fraknoi Vilmos, the latter demonstrating that the kings of the Franco-German Empire also exercised similar rights to King Stephen I “without having the apostolic legate”<sup>30</sup>. The observation is extremely valuable for the study regarding the supreme patronage contained in *Ius patronatus Regii*, because it shows that these patronage rights were in fact sovereign rights and not special rights obtained through papal grace or personal merits.

### III. 3. The patronage institution and its role in the Hungarian Catholic Church policy

Although there are many honest Hungarian specialists who question the fact that the apostolic royalty of the first Hungarian king Stephen I could be a principle of law for the exercise of the supreme patronage, yet in the official Catholic theory it is admitted that based on this fact Stephen I exercised patronage rights over the Church, rights exercised by all kings of Hungary for centuries by virtue of the same apostolic royalty.

<sup>28</sup> BONCZ FERENCZ, *A vallás körüli felségjogok*, p. 41-42, apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 11.

<sup>29</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 12.

<sup>30</sup> LAZĂR IACOB, *Natura Juridică a Patronatului Suprem și Drepturile suverane ale Statului Român*, p. 14.

However Gheorghe Ciuhandu raises the following question arising from the exercise of the patronage right: why the right of supreme patronage “was not restricted” only to the organization of the Hungarian church<sup>31</sup> but it also included other aspects?

The question is extremely justified since one of the first measures taken by King Stephen was the preservation of the Catholic faith. Therefore, this aspect is recorded in the first article of “Corpus Iuris Hungarici”<sup>32</sup>, practically revealing the importance of the Catholic faith in royal life and politics. In Article 1, the Hungarian text mentions the following aspects of the role of faith “azért a mi tanításink során az első helyet a szent vallásnak adjuk”<sup>33</sup> meaning *according to our teaching, we offer faith the first place*, underlining by royal law, the role that the Catholic Christian faith had in the life of the king and implicitly of the kingdom. In Article 2 the text states the place of the Catholic Church as following: “a királyi palotában bizonyára másod helyen áll a vallás után az egyház.....”<sup>34</sup>, that is, *in the royal palace, the church has a second place after faith*. This demonstrates not only the attachment of the king and his family to the preservation of Catholic Christian values, but also how these aspects were legislated, becoming practically norms of law, for all the subjects of the Hungarian kingdom, who had to act accordingly. If the king was engaged in the mission of promoting Catholicism, the same employment was required from the subjects by royal law, regardless of their religious orientation. Of course, the great papal indulgence towards Hungary and King Stephen I had not only a religious background, but also a political one, because by some concessions apparently in favour of Hungary, the papacy succeeded in consolidating Catholicism in the Eastern part of Europe, the Hungarian kings being willing to carry out proselyte activities among the Orthodox Christians.

According to Gheorghe Ciuhandu, the religious propaganda of King Stephen I was carried out in two directions, the first being related to the

<sup>31</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 13.

<sup>32</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 13.

<sup>33</sup> *Corpus Juris Hungarici, Magyar Törvénytar (1000-1526), A keresztyén hit megtartásáról*, in: <http://mek.oszk.hu/01300/01396/html/01.htm#1>, 25th of March 2019.

<sup>34</sup> *Corpus Juris Hungarici, Magyar Törvénytar (1000-1526), Az egyházzól és az egyház állapotjának megtartásáról*, in: <http://mek.oszk.hu/01300/01396/html/01.htm#1>, 25th of March 2019.

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establishment of the superior church structures and their endowment and at the same time the second direction oriented to the destruction of Orthodoxy in his kingdom that he showed a great deal of aggression against. Of course, his followers understood the exercise of the supreme patronage in the same way, as an excessive care for the preservation and expansion of Catholicism and implicitly of the Hungarian kingdom, becoming one of the bastions of the Western Christian faith. The Orthodox Romanians of Transylvania were among the first to experience the effects of the Hungarian supreme patronage law, being oppressed for centuries for their faith, language and rights. Of course, the supreme patronage brought great favours to the Hungarian Catholic Christians, but it was a hard yoke for the other nationalities in the kingdom, who were subjected to a strong policy of denationalization, Hungarianization and implicitly Catholicism, all under the supreme patronage right exercised by the kings of Hungary. If Stephen I of Hungary pursued such aggressive policies towards his neighbours from other confessions, two centuries away from the royal decrees promoted by him, King Bela IV declared himself “the only patron of all the churches in his kingdom”<sup>35</sup> and he promised to convert all schismatics to Catholicism, of course referring to the Orthodox Romanians.

In Gheorghe Ciuhandu’s opinion, this period of historical and confessional disturbances determined the appearance of the private patronage, apart from the state or royal patronage, but with the approval of the king. It allowed the natural persons, i.e. important nobles, to exercise certain economic influences in the churches founded by them, the right of patronage being inherited and legally transmitted. This kind of private patronage was also known in the East, with the mention that here the patronage or the right of founder was exercised with the consent of the local bishop and not of the king as absolute patron. Thus, an aspect present in the institution of the western patronage was avoided, that the patrons should become absolute masters on their foundations. A more special case occurred in the 13th century, in the history of Hungarian patronage and it was recorded by one of the Hungarian canonists and church historians, Karácsonyi Iános. It occurred when German colonists came to Hungary for mining activities. In 1255, they erected a church by themselves

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<sup>35</sup> Vilmos FRAKNÓI, *A magyar királyi kegyúri jog Szent Istvántól Mária Teréziáig : történeti tanulmány*. Budapest: (kiadó nélkül), 1895, p. 39, apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 17.

without waiting for help from the king and this “ensured their right to choose their priest freely”<sup>36</sup>. This shows that the right of patron had no connection with the quality of apostolic king, but with a way of organizing against the Hungarian patronage, the Germans finding certain aspects that could be exploited through an exemplary organization. This will manifest immediately after the reform, when the barely tolerated cults in Hungary were taken into consideration for the first time and endowed with assets of the Hungarian crown. It is particularly important to note that the supreme patronage imposed on these royal assets, not based on apostolic law but by virtue of his sovereign rights. It is difficult to suppose that the apostolic legacy, generously attributed but without solid historical arguments to the first Hungarian king, would have been transmitted hereditary to his successors. For Gheorghe Ciuhandu, the transmission of the right to exercise the supreme patronage remains an essential question for clarifying the claims of the Catholics in Transylvania, who supported the official Catholic thesis. This assumed that only the Catholic king of Hungary as apostolic king could exercise the supreme inspection and control over the assets of the Catholic Church in Transylvania and not the king of Romania based on constitutional prerogatives. Very scientifically justified, the relevant question arises regarding the legality of Hungarian kings to exercise the supreme patronage based on theses that did not have real historical and canonical support, but only a long-standing indulgence of the papacy. Based on these allowances, the kings gave laws to the church life similar to the canons of Catholic law, but they had royal authority and were put into practice due to the sovereign authority and an honorary authority of apostolic royalty. This fact greatly complicates the Hungarian Catholic attempts to reconcile the two aspects that derive from the authority that was the basis for issuing such compulsory laws in the Hungarian Catholic church. Who had priority in the settlement of ecclesiastical problems, the canonical law valid for all Hungarian Catholics or not, or the state law issued by the king as a prerogative of his sovereignty?

Most of the laws concerning the organization and administration of the Catholic Church in Hungary had a profound ecclesiastical political character, without interference from the papacy. Sometimes the Hungarian

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<sup>36</sup> János KARÁCSONYI, *Magyarország egyháztörténete*, Nagyvárad, 1915, p. 89. apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 18.



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kings were even in conflict with the pope, which clearly shows that their reception and application did not relate to the apostolic quality of the king, but there were laws deriving from the sovereign rights that any king had in his country. Of course, the claims of the Hungarian kings to gain autonomy over Rome were exaggerated as the papacy promoted a centralized and obedient leadership. The Hungarian Catholic Church functioned according to its own laws that reflected not the provisions of canon law as it was natural for a Catholic country, but based on civil laws, which maintained the national and sovereign character of the country. The Austro-Hungarian empire subsequently applied the patronage laws exactly in this way of interpretation, becoming a way to preserve and strengthen the assets of the Catholic church, which lost a large part of its adherents through reform.

According to Gheorghe Ciuhandu, even the process of Ruthenians and Romanians unification represented a manifestation of the Hungarian supreme patronage, being in fact a “political violation by the ecclesiastical patronage”<sup>37</sup>. The supreme ecclesial patronage will not be substantially modified by the “Ausgleich *dualist pact*”<sup>38</sup> from 1867, although the supreme patron was no longer based in Budapest but in Vienna, but keeping the entire Hungarian policy on ecclesial patronage in force.

#### **IV. Hungarian patronage in relation to canonical Catholic law and state laws**

The right of patronage conferred certain rights to the owner, in the case of the present study - the Hungarian king and his descendants, but also certain duties. Among the duties, Gheorghe Ciuhandu mentioned the donation of the land, the building of the edifice, the care for the clergy and church or the patron settlement, to make the necessary repairs in case of fires or

<sup>37</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 41.

<sup>38</sup> Ausgleich refers to the “compromise” of February 1867 which founded the Austro-Hungarian dual monarchy, promulgated by Emperor Franz Joseph and a Hungarian delegation led by Ferenc Deák. Under this new organization, the Hungarian-dominated government from Hungary won almost equal rights with the Vienna government, the two states becoming two separate states, with their own constitutions, parliaments, administrations and militias. The sovereign was the same person, same as the ministries for foreign, economic and military policy. The joint costs were initially covered 70% by Austria. [https://ro.wikipedia.org/wiki/Compromisul\\_austro-ungar\\_din\\_1867](https://ro.wikipedia.org/wiki/Compromisul_austro-ungar_din_1867), 27 septembrie 2019.

earthquakes, to complete the wealth of the church if it had decreased from various motives.

Based on these, the patron has many rights: mentioning the name and emblem of the family on the wall of the edifice, a special place in the church, incense, priority in the commemoration services and the remembrance after death. An unusual aspect within the private patronage of Hungary is the “utility title”<sup>39</sup>, whereby in the case of bankruptcy, the patron had access to part of the wealth made available to the church. A special right that the holder of the patron title could enjoy was that of having the permission to present the candidate for the priesthood for the erected building to the bishop. All these rights were considered hereditary with one exception from the rule; they were not valid if the descendant was not a Catholic, a provision imposed so that those of another faith would not influence the wealth of the church. All these rights of patronage, whether we have in question the supreme patronage exercised by the king on the basis of his sovereign prerogatives, or by the private one exercised on the basis of the authorization from the king, were based on the right to possess the land of the country, naturally exercised by any independent state. From this perspective, according to the Christian faith, this right should be a right of all, not a right that should be selectively exercised as a personal favour generated by certain services provided to the papacy or the king assimilated with the apostolic law. However, the Hungarian patronage worked as a system of seizing power and wealth by exercising not only ecclesiastical patronage but also political power under the armed threat and cancellation of civil rights upon all non-Catholics who were within the political-administrative influence of Hungary. The strongest Catholic domains were strategically placed exactly in the territories inhabited by non-Catholics for the purpose of exercising proselytism and forcing the transition to Catholicism. For this reason, the Hungarian ecclesiastical patronage has become a feared enemy for those of other faiths, in the opinion of Gheorghe Ciuhandu giving birth to a “specific Hungarian serfdom”<sup>40</sup>. This is because by the laws included in the Hungarian supreme patronage until the seventeenth century, and then with minor corrections

<sup>39</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 60.

<sup>40</sup> Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 61.

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by the Hungarian state, until after World War I, the land obtained under the patronage was burdened with burdens in favour of Catholicism for good. This was even if the descendants were no longer Catholic, according to the royal law of August 24, 1864, which specified that the law of the employer be so closely related to the land and the right of possession that it cannot be cancelled by the change of owner. The manner of interpretation from the Hungarian Catholic part is extremely clear, because it always starts from the premise that all legal or canonical problems will be solved in favour of the Catholic Church. This is also the famous but not unique case of Law 13384 of 1872 issued by the Ministry of Public Order and Instruction, which brings a supplement to Law XVIII of August 24, 1864. It tried to clarify an aspect related to the patronage rights, that based on the ownership document belonged to a Jew, who paid the patronage duties to the settlement and had the intention to exercise the legal right to present the candidate for the priesthood to the bishop of the place. Nevertheless, he was elegantly refused by the following phrase:

“Although the XVIII law of 1864 declares the Jews to have the same civil and political rights with Christians, however, the patronage does not belong to the civil and political law, but to the ecclesiastical law, which only a Christian can exercise, a Jewish patron having only the patronage tasks but cannot have a say in the appointment of the priest”<sup>41</sup>.

For this reason, the patronage laws that governed Hungary and ensured its prosperity could no longer be accepted in a modern country in full assertion as re-united Romania. This fact brought many problems for the Romanian state in the elaboration of the new law of the cults and when signing the Concordat with the Vatican. The acts were concluded in the same manner as the aforementioned law, that is, with unexpected privileges for the Hungarian Catholics in Transylvania and similar tasks for the Romanian State, signatory of the Concordat and the Agreement with Rome, which aimed at exercising the supreme patronage under similar conditions to the middle age.

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<sup>41</sup> Order of the Ministry of Cults and Public Instruction nr. 13384/872, apud Gheorghe CIUHANDU, *Patronatul Ecclesiastic Ungar în raport cu Drepturile Statului Român*, p. 63.

## V. Conclusions

Written in 1928, after the signing of the Concordat with the Vatican on May 10, 1927, but before its ratification by the Parliament on May 25, 1929, along with the works of Lazar Iacob and Onisifor Ghibu, Gheorghe Ciuhandu's work was intended to be an indicative document for the public opinion published in re-united Romania and for Romanian politicians. It aimed at solving a delicate problem in Transylvania, that of exercising the supreme patronage over the wealth of the Catholic Church, wealth derived from state donations. The kings of Hungary exercised this patronage during the history in their capacity as sovereigns and not as legates or apostolic kings, as the Hungarians in Transylvania were wrongly trying to prove. By trying to prove the kings of Hungary had the quality of apostolic king, the Hungarians wanted to show that this quality was in fact the foundation of the supreme patronage law and only the kings of Hungary had this quality and right. Based on faithful studies of historical and statistical chronology and oriented towards the political and church analysis specific to the regulation of ecclesial affairs in Hungary, Gheorghe Ciuhandu masterfully demonstrates that the rights included in the supreme patronage were not honorary rights received under the apostolic law offered by Pope Sylvester to Stephen I - the first Hungarian king - who organized and endowed the church in his kingdom, but there were sovereign rights, inextricably linked to the sovereignty of a politically independent country. The quality of apostolic legate does not confer patron rights; moreover, it is difficult to conceive that a sovereign accepts such title far below his quality. You cannot be an independent king and a papal ambassador at the same time. The history of the supreme patronage and the way of exercising the laws contained in the royal decrees referring to the patronage, clearly demonstrate that they have no connection with the quality of apostolic king. According to some Hungarian historians and canonists, King Stephen received this honorary title from the same pope Sylvester, a title that apparently Rome did not grant or accept, even though the kings of Hungary had the courage to use it abusively. The institution of the supreme patronage allowed the kings of Hungary control over the entire wealth of the Catholic Church from the kingdom, guaranteeing the prosperity and security of this church. Irrespective of the forms of patronage, supreme

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or public-private, there was only one purpose, that of the Catholic church advantage. For these reasons, even if the interests included in the Hungarian patronage violated the provisions of the canonical Catholic law and implicitly attacked the papal sovereignty, the case of the economically independent church of Hungary remains a special case, tolerated by the papacy. The reason was that Hungary provided security in the East and through its intensely proselytizing actions, it also ensured an appreciable number of believers, which was declining in the countries that were once the bastion of Catholicism.

If the patronage rights were rights emanating from the sovereignty and not from some personal rights held for a period by some Hungarian kings, it means that the Romanian sovereign could exercised supreme patronage after the establishment of the national state. The right of supreme patronage granted to the King of Romania was not only a legal and canonical possibility but was a necessity regarding the security of the state, the Church organization and especially the offering of an equal justification on constitutional basis before the law for all the cults of the Romanian kingdom. According to the medieval traditions, the Hungarians from Transylvania tried through the Vatican, which believed to be the legal continuator of the Hungarian apostolic royalty, to limit the right of supreme inspection and control for the Romanian state over the Catholic assets resulting from state donations.

Gheorghe Ciuhandu's work represents a valuable contribution to establishing the right of patronage in Hungary, which Transylvania was part of, and implicitly the Orthodox Romanians who experienced for centuries the discriminatory way of applying the Hungarian ecclesial patronage and what should be the law of cults and the way of exercising the supreme patronage in a free country like Romania.