

The Bishops' House in the Romanian Pastoral Village of Rășinari (Mărginimea Sibiului) and its Hidden Treasures: A Short Legal History of the *Book of Village Boundaries* and the Deed of Donation (1488, 1383) and *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* (1784)

Ela Cosma¹

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Abstract. The study aims to present legal aspects of the medieval and premodern history of Rășinari, the greatest pastoral village in Mărginimea Sibiului (lying at the foot of the Southern Carpathians), whose inhabitants (*mărgineni*) were considered the richest Romanian transhumant shepherds. Based on methods pertaining to Cyrillic and Latin palaeography, ecdotics, and legal history, we analyse precious documents discovered in the Church Museum of Rășinari, contained in the 18th century Orthodox Bishops' House: 1. the extract of a deed of donation made in 1383 by Voivode Radu Negru to the Saint Paraschiva Church in Rășinari; 2. the *Book of village boundaries* of 1488, describing a perambulation for the separation of boundaries between the Romanian village and the Saxon one of Cîsnădie; 3. the manuscript volume *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem 1784* (1,318 pages), a veritable legal mirror reflecting juridical relations, procedures and lawsuits specific to South Transylvania under Habsburg suzerainty. The examination of the medieval Cyrillic-Romanian documents' variants, late copies and even 18th century Latin translations highlights the conclusion regarding the special historical, linguistic and legal value of the treasures hidden in the Bishops' House of Rășinari.

Keywords: Romanian pastoral village; Bishop's House in Rășinari; Extract of a deed of donation (1383); *Book of village boundaries* (1488); *Transmissionales* legal manuscript (1784).

[es] La Casa del Obispo en el pueblo rumano de pastores de Rășinari (Mărginimea Sibiului) y sus tesoros escondidos: una breve historia jurídica del *Libro de límites* con la *Carta de donación* (1488, 1383) y *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* (1784)

Resumen. Este estudio tiene como objeto presentar los aspectos legales de la historia medieval y premoderna de Rășinari, el mayor pueblo de pastores de Mărginimea Sibiului (al pie de los Cárpatos del sur), cuyos habitantes (*mărgineni*) fueron considerados los pastores transhumantes más ricos de Rumanía. A partir de una metodología basada en la paleográfica cirílica y latina, la ecdótica y la historia legal, nos proponemos analizar los siguientes documentos, todos ellos muy valiosos, descubiertos en el Museo de la Iglesia de Rășinari, albergado en la Casa del Obispo ortodoxo del siglo XVIII: 1. el extracto de una escritura de donación hecha en el año 1383 por Voivode Radu Negru a la Iglesia de San Paraschiva en Rășinari; 2. el *Libro de límites* de 1488, que describe un recorrido por la separación de los límites entre el pueblo rumano y el pueblo sajón de Cîsnădie; 3. el volumen manuscrito *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem 1784* (1318 páginas), un verdadero espejo legal que refleja las relaciones jurídicas, los procedimientos y los pleitos específicos del sur de Transilvania bajo la soberanía de los Habsburgo. El análisis de las variantes de los documentos medievales cirílico-romanos, las copias tardías e incluso las traducciones al latín hechas en el siglo XVIII ponen de relieve el especial valor de los tesoros históricos y lingüísticos escondidos en la Casa del Obispo de Rășinari, así como su valor legal.

Palabras clave: Pueblo rumano de pastores, Casa del Obispo en Rășinari, carta de donación (1383), *Libro de límites* (1488), manuscrito jurídico *Transmissionales* (1784).

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¹ Institutul de Istorie "George Barițiu" al Academiei Române (Institute of History "George Barițiu" of the Romanian Academy) in Cluj-Napoca (Romania).

Email: ela_cosma@yahoo.com

ORCID: <https://orcid.org/0000-0001-6898-2459>

donation granted to the Saint Paraschiva Church in Răşinari (1383). 3.2. Contents of *Cartea ocolniţă* (1488). 3.3. And its epilogue during the 16th-18th centuries. 4. *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* (1784). 4.1. Description and variants. 4.2. Form, structure, narrative framework. 4.3. Contents of *Transmissionales*. 4.4. *Transmissionales* and *Cartea ocolniţă*. 4.5. Further documents attesting the possessory rights of Răşinari (13th-18th centuries). 4.6. The happy ending of *Transmissionales* (18th-19th centuries). 5. Conclusions. 6. Sources and bibliographical references.

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1. Introduction

The South Transylvanian area of Mărginimea Sibiului comprises today 18 Romanian large villages situated between the valleys of the rivers Olt and Sebeş, in the Southern Carpathians, at the foot of the Lotrului Mountains (Boiţa and Tălmăcel) and Cindrel Mountains (Sadu, Râu Sadului, Răşinari, Poplaca, Orlat, Gura Râului and, since 2003, the new town Sălişte, with its villages Cacova or Fântânele, Sibiul, Săcel, Vale and Galeş, then Tilişca with Rod and, on top of the mountains, Poiana Sibiului and Jina). Răşinari is the largest village in Mărginimea Sibiului, with over 5,000 souls,

while Sălişte is considered the spiritual capital of the region.

The inhabitants of this ethnohistorical area (called *mărgineni*) were known as the richest and most conservative Romanian transhumant shepherds, forming the most compact community of *mocani* (Transylvanian shepherds). They practiced two basic forms of sheep raising, namely the local one on the high alpine pastures and the pastoral transhumance that covered vast areas of the Carpathians to Dobruja and Antalya, to Bessarabia, Crimea and Caucasus. The transhumance of the *mocani* with their sheep flocks had a major influence and contribution to the pan-Romanian linguistic unity (Fig. 1).



Figure 1. Shepherd with his sheep flock in Răşinari.

Source: Răşinari Town Hall Website. Accessed March 30, 2020. <https://primaria-rasinari.ro/>

Răşinari, the “greatest commune (*comună*)² in Mărginime”³, conserves until today the impressive im-

age of a “Village of Townsmen” (*Städterdorf*), as the Saxon neighbours called it. This flourishing village of Romanian shepherds brags about its secondary school of great tradition, three churches, an ethnographic museum organized by the town hall and a church museum kept by the Orthodox parish, the mausoleum of the Transylvanian Orthodox metropolitan bishop Andrei Şaguna (1809-1873), three memorial houses of Orthodox priest, school principal and politician Sava Popovici-Barcianu (1814-1879), poet Octavian Goga (1881-

² *Comună* (in Romanian language), commune, denotes a large village with *primărie* (town hall) and *primar* (mayor), with smaller *sate* (villages) and *cătune* (hamlets) belonging to it. The village of Poplaca belongs to the commune of Răşinari.

³ “Primăria Răşinari. Site-ul oficial al comunei” [“Official Website of the Town Hall in Răşinari”], Sibiu County. Accessed March 30, 2020. <http://www.primaria-rasinari.ro>.



Figure 2. The Bishops' House (1710, 1761-1796) in Rășinari. Source: photo by Ela Cosma, July 2017.

1938) and philosopher Emil Cioran (1911-1955). It also has a few houses from the 18th-19th centuries, which reveal in facade inscriptions both their founding moments and aspects of their almost two hundred years old history. Such are: the House of the Village Judge (*Casa Judelui Sătesc*) built in 1846, where E. Cioran was born in 1911; the Village House and Hall (*Casa și Șura Satului*) of 1847; the house of 1850; the house where explorer Ilarie Mitrea (1842-1904) was born, renovated in 1861; the house where O. Goga was born in 1881.

2. The Bishops' House in Rășinari (1710, 1761-1796)

The oldest house preserved in Rășinari is the Bishops' House, a historical building of cultural heritage. Constructed in 1710, it served as the seat of the four Serbian Orthodox bishops of Transylvania between 1761-1796 (Dionisie Novacovici, Sofronie Chirilovici, Ghedeon Nichitici, Gherasim Adamovici), as well as of the Romanian Orthodox archpriests who herded the parishes Râu Sadului, Poplaca, Bungard, Sadu, Tălmăcel, Boița, Porcești and Rășinari. The Church Museum (*Muzeul Bisericesc*) organized in the former Bishops' House (*Casa Episcopală*) hosts rich collections of folklore and sacred art, but especially historical archive documents and old religious printings (Fig. 2).

In the *History of the Bishops' House*, put on display at the entrance in the porch, we can read the following:

The Bishops' House or "Bishopric" (*Casa Episcopală sau Episcopia*), as it is known by the inhabitants of Rășinari, [...] is a simple peasant house made in the year 1710, built of wood and covered with roof shingles (*șisă*⁵); it is formed of three rooms. In front of it there is a small porch (*privar*), a sort of anteroom, with entrance to the house's

tinda. To the right of the *tinda* there is the *coamăr*, and to the left "the big house" (*casa cea mare*). [...] The bishop lived in *casa cea mare*, and the archpriest - who was at the same time the caretaker of the bishop residence - used the *tinda* and *coamăr*. [...] At the beginning of the 20th century, the house came into possession of the Rășinari villager Ioan Vidrighin, from whom it was repurchased by metropolitan bishop Nicolae Bălan in the year 1922, on behalf of the Rășinari parish. Registered on the list of historical monuments, the house was completely restored and at present is a church museum, with objects reflecting the religious life of Rășinari from old times to this day. The Bishops' House, together with Rășinari, played an important role in the history of Transylvania⁶.

The Bishops' House is the perfect illustration of the traditional Romanian wooden house, specific to the inhabitants of Rășinari long before the 18th century, until the 20th century. It fully respects the pattern of the Rășinari peasant house, as described by Victor Păcală in 1915, with the *privariu* (porch) when entering from the courtyard, *tinda* (coming from the *privariu* and connecting the other two rooms), *coamăr* (the room towards the backyard) and *casa cea mare* (the big room with windows to the street)⁷. As regards the structure of the dwelling space, the monographer noticed that "few of the dwellings are an exception to this rule"⁸.

Not only in Mărginimea Sibiului, but in the whole Autonomous Principality of Transylvania under Habsburg suzerainty⁹, Orthodoxy was only a tolerated

⁴ Square brackets are used in text for editorial purposes, indicating missing passages or explanations to be added in.

⁵ *Șisă* or *șită* (in Romanian) is a great piece of shingle (*șindrilă*) of 100-150 cm.

⁶ *Istoricul Casei Episcopale sau Episcopia* [History of the Bishops' House or Bishopric], in the porch of the Bishops' House of Rășinari. Translation from Romanian by Ela Cosma.

⁷ Victor Păcală, *Monografia satului Rășinari* [Monograph of the Village of Rășinari] (Sibiu: Tipografia Arhidiecezană, 1915), 407-419.

⁸ Păcală, *Monografia satului Rășinari*, 113.

⁹ The Principality of Transylvania under Hungarian suzerainty succeeded to the Voivodeship of Transylvania (1541-1699). Under Habsburg suzerainty it became the Great Principality (1699-1765) and then the Great Autonomous Principality of Transylvania (1765-1867, with an interruption in 1848-1849).

religion. In the first half of the 18th century, the demographical majority of the Orthodox Romanians (Wallachians) from Transylvania¹⁰, in order to be forced to accept the church union with Rome (1698-1701), did not have a single bishop preaching in their mother tongue. So, enthroned by the Habsburgs, the Serbian Orthodox bishops Dionisie Novacovici (between 1763-1767), Sofronie Chirilovici (1771-1774), Ghedeon Nichitici (1783-1788) and Gherasim Adamovici (1789-1796), came to Transylvania and ministered in the recreated Romanian Orthodox bishopric with the new seat in Rășinari's Bishops' House¹¹. Historians have not documented yet if a proper chancellor of the four Serbian bishops from Rășinari ever existed between 1763-1796. However, it is sure that during the 18th century, numerous petitions and legal documents were issued and filed by the wealthy pastoral inhabitants from Rășinari in tight collaboration with the local lay and church authorities of the Romanian village.

The Church Museum hosts the original portrait of the last Serbian bishop, Gherasim Adamovici, who died here and was buried in proximity, in front of the altar of the Saint Paraschiva Church, his grave being covered with a red tombstone.

In fact, the Saint Paraschiva Church is quite near the Bishops' House. It was built between 1725-1758, in place of the much older wooden church¹². In the 18th century this church marked the center of the village. The civil and public buildings of the local offices were successively built around it in the 19th century, not wood, but stone and bricks being used for the edifice constructions.

The rooms of the former Bishops' House serve today as galleries of the Church Museum, presenting an unex-

pected variety of exhibits: objects of worship and ethnographic objects, icons painted on glass belonging to the 18th century "painting school" from Rășinari, old photographs and, especially, a small but precious archive-library. The latter comprises religious manuscripts, church documents and diplomas, old religious books, as well as liturgical and science books from the 18th-19th centuries. The archive-library of the Church Museum in the Bishops' House of Rășinari also holds 19th century periodicals, among which the complete collection of *Telegraful Român*. This church magazine, founded and published by metropolitan bishop Șaguna in Sibiu (3 January 1853), is the oldest Romanian periodical publication that was published uninterruptedly, for almost 180 years, since its first number until today¹³.

3. The Book of village boundaries (*Cartea ocolniță*, 1488) and the extract from the deed of donation (1383)

A special medieval legal document, containing two property documents from Rășinari, namely *Cartea ocolniță*¹⁴, that is, a *Book of the village boundaries* from 1488, and an extract of a deed of donation from 1383, was discovered in Rășinari.

The first historian who identified and edited the document from Rășinari was Nicolae Iorga (1906)¹⁵, followed by the village's monographer Vasile Păcală (1915), who also made the transcription of the Cyrillic document. The latter gave to the document an identity and the name by which it is known until today: *Cartea ocolniță* or *Book of village boundaries*, pointing out its importance for the village history¹⁶. Both scholars noticed that the document of 1488, dating from the time of King Matthias Corvinus (1458-1490), was written on the same paper as the extract of the deed of 1383, by which the Wallachian ruler Radu Negru (identified with Radu I, 1377-1383)¹⁷ donated estates to the Saint Para-

¹⁰ On the distinction between the endonym *Romanians* and the exonyms *Vlachs*, *Wallachians* etc., see the debates on medieval sources in: Ioan-Aurel Pop, *The History and Significance of the Names "Romanian"/"Vlach" and "Romania"/"Wallachia"* (Cluj-Napoca: Presa Universitară Clujeană, 2014); Victor Spinei, "The Terminology Reflecting the Ethnic Identity of the Romanian Voivodships in the Middle Ages and Renaissance", *Revue roumaine d'histoire* LVIII (2019): 53-178, and on ethno-historical terminology and sources of modern history in: Ela Cosma, "Ethnogenical Myths and Historical Imaginary Regarding the Genesis of the Romanians and Vlachs", *Studia Universitatis Babeș-Bolyai. Historia* 64, no. 2 (2019): 34-49.

¹¹ During the Reformation in the 16th century, a part of the Orthodox Romanians from historical Transylvania came under authority of the Calvinist superintendent, even if between 1544-1605 a range of metropolitan bishops of their church (Ioan of Peșteana, Hristofor, Sava, Gheorghe, Eftimie, Hristofor II, Ghenadie, Ioan II of Prislop) functioned in South Transylvania, while other Romanian Orthodox bishops ran the Central Transylvanian bishopric of Vad. In the 17th century, the most representative figure among the Orthodox metropolitan bishops with the seat in Alba Iulia was Sava Brancovici (1656-1660, 1662-1680), a strong opposer of the Counter-Reformation. However, the latter succeeded to split Orthodoxy by means of the church union with Rome (1698-1701), which determined the creation of the Romanian Greek-Catholic Church, led by bishops Atanasie Anghel, Ioan Patachi, Inochentie Micu-Klein, Petru Pavel Aron (1701-1764). Mircea Păcurariu, *Istoria Bisericii Românești din Transilvania, Banat, Crișana și Maramureș* [History of the Romanian Church from Transylvania, Banat, Crișana and Maramureș] (Cluj-Napoca: AVFC, 1992), 126-139, 150-169, 194-214, 223-229.

¹² *Istoricul Bisericii "Cuvioasa Paraschiva"* [History of the "Saint Paraschiva" Church], in the *pronaos* (vestibule) of the Great Church of Rășinari.

¹³ See chronological and analytical surveys of the legal manuscript tradition in Rășinari, in *Patrimoniul istorico-juridic românesc din Mărginimea Sibiului (Rășinari, Săliște)* [Romanian Historical Juridical Heritage from Mărginimea Sibiului/Rășinari, Săliște] (Cluj-Napoca/Gatineau: Argonaut Publishing/Symphologic Publishing, 2020), Part II. "Rășinari", 227-523.

¹⁴ *Carte ocolniță*, literally meaning "book of boundaries", is a historical legal document (*carte*, "book") recording the limits or boundaries (*ocol*, *hotar*) of a Romanian settlement. We shall alternately use the Romanian phrase and its English translation, with reference precisely to the legal document of 1488 from the village of Rășinari.

¹⁵ Nicolae Iorga, chapter "IV. Despre actele rășinărene" ["IV. About the Documents from Rășinari"], in *Scrisori și inscripții ardeleni și maramureșene* [Letters and Inscriptions from Transylvania and Maramureș], I (Collection *Studii și documente cu privire la istoria românilor* [Studies and Documents regarding the History of the Romanians], XII) (București: Atelierele grafice Sococ & Comp., 1906), XXXII-XXXIV.

¹⁶ Păcală, *Monografia satului Rășinari*, 42.

¹⁷ See an updated presentation of the multivalent ethnohistorical sources regarding the Romanian eponymous hero Negru Vodă in medieval chronicles and folklore in Ela Cosma, "Întemeierile" ["The Foundations"], in *Enciclopedia imaginariilor din România. III. Imaginar istoric* [Encyclopaedia of the Imaginaries from Romania. III. Historical Imaginary], coordinated by Sorin Mitu (Iași: Polirom, 2020), 78-83.



Figure 3. *Cartea ocolniță* (22 May 1488) and extract from the deed of donation (7 January 1383). Copy in Romanian language with Cyrillic letters and Latin chronology by the parish priest and synod notary Petru Cazan from Rășinari. National Archives of the Sibiu County, in Sibiu, Colectia de acte fasciculate, Seria V. Localități, no. 66, folio 1. Source: photo by Ela Cosma, July 2019.

schiva Church in Rășinari. This led to the conclusion that the paper containing the documents from 1488 and 1383 was an 18th century copy. While Iorga considered that the extract of the deed of donation of 1383 was one of the first authentic translations from Slavonic to Romanian, he doubted about the authenticity of *Cartea ocolniță*, asserting that it was made up for juridical purposes during Rășinari's trials against the usurper Magistrate (Council) of Sibiu city (1735-1776/1786). Unlike Iorga, Păcală considered both documents from 1488 and 1383 to be authentic. Interesting is that Victor Păcală's transcription of 1915 differed slightly from that published by Nicolae Iorga in 1906. That means Păcală had consulted another copy than that presented by Iorga. None of the authors specified the place where they had found this document wrapped in mystery.

New research brought to light more copies of the *Cartea ocolniță* (1488), with and without the extract of the deed of donation (1383). In 2017 we discovered two photocopies of the *Book of village boundaries* (without the second part of the document of 1383), one displayed in the window, the second on the wall of the Church Museum in the Bishops' House of Rășinari. As their text written in Romanian language with Cyrillic letters has no *manu propria* signatures, no seal, no other sign of an original document, these are certainly later copies from the 18th century. They were nevertheless very important and intensively used, judging by the traces of the folded paper (5 times on length and 4 times on width).

Another 18th century copy of *Cartea ocolniță* (1488), this time followed by the extract of the deed of donation (1383), that was copied on the same paper, showed up in July 2019, at the Festival "Village Sons of Rășinari"

(*Fiii Satului Rășinari*). During the conference dedicated to the history and heritage of this pastoral village, mayor Bucur Bogdan presented, in an A3 photocopy, the much-awaited document¹⁸. It was precisely the "paper" described by Iorga and Păcală, including both documents of 1488 and 1383. Commissioned by the mayor, an enthusiastic inhabitant from Rășinari had succeeded to identify the document in the National Archives in Sibiu¹⁹ (Fig. 3).

The two different copies written in Romanian language with Cyrillic letters, containing the *Book of the village boundaries* (1. the copy from Rășinari with the document of 1488, and 2. the copy from the Sibiu Archives, including the documents of 1488 and 1383) were examined thoroughly by Tatiana Onilov, expert in Cyrillic palaeography. In her study, after a few considerations regarding the way in which the old Slavonic Cyrillic letters (that differ from the Russian letters used

¹⁸ Bucur Bogdan, "Cartea ocolniță din Rășinari" ["The Book of Village Boundaries from Rășinari"]; Ela Cosma, Vasile Rus, Victor Vizauer, Mirela Popa-Andrei, "Patrimoniul documentar al Rășinariului și cercetarea sa la Institutul de Istorie "George Barițiu" al Academiei Române din Cluj-Napoca" ["The Document Heritage of Rășinari and Its Research at the Institute of History "George Barițiu" in Cluj-Napoca"], papers delivered at the Conference "Rășinari - străveche vatră de cultură și civilizație românească" ["Rășinari - Old Hearth of Romanian Civilization"] (Rășinari: Town Hall, 20-21 July 2019).

¹⁹ The 18th century copy of: 1. a *litterae metales* (letter of boundaries) - the *cartea ocolniță* (book of village boundaries) for the separation of confines, the Romanian village of Rășinari, and its Saxon "big neighbours" from Cîsnădie (Rășinari, 22 May 1488); 2. an extract of a deed of donation, Radu Vodă Negru, and Saint Paraschiva Church (Rășinari, 7 January 1383); Arhivele Naționale [National Archives] in Sibiu, Colectia de acte fasciculate, Seria V. Localități, no. 66, f. 1.

today) can be best reproduced by computer applications, the author exposed, first, the more detailed Romanian-Cyrillic copy preserved at the National Archives in Sibiu, including the *Cartea ocolniță* of 22 May 1488 and the extract from the deed of donation from 7 January 1383. The dates of both documents, as well as a final sentence were written in 18th century Latin. They were compiled by the scribe (copyst) Petru Cazan, priest in Rășinari and notary of the church synod. Onilov then analysed the more simple, incomplete and undated copy of *Cartea ocolniță*, preserved in the Church Museum of the Bishops' House in Rășinari. Counseled by the Slavonic expert Ginel Lazăr (scientific researcher at the National History Museum of Romania in Bucharest), Tatiana Onilov did the transcription with Cyrillic letters and the transliteration with Latin letters, as well as the critical editing of the two copies. She assumed that there existed even more copies in circulation, even if the original document has not been found up to the present moment²⁰.

By showing the history of the discovery both of the controversial document and of its copies, in one of her studies Ela Cosma recently tried to answer the question if the respective document and its variants are late copies of a lost original, or false documents written in the 18th century²¹, approach which is continued in the following analysis.

3.1. Contents of the extract from the deed of donation granted to the Saint Paraschiva Church in Rășinari (1383)

Let us now see the contents of the mentioned documents of 1488 and 1383, which we present in the chronological order of their issuance.

The extract of the deed of donation made in 1383 by Radu Vodă Negru to the Saint Paraschiva Church, the oldest (wooden) ecclesiastical edifice in Rășinari, is a short document, considered to be authentic by both Nicolae Iorga and Victor Păcală. Here is the old Romanian language document, in the original Cyrillic script and in Latin transcription made by Tatiana Onilov (after the document from the National Archives in Sibiu):

Храмъ Сфинтей Бвѣречѣ Прѣ К8вѣвса Параскѣва.
Пентрѣ Мошѣвѣ Бвѣречѣ тревъ чѣле дате де Мареле
Хѣрцег Д[о]мн Радѣ Водѣ Негрѣ ын Кѣжмѣ дин жѣс
де калѣ Кошеюлѣ, пѣнь ын Стрѣжмѣ жѣмѣтѣ
деспре Пѣдѣре а Бесѣречѣ, жѣмѣтѣ Попѣлѣр.

²⁰ Tatiana Onilov, "Documente din Rășinari. Copiile româno-chirilice de secol XVIII ale *Cărții Ocolnița* (1488) și a extrasului actului de dănie (1383)" ["Documents from Rășinari. The 18th Century Romanian-Cyrillic Copies of *Cartea ocolniță* (1488) and of the Extract from the Deed of Donation (1383)"], in *Patrimoniul istorico-juridic românesc din Mărginimea Sibiului [Romanian Historical Juridical Heritage from Mărginimea Sibiului/Rășinari, Săliște]*, coord. Ela Cosma (Cluj-Napoca/Gatineau: Argonaut Publishing/Symphologic Publishing, 2020), 269-284.

²¹ Ela Cosma, "Istoricul unei controverse. Cartea ocolniță din Rășinari (1488) și extrasul actului de dănie (1383). Originale pierdute și copii târzii sau falsuri de secol XVIII?" ["The History of a Controversy. *Cartea ocolniță* from Rășinari (1488) and the Extract of the Deed of Donation (1383). Lost Originals and Late Copies, or Fake Documents from the 18th Century?"], in *Patrimoniul istorico-juridic românesc din Mărginimea Sibiului (Rășinari, Săliște)*, 249-268.

Алта дин жѣс де калѣ Кошеюлѣ дин Г8ра Вѣв[ѣ] к8
нѣсѣп к8 пѣтрѣвѣ рѣтѣнд прекѣм мѣрѣ вѣрѣтѣра
пѣн рѣжѣ пе лѣжнѣ Мерѣв Попѣ Гѣпрѣ Петрѣвѣ пе
лѣжнѣ С8тпѣнѣ дин калѣ Кошеюлѣ; дарѣ чѣ дин
калѣ Кошеюлѣ датѣ де Мѣрѣ Водѣ Басараб[.] *Anno a creatione Mundi 6891: die 7^a January*. [Hramu Sfintei Beseareci Prea Cuviosa Paraschiva. Pentru Moșii Besearecii trei ceale date de Marele Hearțeg D[o]mn Radu Vodă Negru în Câmpu din jos de calea Coșteiului, până în Strâmtu jumătate despre Pădure a Besearecii, jumătate Popilor. Alta din jos de calea Coșteiului din Gura Văii[i] cu năsip cu pietrișu rătund precum mearge vârsătura pin râu pe lângă Merii Popii²² Oprea Petriță pe lângă Stupină din calea Coșteiului; dară cea din calea Coșteiului dată de Mircea Vodă Basarab. *Anno a creatione Mundi 6891: die 7^a January* (Anul de la facerea lumii 6891, în ziua a șaptea a lui ianuarie)]²³.

The copy transcribed by Victor Păcală in 1915 mentioned a slightly different name of the priest with the apple orchard: "Oprea Pătruțu" and, what is more important, it included a Cyrillic Slavonic *incipit*: "Храмъ свѣта и [ѣ]но[до]бѣна Parascheva", as well as a Slavonic *coda* of the extract of the donation deed: "Leat 6891 [1383], m[e]s[i]ta Ghen[arie] 7, за поминация Дуа их [for their souls' almsgiving]"²⁴.

The document records the oldest mention of the Rășinari Saint Paraschiva Church in 1383, respectively 6891 from the making of the world. The Slavo-Romanian Cyrillic documents used the old chronology from the "making of the world", not from the birth of Jesus Christ. This detail shows the veracity of the 1383 deed of donation, which mentions the actual names of the two rulers of Wallachia, too, both of them also holding the office of a great prince (*mare herțeg*) of the extra-Carpathian territory (including Rășinari) called *Țara Amlașului și Făgărașului* (Romanian Land of Amlaș and Făgăraș). Thus, voivode Radu (1377-1383), surnamed *Negru* (the Black), is the first donator giving estates (*moșii*) to the Saint Paraschiva Church of Rășinari, another estate being donated by his son and descendant, voivode Mircea the Elder (1386-1418).

²² *Popa* (Romanian language), usual term indicating a Romanian (Orthodox and/or Greek Catholic) priest, also occurs in German and Hungarian documents of late medieval and modern history of Transylvania, which adapted the form but kept the meaning of the Romanian word: *die (wallachischen/romänischen) Poppen*, (*Oláh/Román*) *papok*. For native Transylvanian scribes there was no possibility of confusion with the term denominating the Pope (Pontiff) from Rome: *papa* (Romanian), *Papst* (German), *pápa* (Hungarian).

²³ Onilov, "Documente din Rășinari", 278, 282: transcription in Cyrillic letters and in Latin alphabet of the Romanian text. Translation into English: "The Patroness Saint of the Holy [Orthodox] Church of the Most Pious Paraschiva. For the three Estates of the Church given by the Great Prince and Ruler Radu Vodă Negru (Voivode Radu the Black) in the field below the Coștei way, unto Strâmtu (the Narrow): a half towards the forest [donated] to the Church, the other half to the Popes. Another [estate] - below the Coștei way, from the sandy Gura Văii (Mouth of the Valley), with round gravel, as the river flows through its bed, beside Oprea Petriță's Apple Trees, near the Stupină (Bee Hives) in the Coștei way. But the latter in the Coștei way [was] given by Mircea Vodă Basarab (Voivode Mircea the Elder). *Anno a creatione Mundi 6891: die 7^a January* (The year from the making of the World 6891, on the 7th day of January)." Translation from Romanian by Ela Cosma.

²⁴ Păcală, *Monografia satului Rășinari*, 37.

3.2. Contents of *Cartea ocolniță* (1488)

As regards the more comprehensive *Cartea ocolniță* of 1488, its introduction or *protocol* is complete, as it contains the *invocatio* (of God), the *intitulatio* (the donator's name and title with the formulas of devotion and legitimation), and the *inscriptio* (the donator's designation with *salutatio*)²⁵. The protocol in Romanian language includes the usual invocation of the Holy Trinity and of "His Highness, honoured by God Matthias the Emperor" (*Măriei Sale, de Dumnezeu cinstit Matiaș Craiul*), gifted "with all the virtues" (*cu toate bunătățile*) and charged "with the borders' watch" (*cu paza hotarelor*).

The document explains that, under the rule of Matthias Corvinus, king of Hungary (1458-1490), in the year 1488 this *Book of village boundaries* was not made, but "remade" (*prefăcut*) and "renewed" (*preaînnoit*), as a result of the exhortations and entreaties expressed by the "honourable 40 old men" (*cinstiți 40 de bătrâni*) forming "the seat of law" (*scaunul de lege*) of Rășinari. The council of the 40 old men was commissioned with the village judgement, that was exerted according to the Romanian consuetudinary law (*Jus Valachicum*).

The reason for the renewal of the privilege was for everybody "to know and to keep the margins of our boundaries of Rășinari" (*ca să se știe și să se păzască pe unde merg marginile hotarului nostru a[l] Rășinariului*), all around. As a proof of the privilege renewal, the old book (document) of the village boundaries (*vechea carte hotarnică*) was invoked. Apparently the "old book" had been received in the year 420, from the mythical leader of the Huns, who was praised as the "good and old King Attila" (*bunul și vechiul Crai At[t]ila*)²⁶. It seems that in the last years before 1488, Matthias Corvinus had widened the boundaries of the locals from Rășinari "on the bottom" side (*pe din jos*), that is from the valley to the mountains, and in the specified year the boundaries were "strengthened with *hialms*"²⁷ (*întărit cu hialmuri*).

And indeed, the outstanding donational activity, carried out by the above mentioned king of Hungary on the Saxon Land and in Mărginimea Sibiului, is multifold proven in the Archives from Sibiu. In 1901 Franz Zimmermann described Matthias Corvinus's numerous donations in the area²⁸. 18th century copies of further donations granted by King Matthias may be consulted at the Hungarian National Archives in Budapest²⁹. In the background of the king's donational effervescence, our document is perfectly suited.

Returning to *Cartea ocolniță*, the *protocol* is followed by the *context* or the proper text. In *narratio*, the circumstances leading to the creation of this document are exposed³⁰. Thus, the inhabitants from Rășinari together with their "big neighbours" (*vecinii hei mari*) from Cisnădie perambulated across the land between the two villages, marking the boundaries. The perambulation (*reambulatio*) did not begin top down, but from "the lower margin" (*capul din jos*) of the village, near the road descending to north-east, towards the city of Sibiu. The direction of travel and the cardinal points are indicated by means of beautiful phrases. First the neighbours perambulated "towards the winter sunrise" (*spre răsăritul de iarnă*), which means "towards north-east", where "winter" is synonymous with "north", and "sunrise" with "east". (Because of the hills, the road from Rășinari to Cisnădie doesn't go in a straight line, and halfway the road to Sibiu forks eastwards, passing by Cisnădioara, until it ends in Cisnădie³¹.) Then the perambulation followed the "summer sunrise" (*răsăritul de vară*), turning towards south-east.

So, both teams headed towards north-east: the inhabitants of Rășinari on the upper side from the hill and those of Cisnădie from the valley, marking the separating boundary between Rășinari and Cisnădie with earth risings or mounds (called *hialmuri*) in the meadow of the mouth of Valea Albinelor (Bee Valley), in Valea Calbău, at Fântâna Neagră (Black Fountain), climbing towards Curmătura, where the boundary with the "big neighbours" from Cisnădie ended. Not far away from Obârșia Lotrului (Spring of the Lotru River), Rășinari's boundary followed westwards the border with Wallachia, leading to the peak Buceciu.

The document specified that this mountain had belonged to the great prince Radu Vodă Negru in the year 1232 (respectively 6740 from the making of the world). But the date 1232 connected with Radu Negru in *Cartea ocolniță* precedes by 150 years the mentioned deed of donation made in 1383 by the real voivode Radu to the Saint Paraschiva Church. The disparity shows that, although both documents were copied on the same paper (most probably during the 18th century, as Iorga considered), they were not written at the same time, otherwise

²⁵ Michael Hochedlinger, *Aktenkunde. Urkunden- und Aktenlehre der Neuzeit* [The Science of Document Files. The Study of Diplomas and Documents of the Modern History] (Wien/München: Böhlau Verlag/ Oldenbourg Verlag, 2009), 32.

²⁶ Attila lived indeed between 406-453, but he was leader (not king) of the Huns between 434-453 (not in 420, as the document mentioned).

²⁷ *Halm, hialm, hilm, holm* (in Romanian), boundary sign on a height, hill top or mountain peak.

²⁸ Franz Zimmermann, *Das Archiv der Stadt Hermannstadt und der sächsischen Nation. Ein Führer durch dasselbe* [The Archives of the City of Sibiu and of the Saxon Nation. A Handbook] (Sibiu: Verlag des Archivs, 1901), 52-53.

²⁹ Magyar Országos Levéltár [Hungarian National Archives], Budapest, Diplomatikai Levéltár (Q szekció), Erdélyi országos kormányhatósági levéltárakból (F), Erdélyi kincstári levéltár, Erdélyi fiscalis

levéltár (Q 343), doc. no. DL-DF 16590 (Sibiu, 22 October 1467, after confiscating the Wallachian village from Peter Geréb/Gräff [Count], beheaded for his *infidelitatis*, Rășinari was donated by King Matthias to the city of Sibiu, report of Johann Ernst; 4 copies registered at the Fiscal Archive in Sibiu on 17 March 1778, 22 July 1777, 15 October 1781, 19 February 1778), accessed August 30, 2022, <https://archives.hungaricana.hu/hu/charters/view/190713/?pg=10&bbox=446%2C-3468%2C3626%2C-1353>; DL-DF 16591 (Sighișoara, 3 November 1467, donation of South and Central Transylvanian villages offered by King Matthias to court soldier Johann Ernst for his merits in punishing unloyal Transylvanian voivode Johann Gräff/ Geréb; Buda, 10 September 1786, authenticated copy of the donation), accessed August 30, 2022, <https://archives.hungaricana.hu/hu/charters/view/190746/?pg=2&bbox=2282%2C-3037%2C4531%2C-1541>. The document of 22 October 1467 is not included in the collection of legal documents from Rășinari, *Transmissionales* (1784), as it was considered to be a fake made up by the Saxon city of Sibiu in order to usurp the possessory rights of the Romanian village. Păcală, *Monografia satului Rășinari*, 81-82.

³⁰ Hochedlinger, *Aktenkunde*, 32.

³¹ The road from Rășinari to Cisnădie is 13 km long, the same is the road from Rășinari to Sibiu.

the informations concerning Radu Negru's regnal years had also been congruent.

The perambulation of 1488 continued with a route leading on the ridge of the mountains Clăbucet, Neagoe Ivan or Negovanul Mare (Great Negovan) and Țicu Înalt (High Țicu), on the border with Wallachia, returning northwards and descending to Muche (Margin), then climbing upstream to Gura Izvorului (Spring Mouth) and to the spring called Adâncul Gropii (Hollow Depth). On the top of the Căndrea Mountain, there were placed some signs (*seamne*), probably stone crosses, instead of the earthen *hialms*. From the peak Cărstianul, opposite to the Cneazului (Knez) Mountain, the perambulators descended among the mountain lakes (*iezere*), to Coasta Rece (Cold Coast), to the Băjinoșului Stone, then they climbed again on the top of the mountains Bătrâna (Old Woman) and Gaur (Hole). Here they put a *hialm*, and another one on the Ganțu peak. Beyond Cărstianu, parallel with Turnu (Tower), they crossed a hill of read earth and raised a *hialm* at the edge of an oak woodland. Beyond this oak forest started the boundary of the inhabitants from Căsnădie, so they placed another *hialm*. As a matter of fact, the boundary lines of Rășinari, as described in the document, are confirmed by the Josephine map of 1781, *Mappa iconographica-topographica Pagi Liberi Resinar* (Iconographic Topographic Map of the Free Village of Rășinari), including the caption *Metallum explicatio* (Boundary Explanation)³².

The document continues with the *dispositio* (provision of the issuer regarding the material contents of the document) cumulated with the *communicatio*; in this case the *sanctio* (threat of penalty for those breaking the *dispositio*) is missing³³: "What is inside this boundary, is Romanian land, of the village Rășinari, paying obedience to no one, as nobody can command neither upon its land, nor on its water, acorns, beach nuts, hazel, maw (*rânză*)". (*Ce iaste în lăuntru acestui ocol, iaste pământ rumînescu, a satului Rășinariului, nimăruî*³⁴ *înduplecat; n'are nime a-l porunci, nice în pămînt, nice în apă, nice în ghinde, nice în jiru, nici în aluniș, nici în rînsă*)³⁵.

In a figurative language, the privilege concluded that Rășinari's boundary enclosed the confines (*ocol*) of the village, defined as a "Romanian land" (*pământ rumînescu*), a free territory, insubordinate to any foreign jurisdiction, so "paying obedience to no one" (*nimăruî înduplecat*). That is why, the phrase "nobody can command it" (*n-are nimeni*

a-l porunci) means that the Saxons from Căsnădie could make no claim for the earth and its fruits. The wealth of Rășinari's mountains and forests also included, aside from the clear mountain water, the oak forests (for acorns), beech forests (for bechnuts) and hazel, needful for the feeding of swine on a large scale.

Here comes the end of the 1488 document (in Onilov's transcription):

Шв с[']а8 прѣыновт ачасть Карте Гѡколнѣцѣ депе
Иѡвод8л алѣа ын ѡвлеле Мѣрѣѣѣ Сале де Д[у]
мнеѣ8 Чѣнствѣ8л8й Матѣаш8 Краю кѣжд а8 фѡст
кѣрс8л анѣлѣр *a mundi Salvatione 1488 die 22 Maii*. [Și
s-au prea înnoit această Carte Ocolniță de pe Izvodul alția
în Zilele Măririi sale de D[u]mnezeu Cinstului Matiașu
Craiu când au fost cursul Anilor *a mundi Salvatione 1488
die 22 Maii* (de la mântuirea lumii 1488, în ziua a 22-a a
lui mai)]³⁶.

The last sentence with the date of the *Book of village boundaries*' renewal either belongs to the corroboratio (as final segment of the text *narratio*), or it might be considered as belonging to the document's ending. The last part of a medieval document, called *eschatocol* (end protocol), usually comprised the *subscriptiones* (signatures, respectively the monograms of the issuers, witnesses, chancellor scribes etc.), by indicating the date and place where the document was issued³⁷.

Thereby, *Cartea ocolniță* enumerated the names of the four priests who provided pastor services at Saint Paraschiva's "Upper Church" (*Biserica din sus*) (Iacov, Vasilie Tomuzea, Petru, Iosif Petriți) and of the other two priests in Rășinari (Sain, Manas). The village judge, named Bunea, held the office as knez (*cneaz*) and *sindie*, too. Among the 40 jurors, the so-called "good old men" (*oameni buni și bătrâni*), the document itemized 3+12 men, while the last mentioned was the church miller (*morarul bisericii*). Worth to be mentioned are the numerous anthroponyms that are specific to Rășinari (Aliman, Bunea, Codrea, Comșe, Maniu, Oance, Petru, Sain, Savu, Toma):

Popa Iacov, Popa Vasilie Tomuzea, Pop[a] Petru, i³⁸ Popa Iosif Petriți din sus *црква*³⁹, i Popa Sain, și Popa Manas sau. *On bit sud* [cînd a fost județ]⁴⁰ cneazu Bunea sindie, Coman Desea, i Pătru Codrus, Oprea Codrea Șerban, i 40 de jurați: Rad Nistor, Aliman Gal[ea], Toma Mihnea, Păt-

³² See Păcală, *Monografia satului Rășinari*, 40-41.

³³ Hochedlinger, *Aktenkunde*, 32.

³⁴ *Nimăruî* (Romanian), "to nobody", dative case from *nimeni* (Romanian, Nominative > Latin, *nemo*), "nobody". It is a rare example of rhotacism by sound conversion of the consonant *n* to *r*. Another similar example of rhotacism from *n* to *r* in a further Romance language: *homine(m)*, Latin < *homne* < *homre* < *hombre*, Spanish, "man". Interesting is the fact that the rhotacism of intervocalic *n* is specific to the old Romanian language at the end of the 15th century and the beginning of the 16th century in North Transylvania and Moldavia, as registered in the first known writings in Romanian, the so-called "rhotacized texts" (*Codicele Voronețean, Psaltirea Voronețeană, Psaltirea Scheiană, Psaltirea Hurmuzaki*). This illustration of rhotacism in South Transylvanian *Cartea ocolniță* of 1488 is another proof of the existence of the genuine 15th century document that was copied in the 18th century.

³⁵ Păcală, *Monografia satului Rășinari*, 43.

³⁶ Onilov, "Documente din Rășinari", 278, 281: transcription in Cyrillic letters and in Latin alphabet of the Romanian text. The Latin words in the original text were emphasized with italics, and the capital letters were not replaced. Translation into English: "And this Book of Boundaries emanated from others was renewed in the Days of His Highness, honoured of God Matthias the Emperor, in the course of the Years *a mundi Salvatione 1488 die 22 Maii* (from the world Salvation 1488, on the 22nd day of May)." Păcală, *Monografia satului Rășinari*, 42-43, transcribed the fragment with the Slavonic words: "in the course of the years *ot rojdes. Hvo 1488*" ("cînd au fost cursul anilor *ot rojdes. H[r]ist[vo] 1488*"). Translation from Romanian by Ela Cosma.

³⁷ Hochedlinger, *Aktenkunde*, 32.

³⁸ The words in Slavonic are italicized. *I* (Slavonic), "and".

³⁹ *Црква* (Slavonic), "church".

⁴⁰ In square brackets there is the translation of Păcală, *Monografia satului Rășinari*, 43. *Județ* (Romanian), "judgement", "on trial", "court of law".

ru Tomușea Băncilă, Rad[u] Băncilă, Rădoiță, Rad Pinciu Sain, Bucur Oance, Comșe Omotă, Cîrstia, Comșe Bîra, Sav Hodrea Man, morar bisericii⁴¹.

3.3. And its epilogue during the 16th-18th centuries

Cartea ocolniță reflected the period of legal fights unfolded between the Saxon city of Sibiu and the Saxon village of Cisnădie for the very usurpation of Rășinari's boundaries and possessionary rights (15th-16th centuries). It was a time when, for the adjustment of the direct conflict between the "small neighbours" from Rășinari and the "big neighbours" (*vecinii cei mari*) from Cisnădie, in 1488 King Matthias Corvinus ordered a revision of boundaries (*metalis reambulatio*) to be carried out. This perambulation put an end to the territorial litigation, by regulating the boundaries which separated the two villages. About 1572, the conflict between Sibiu and Cisnădie for the seizure and occupation of Rășinari's territory was still flourishing. Little by little the capital city of the Saxon Land adjudicated the victory. Nevertheless, the inhabitants from Rășinari did not surrender and, armed with old diplomas and documents, they filed prolonged urban trials against the Saxon Magistrate of Sibiu. The trials filed between 1735-1784 ended in favour of the Romanian shepherds from Rășinari⁴².

The subsequent history of the *Book of village boundaries* during the 18th-19th centuries is partially revealed by Rășinari's monographer. Victor Păcală mentioned that the document was found at the restoration of the old Saint Paraschiva Church in 1755. By resolution no. 5916 of the Transylvanian Gubernium of 30 May 1777, followed by the decision no. 9443 of the same *forum*, the document was declared a fake and it was ordered to be destroyed. And yet, one of its copies was lost among the legal documents of the fiscal *procurator* (attorney) and thus it was saved from harm. When the document came to light again in 1828, there followed a new persecution against the *Book of village boundaries*, that could hardly be saved from perishing⁴³.

The 18th century scribe, who copied on the same paper the documents of 1488 and 1383, was the parish priest Petru Cazan from Rășinari. We know these details about him, because he wrote and signed his name with Latin letters at the end of the document copy found in the Sibiu Archives: "*Extradatum per Petrum Cazan, m.pria., Parochum Resinariensem Notarium Ratione Synodi et Pagensium*" (Issued by Petru Cazan, *manu propria*, parish priest in Rășinari, notary on behalf of the *synod*⁴⁴ and

of the villagers)⁴⁵. The copyist transcribed, one by one and on the same paper, both the document of 1488, and that of 1383. If the village notary and priest Cazan had invented by himself the contents of the respective documents, he would have surely dated identically the regnal years of the donator Radu Negru Vodă, ruler of Wallachia, whose name appeared in both documents of 1488 and 1383. But as father Petru Cazan had the only mission to make a fair copy of the village's founding documents, he accomplished his job with probity. He realised a copy, that managed to include two different mentions (separated from one another only by a few rows distance), about the Buceciu Mountain belonging to Radu Vodă in 6740/1232 (in *Cartea ocolniță* of 1488) and about the estates donated to the Saint Paraschiva Church by the same Wallachian ruler in 6891/1383 (in the extract of the deed of donation from the last mentioned year). Herein we have the best proof that the originals from the 15th and 14th centuries existed in Rășinari, and that they were consulted and hand copied by the priest scribe Petru Cazan in the second half of the 18th century.

4. *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* (1784)

The pivotal exhibit of the Church Museum in Rășinari is represented by a thick leather-bound volume that turned out to be a previously unknown and unpublished manuscript of no less than 1,318 pages⁴⁶. As *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* 1784 was discovered in July 2017 in the Romanian shepherd village, a protocol agreement of scientific research and collaboration for ten years (2017-2027) was signed between the Orthodox Parish and the Town Hall of Rășinari, on the one hand, and the Institute of History "George Barițiu" of the Romanian Academy in Cluj-Napoca, on the other hand⁴⁷. Thanks to the logistic assistance of the "Group of Local Action" (*Grupul de Acțiune Locală, GAL*), managed by Marina Bogdan, the manuscript volume was professionally scanned and digitized at the County Library ASTRA (*Biblioteca Județeană ASTRA*) in Sibiu. Several researchers from the Cluj Institute (Ela Cosma, Mirela Popa-Andrei, Victor Vizauer), coordinated by Latinist *magister* Vasile Rus, started the complete processing (by Latin transcription and translation into Romanian) of the long 18th century manuscript from Rășinari (Fig. 4).

⁴¹ Păcală, *Monografia satului Rășinari*, 43. The italicized words are in Slavonic, the rest of the text in Romanian. Translation into English: "Pope Iacov, Pope Vasile Tomușea, Pope Petru, *i* (and) Pope Iosif Petriți from above the *upksa* (church), *i* (and) Pope Sain, and Pope Manas. *On bit sud* (when there was the judgement) knez Bunea *sindie*, Coman Desea, *i* (and) Pătru Codrus, Oprea Codrea Șerban, *i* (and) 40 jurors: Rad Nistor, Aliman Gal[ea], Toma Mihnea, Pătru Tomușea Băncilă, Rad[u] Băncilă, Rădoiță, Rad Pinciu Sain, Bucur Oance, Comșe Omotă, Cîrstia, Comșe Bîra, Sav Hodrea Man, miller of the church". Translation from Romanian by Ela Cosma.

⁴² Păcală, *Monografia satului Rășinari*, 34-47.

⁴³ Păcală, *Monografia satului Rășinari*, 82, footnote 2.

⁴⁴ *Synod*, here the Orthodox village assembly composed of the priests and laymen from Rășinari.

⁴⁵ Onilov, "Documente din Rășinari", 274, 279, 282.

⁴⁶ See a special analysis of *Transmissionales* in Ela Cosma, "A Legal Manuscript of 1784, Reflecting the Possessory Rights of the Romanian Pastoral Village of Rășinari", *Philobiblon, Transylvanian Journal of Multidisciplinary Research in the Humanities* XXVII, no. 1 (2022): 27-43.

⁴⁷ "Acord de colaborare și proiect științific" ["Collaboration agreement and scientific project"], signed on 15 July 2017 by the Institute of History "George Barițiu" of the Romanian Academy in Cluj-Napoca (represented by senior researcher I dr. Ela Cosma), on one hand, and the Orthodox Parish Rășinari (represented by parish priest Nicolae Jianu) and the Rășinari Town Hall (represented by mayor Bucur Bogdan), on the other hand.

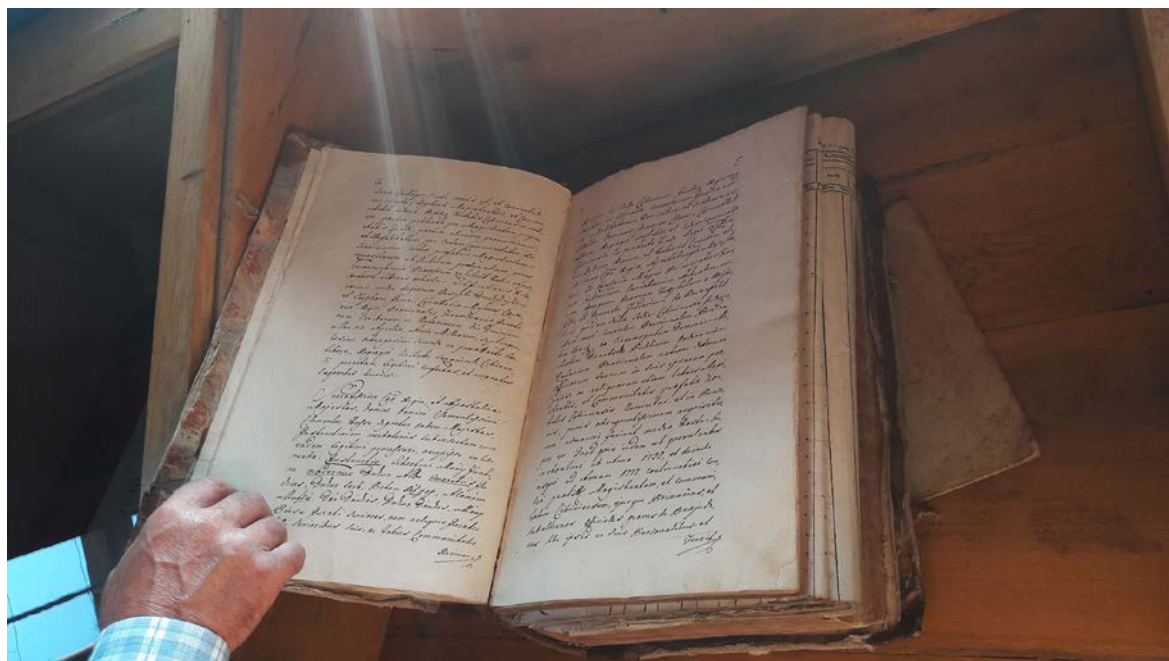


Figure 4. The volume of *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* 1784, kept in the Church Museum of the Bishops' House of Rășinari, curator Ioan Obârșie. Source: photo by Ela Cosma, July 2017.

4.1. Description and variants

On the first cover of the manuscript discovered in Rășinari, its title is written with partially erased letters: *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* (*Transmissionales in the Cause of Rășinari's Possessions Against the Royal Free City of Sibiu*)⁴⁸. The title, underlined with a curly bracket, indicates the year when the volume was finished: in 1784. Beneath the title, on the lower half of the first cover, as well as on the fourth cover, marks of red wax seals can be noticed. The covers of this thick volume are bound in a leather back and are tied with two strands of hemp twine. These external elements show that we deal with an original, untapped document.

Our bibliographical research confirmed its unedited character, as there is no critical edition dedicated to the publication of the whole very long document. It is true that, a century ago, in the "History" chapter of his *Monograph of the Village of Rășinari*, published by Victor Păcală in 1915, the author specified that "the documents used in the urbarial court trial between Rășinari and Sibiu (1735-1789)" were to be found in the fiscal archive of Budapest and in the imperial archive of Vienna, and he also quoted pages 76, 590-631, 712, 741, 844, 969, 1173-1225 of the document or fund entitled *Transmissionales in causa Possessionis Resinar contra et adversus Lib. Regiamque Civitatem Cibiniensem*, preserved in the old city archive of Sibiu⁴⁹.

Not only that the titles of the two documents *Transmissionales* from Sibiu and Rășinari slightly differ from one another. It can be also noticed that Păcală's references to the *Transmissionales* from the Sibiu archives coincide only in part with the page numbers of the homonym volume that I found in the Church Museum of Rășinari, a volume of more than 1,300 pages. We still need to check the information included in an inventory of unregistered juridical documents from the years 1592-1879, belonging to the Fund of the Magistrate of the Sibiu City and Seat, at the National Archives of the Sibiu County in Sibiu. Corina Sebișan noted under current number 105: "Court trials between Sibiu and Rășinari (with annexes)", 465 sheets, originals and copies from the years 1735-1789, in Latin, Hungarian, German⁵⁰. Although these "court trials" from the Sibiu Archives seem to be a part of the *Transmissionales* consulted by Victor Păcală over one hundred years ago, in any case they do not cover the entire documentary material existing in Rășinari.

4.2. Form, structure, narrative framework

The volume of *Transmissionales* as a whole must be considered an ample legal text, a perfect mirror of the civil juridical documents (regarding both lawsuits and procedures) specific to the 18th century in Southern Transylvania under Habsburg suzerainty. The main collective character is the Romanian community of the pastoral village of Rășinari in Mărginimea Sibiului, and

⁴⁸ *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* 1784 [Transmissionales in the Cause of Rășinari's Possessions Against the Royal Free City of Sibiu], manuscript volume, 1.318 pp. Church Museum in the Bishops' House of Rășinari.

⁴⁹ Păcală, *Monografia satului Rășinari*, 34-90.

⁵⁰ Corina Sebișan, *Fond: Magistratul orașului și scaunului Sibiu, Judicat: Acte juridice neînregistrate (1592-1879)* [Fund: Magistrate of the City and Seat Sibiu, Judicat: Unregistered Juridical Documents, 1592-1879] (Sibiu: Ministry of Administration and Internal Affairs, National Archives, County Service Sibiu, 2010), inventory no. 435, current no. 105, 16.

the case study details the villagers' lawsuits filed in court against the Magistrate of the city and seat from Sibiu. The legal case itself runs for more than half a century, while its annexes include diplomas and legal documents older than five centuries, starting with the 13th century.

The volume is structured as a vast narrative framework, that puts together and combines numerous and complexly interrelating sub-stories. As regards the form of the text, it was elaborated in the baroque writing stile, with long sentences and phrases, with an intricate word order, using an ornate language: the Latin of the early modern era, the so-called *infima Latinitas*⁵¹.

The volume's narrative framework is offered by the action in reconvention (*reconventio*) in the cause of the Rășinari villagers, that was judged in the *conflux* (meeting, congregation) of the Transylvanian Gubernium. The juridical action in reconvention filed by the Magistrate of Sibiu took place between 19 April 1782 - 5 February 1784. During this trial, the Magistrate represented the reconventional defendant-plaintiff (*pârâtul-reclamant reconvențional*)⁵², as entity filing the *reconventio*. In fact, an action in reconvention (*reconventionis processus*, respectively *actio reconventoria*, *actione reconventoria* or *reconventio*) is, since the Roman law until today, an action filed by the guilty defendants (*incausamattrac[t]orum*) against the plaintiffs (*actores*) in front of the same court of law (and not of a superior legal *forum*). Thus, the complained defendant (*pârâtul reclamant*) becomes a complainant plaintiff (*pârâș reclamant*), and he who was the complainant plaintiff turns into a complained defendant. In current judicial terminology, too, the person who brings a case of action in reconvention is called reconventional defendant-plaintiff (*pârâtul-reclamant reconvențional*)⁵³.

At the same time, comprising exclusively juridical documents in copies and originals, the long 18th century manuscript from Rășinari describes the activity, prerogatives and responsibilities of the local, provincial and central courts of justice: 1. the village judgement seat, which –according to the Romanian customary law (*Jus Valachicum*)– was made up of the judge (*Judex*), the jurors (*Jurati*) and the council of 40 old men (*Quadragesima Seniorum Viratum*); 2. the appellate court of the judgement seat of the Sibiu Magistrate, represented especially by the mayor or consul of the city of Sibiu (*Consul Cibiniensis*); 3. the court of the Transylvanian Gubernium, seated in Sibiu, too; 4. the Supreme Court of Revision in the capital city of the Habsburg Empire, Vienna.

4.3. Contents of *Transmissionales*

The volume entitled *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem* unfolds along 1.318 pages the history of the petitions, actions and urbarial lawsuits brought by the villagers from Rășinari against the Magistrate of Sibiu, for the restitution of their old village boundaries and rights. The complainants from Rășinari themselves emphasized the fact that the authorities in Sibiu were officially notified of their complaints. As a result, “the two complaints that were referred in the year 1735 to the imperial Aulic Court and then communicated to the noble Magistrate, as well as the *memoranda* which followed in the years 1736, 1752, 1759, 1773, 1777, were transmitted to the noble Magistrate and, consequently, they were submitted to the Sibiu Archive”⁵⁴. The trials in court were carried on for over half a century, between 1735-1784, under three Austrian emperors: Charles VI (1711-1740), Maria Theresia (1740-1780), Joseph II (1780-1790)⁵⁵. At the end of this fight *via iuris*⁵⁶, the villagers from Rășinari won at the authority of last instance, the Supreme Court of Justice in Vienna, in 1786. They succeeded to free themselves from any urbarial servitudes imposed to them by the officials from Sibiu⁵⁷. As a happy epilogue to *Transmissionales*, Emperor Joseph II granted to Rășinari rare privileges, by declaring it a *royal free village*. This privileged status of the village was preserved until 1867, when the Autonomous Principality of Transylvania was abolished and incorporated into the Austro-Hungarian Dual Monarchy.

The courts with their jurisdiction, levels, activity and powers on local, provincial and central level emerge from the context implicitly. Namely, as a court of first instance there was the village judgement seat of Rășinari (*judicatus pagi Rasinar, judicatus pagensis, judecata satească*)⁵⁸, where the judgement was exerted, according to the Romanian customs (*Mores Valachicales*) and consuetudinary law (*Jus Valachicum*), by the judge (*Judex, jude*), the jurors (*Jurati, jurați*) and the council of 40 old men (*Quadragesima Seniorum Viratum, sfatul celor patruzeci de bătrâni*). The court of the second instance, as the court of appeal, functioned in the Saxon Magistrate House of Sibiu, often represented by the mayor or consul of the Sibiu city (*consul Cibiniensis*) and seldom by the seat judge (*sedis judex, jude scăunal, Stuhlsrichter*)

⁵¹ Antonius Bartal, *Glossarium Mediae et Infimae Latinitatis Regni Hungariae* [Glossary of Medieval and Premodern Latin in the Hungarian Kingdom] (Budapest: 1901).

⁵² Defendant is the individual, entity or community accused in a court of law, and plaintiff is the person or institution who brings a case against the defendant. The term *defendant-plaintiff* suggests that the former defendant becomes the plaintiff in lawsuits either of counterclaim, or in reconvention.

⁵³ Bartal, *Glossarium*, p. 559, col. 3: “*Reconvenire*: (Du Cange) denuo litem intendere, reum facere; *viszonperleni, viszonkeresetbe venni. Reconventio*: (Du Cange) mutua actio seu petitio, relatio actionis; *viszkereset, viszonper, viszonkövetelés. Opinio* P. II de ordine Iud. Sec. II C. XI § 1: *Reconventio* est: Reciproca actio per reum contra actorem, coram eodem foro, coram quo conventus est, instituta. *Reconventus*: mutua actione petitus” (sued by mutual action).

⁵⁴ *Transmissionales*, 25: “in binis a. 1735. augustae Aulae porrectis, et consequenter cum inclytu Magistratu communicatis Supplicibus Libellis, qvam in Subseqvis quoque annis 1736. 1752. 1759. 1773. 1777. porrectis, et cum i. Magistratu communicatis, consequenter in Archivum Cibiniense illocatis memorialibus constant”.

⁵⁵ On the proimperial Saxon Land in Transylvania (which included Mărginimea Sibiului and Rășinari), 18th century diplomas of donation were issued in the name of the Austrian emperors. On the land of the Hungarian counties and in the Szekler Land the usual donators were the Hungarian kings. Even if the latter were concomitantly Habsburg emperors (excepting Joseph II, who never accepted to be crowned as a king of Hungary), the denomination indicated the opposition of the Transylvanian Hungarian nobility against the authority of the imperial central institutions from Vienna.

⁵⁶ *Via iuris* (Latin), on the path of the law.

⁵⁷ Păcală, *Monografia satului Rășinari*, 87.

⁵⁸ The translations in round brackets are rendered first in Latin, the language of the original document, then mostly in Romanian, but also in German language.

of the Sibiu seat. The unsolved juridical documents were transmitted to the next stage, and the trial moved to the third instance, that was the provincial *forum* of the Transylvanian Gubernium, also seated in Sibiu. Here the land governor, assisted by the chancellor and by the secretary, signed and sealed the gubernatorial decisions. As regards the current case, it was followed by no counterclaim lawsuit⁵⁹, but it turned into a legal action in reconvention (*reconventionis processus, proces reconvențional*)⁶⁰. Finally, the fourth and last, and also the highest court of instance was the imperial court of Vienna, the Supreme Court of Justice. From here the decisions returned to Sibiu and Râșinari, in the form of *Remissionales*⁶¹, as imperial ordinances and rescripts.

The very title of the volume, *Transmissionales*, comprises the *crescendo* of the juridical documents sent from an inferior *forum* to the superior *fora*⁶². In this concrete case, *Transmissionales* refers to the documents of the appeal court of instance from Sibiu⁶³. In further cases, collections of document copies were reunited under the title of *Transmissionales*, mainly consisting of juridical documents of property, of succession and inheritance, documents of authentication and confirmation issued by the *loca credibilia*, coming from various archives of noble families from Transylvania⁶⁴.

4.4. *Transmissionales* and *Cartea ocolniță*

When editing the volume of *Transmissionales*, Latinist Vasile Rus discovered, in the annexes of the long document, the translations from “Wallachian” (*valahă*) into Latin both of the *Cartea ocolniță* (1488)⁶⁵, and of the extract of the deed of donation made to the Saint Parachiva Church in Râșinari (1383)⁶⁶. According to Vasile

Rus, the Romanian documents of 1488 and 1383 were translated into Latin at the earliest after 1761 and at the latest in 1784-1788, when the transcription of the fair copies of all legal documents and annexes included in the manuscript volume was finished⁶⁷.

Another interesting document, presented in *Transmissionales* right after the Latin translation of the *Book of village boundaries* and of the fragment of donation, is the testimony (given in German language and also translated into Latin) of the Saxon mason master Johann Drotlich, whose apprentice had found a *book* (*Librum, ein Buch*) during the demolition of the old church of Râșinari. This was the very moment, when the construction of the new ecclesiastical stone edifice began. Anyway, the Saxon mason master handed the “book” to Aliman, the son of priest Sava (*Popa Szavul*), on 5 June 1755. Johann Drotlich’s testimony was registered four years later in Sibiu, on 4 June 1759⁶⁸.

The fact that the above mentioned documents were translated from Romanian and German into Latin, as well as the inclusion of the proofs concerning the village church, boundaries and estates in the annexes of *Transmissionales* show the great importance attributed to them by the Romanian villagers from Râșinari in the 18th century.

In conclusion, the real *Cartea ocolniță* of 1488 was neither a *diploma* issued by King Matthias Corvinus, nor a fake (as suggested by Nicolae Iorga), but a *littera metales Valachales* (Romanian boundary letter). As mentioned in *Transmissionales*, the *Book of village boundaries* was seen for the last time in 1755, when it was handed by Drotlich to Alăman and transmitted by Nicolae Pop, the trustee (*curator*) and archpriest (*protopop*) of the great church in Râșinari, to the Greek-Catholic bishop Petru Pavel Aron⁶⁹. Then, stolen

⁵⁹ A counterclaim is a lawsuit that a defendant brings against a plaintiff within the same case.

⁶⁰ An action in reconvention is a new case filed in the same court of instance.

⁶¹ Bartal, *Glossarium*, 569, col. 3: “*Remissionales* (sc. litterae): quae rescribuntur ei, qui primus scripsit; *felelő levél*”, letter of answer.

⁶² Bartal, *Glossarium*, 671, col. 3: “*Transmissionale, Transmissionales*: ab uno foro ad aliud missum mandatum” ([written] order sent by an [inferior] *forum* to another [superior] one).

⁶³ Apud Derzsi Julia, “Mjlocirea mărturiei nemijlocite. Practici notari-ale în înregistrarea depozițiilor de martori (Transilvania, secolele XVI-XVII)” [“Mediation of the Direct Testimony. Notary Practices in the Registration of the Depositions of Witnesses (Transylvania, 16th-17th Centuries)”], conference at the Scientific Symposium “Raporturile juridice civile. Repere actuale și retrospective istorice” [“Civil Juridical Relations. Present Perspective and Historical Retrospect”] (Cluj-Napoca: Institute of History “George Barițiu” of the Romanian Academy, 24 May 2019).

⁶⁴ Archive data offered by scientific researcher I dr. Susana Andea, Institute of History “George Barițiu”, Cluj-Napoca, specialized in critical editing of the medieval documents from Transylvania.

⁶⁵ *Transmissionales*, 1136-1141: translation from Romanian into Latin of the *Cartea ocolniță* of 22 May 1488. Marginal note of the document title on the right side of the page: *Litterae Metales Valachales*, and marginal observation: “pro Resinar sub Nro 516”. The beginning of the document (chapter): “*Vigesimarum Secundarum. Translationis Videlicet Literarum Metalium Resinariensium ex Annuntia Mathiae Regis Per 40. Viratum et Juratos Senes Resinarienses Valachico Ideomate 1488 Die 22a May Confectarum tenor Sequitur in haec Litterae verba*”.

⁶⁶ *Transmissionales*, 1141-1142: translation from Romanian into Latin of the extract of the deed of donation of 7 January 1383. The title is underlined with an accolade: *Indorsatio Autem talis Legebatur*.

⁶⁷ Vasile Rus, “Documente din Râșinari (sec. XIV-XVIII). Traducerea în latină (după 1761) a *cărții ocolniță* (1488) și a extrasului actului de danie (1383)” [“Records from Râșinari (14th-18th Centuries). The Latin Translation (after 1761) of the *Cartea ocolniță* (1488) and of the Extract from the Deed of Donation (1383)”], in *Patrimoniul istorico-juridic românesc din Mărginimea Sibiului*, 285-287.

⁶⁸ *Transmissionales*, 1142-1143: translation from German into Latin, with the title underlined with a curly bracket: *Vigesimarum Terciarum. Translationis Scilicet Testimonialium de inventis metalibus in Templo S. Parascevae tenor Sequentes. Copia Copiae. Translatio*, followed by the title introducing the original German testimony: *Copia Copiae. Idem Testimonium Germanico Ideomate*.

⁶⁹ *Transmissionales*, 650-651: testimony of the Greek-Catholic archdeacon Nicolae Pop (*Archi-Diaconus Graeci Ritus Unitus Nicolaus Papp*), during the examination of witnesses (Sadu, 31 December 1766): “Scio pro certo, quod ante quindecim circiter annos, dum vetus Templum in pago Valachali Resinar dirueretur, a Pallerio Ioanne Drotfel et aliis Murariis inventae fuerint litterae metales Valachico Idiomate confectae et muro Templi lamine involutae, quas mihi velut Archi-Diacono et Templi eiusdem Curatori praesentatas, Illustrissimo Domino Episcopo Balásfalvensi Petro Paulo Aron transposui, quae quidem litterae metales erant super reambulatione Territorii Resinariensis tempore Divi Matthiae Regis a Senioribus Pagi Valachalis Resinar peracta sonantes in simplici papiro descriptae, ac a Senioribus Incolis Territorii Resinariense reambulantibus subscriptae.” Translation into English: “I know for sure that about 15 years ago, when the old church from the Wallachian village of Râșinari was demolished, roof master Johann Drotfel [Drotlich] and further stonemasons have found in the church wall a boundary letter composed in the Wallachian idiom and draped in a foil. They showed it to me, as one who was the archpriest and tissue of that church, and

or even destroyed, the original got lost forever, yet leaving behind several 18th century copies in Romanian and Latin (Fig. 5).

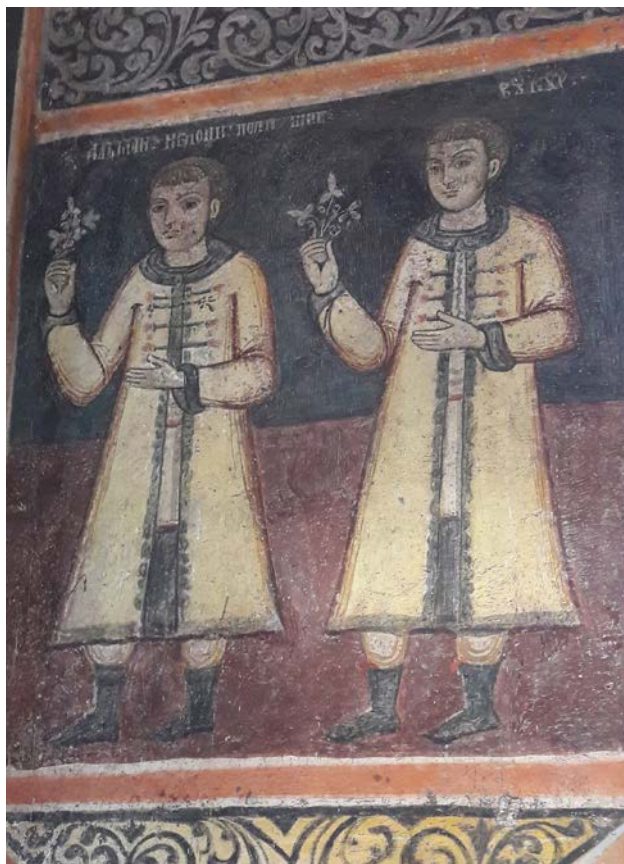


Figure 5. Aliman (left, receiver of the *Book of village boundaries* handed by mason master Drotlich) and his brother Bucur, founders of the new Saint Paraschiva Church in Rășinari, the “nephews of priest Man” (*Alăman și Bucur, nepoții popii Man*) nominated in the Cyrillic-Romanian inscription of the votive picture. Source: photo by Ela Cosma, July 2017.

4.5. Further documents attesting the possessory rights of Rășinari (13th-18th centuries)

The documents of 1488 and 1383 translated from “Wallachian”, followed by the testimony of 1759 about the *book* found in the ruins of the old Saint Paraschiva Church in 1755, were granted a special importance.

These very documents started the list of royal diplomas, privileges and gubernial resolutions, that were annexed to *Transmissionales*, and reproduced in copies of the original documents. Such were: the *Andreanum* of

1224⁷⁰ and the simple copy of 1366, made by the Saxon vicar general Ludovicus after the privilege of 1317 issued by Hungarian king Charles I (I. Károly)⁷¹, that confirmed the diploma *Andreanum*. Also worth to be mentioned is the diploma of 1223 given by Andrew, king of Hungary, regarding the foundation of the abbey in Cârța⁷², which included a final annotation in a bracket resuming the history of the possessions and boundaries of the Cârța monastery after 1556⁷³. The diploma of 1223 mentioned twice the toponym *Villa Ruetsel*, which was explicitly identified for the use of the 18th century contemporaries (when the diploma was copied in order to be included in *Transmissionales*), as follows: *ad Vil-lam Ruetsel* overwritten: *Resinár*.⁷⁴ Further documents

⁷⁰ *Transmissionales*, 1143-1150. Marginal notation in the left side of the page: “L[ite]ris A.G.G.”. The title is underlined with an accolade: *Vigesimarum Quartarum. Copiae Scilicet: Andreani Privilegii Pro Cibiniensibus, et ejus 7. Sedium Subordinatarum Terrae Regalis Incolis Teutonius A.[Anno] 1224. elargiti verbalis Continentia Sequitur in haec Verba*. The diploma *Andreanum* of 1224, by which King Andrew II of Hungary reconfirmed the privileges granted to the Saxon colonists, was published in: *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen [Document Book for the History of the Germans in Transylvania]*, I (1191-1342), ed. Franz Zimmermann and Carl Werner (Sibiu: Franz Michaelis, 1892), doc. 43, 32-35.

⁷¹ *Transmissionales*, 1150-1151. Title of the privilege: *NZ. Praescriptum Privilegium praetaerea Universitate Saxonum, de Cibinio, et ad Sedem Cibiniensem Pertinentium Per Carolum Regem Hungariae, Dalmatiae, Croatiae, Ramae, Serviae, Galliciae, Lodomeriae, Cumaniae, et Bulgariae A. 1317. ad Instantiam Episcopi Quinque Ecclesiensis, et Generalis Vicarii Saxonum Septem Sedium Terrae Transylvaniae Anno 1366. Per Ludovicum Iio concomitenter fuit confirmatum. Eranque in Simplicio Copia exhibitae*. In the privilege, *Rama* denominated *Bosnia*, after the name of the Rama River that crossed the province.

⁷² *Transmissionales*, 1151-1155. Title with accolade: *Vigesimarum Quintarum. Fundationalium Abbatiae Kercensis (Abbat. de Candelis) Seu Andreae Regis Copiae tenor Sequitur in hunc modum*. Marginal notation on the left side of the page: “L[ite]ris A.B. de Anno 1223. emanatae”. The diploma was published in: *Urkundenbuch*, 27-29.

⁷³ *Transmissionales*, 1153. The 18th century text included in bracket in the 13th-14th century privilege: “(Monasterium hoc fuit in Fundo Regio Penes Districtum Terrae Fogaras Pro Benedictinis fundatum, Posteam Usus Praepositurae Cibiniensis conversum, tandem in A. 1556. cum reliquis fundationalibus bonis Confiscatum, Nunc Per Magistratum Cibiniensem Privato Jure, Sed Sine Omni Legali Donatione Usurpatum).”

⁷⁴ *Transmissionales*, 1153-1154: “Prima meta Terrae Montis S. Michaelis [italics in the original] incipit ab Oriente in Pede Alpium, et descendit Per Torrentem descendente, ab ipsis Alpibus Versus Villam Ruetsel Metis Assignatis, Secus rivulum usque ad Viam, quae ducit de ipso Monte ad Villam Ruetsel (*Resinár*) [the word in round bracket was overwritten] inde transit ipsam Viam, et ascendit Per Quamdiam Viam, Usque ad metam, quae dividit Territoriae de Villa Hermanni (et de villa Ruetsel, inde tendit sub pede montis vinearum de villa Hermanni), et Perquamdiam Semitam, Quae ducit ad Insulam Christiani, Usque Verticem Montis Nemorosi, et Per ipsum Verticem Ascendit iterum, in Alpes Versus Occidentem, et ibi terminatur.” *Terra Montis S. Michaelis* refers to the village Michelsberg (Cisnădioara), situated between Cisnădie and Rășinari, in a distance of 10 km from the latter. The Latin text added in the round bracket, missing in *Transmissionales*, is quoted from *Urkundenbuch*, doc. 38, 27. *Villa Ruetsel* is mentioned in the privilege of 1204 granted by Hungarian King Emeric to Ioan Latinul, in: 1) *Documente privitoare la Istoria Românilor [Documents regarding the History of the Romanians]*, I (1199-1345), ed. Nicolae Densușianu (Colecția Hurmuzaki) (București: Stabilimentul Grafic Socce, 1887), 50 (editor Nicolae Den-

I sent it to the illustrious bishop in Blaj, Petru Pavel Aron. This letter of boundaries referred to the *reambulatio* of Rășinari's territory made during the reign of the holy King Matthias by the old men of the Wallachian village of Rășinari. It was written on simple paper and signed by the old inhabitants who had perambulated the territory of Rășinari.” See Rus, “Documente din Rășinari (sec. XIV-XVIII)”, 307-309. During the Counter-Reformation (18th century), the old Romanian Orthodox church of Saint Paraschiva in Rășinari was turned into a Greek-Catholic one.

in *Transmissionales* attesting the possessory rights of Rășinari are the *Tabella Topographica* (Topographic Table) and *Mappa iconographica-topographica Pagi Liberi Resinar* (Iconographic Topographic Map of the Free Village of Rășinari) of 1781, indicating the old territories of the village within its confines⁷⁵, as well as the resolution (decision) of the Transylvanian Gubernium of 30 May 1777, concerning the cause of the villagers from Rășinari⁷⁶.

All these documents were considered to be authentic, and that is why they were reproduced in copy in Latin language in the manuscript compiled in the second half of the 18th century. They presented significant moments of the village history starting with the 13th-14th centuries. At the same time, they offered strong evidence for the long urban trials filed by the Romanian shepherd village in order to regain its estates and mountains, held since ancient times and usurped by the Saxon city of Sibiu.

The documents finally reached their aim, to persuade the Saxon and Austrian courts of instance of the justness of the cause championed by the villagers from Rășinari. Their legal victory was referred by the *Deliberatum*, the sentence passed by the Gubernium of Transylvania in Sibiu, on 5 February 1784, at the end of the action in reconvention. Therefore, the cause of Rășinari's possessions was transmitted to the Court of Revision in Vienna, the ultimate and supreme court of instance of the Habsburg Empire⁷⁷ (Fig. 6).

sușianu identified *villa Riuetel* with Rășinari); 2) *Urkundenbuch*, doc. 15, 7-8 (arbitrarily and without further explanation, the editors identified *villa Rieutel* with Cisnădie); 3) Szentpétery Imre, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Árpadianae critico diplomatica* [The Critical Register of Diplomas Issued by the Kings of the Árpadian House. Critical Diplomatic Abstracts of the Árpadian Kings Ancestry], vol. I, booklet 1 (Budapest: Magyar Tudományos Akadémia, 1923), doc. no. 210, 67-68. In *Urkundenbuch*, doc. 38, 27, in the document of 1223 concerning the donation of Cisnădioara to the abbey of Cârța, the problematic toponym was transcribed as: *villa Ruettel* (twice) and *villa Reutel* (once). We suggest a phonetic reading of the toponym written in several forms in the documents of 1204 and 1223 (*Riuetel*, *Ruetel*, *Reutel*, *Ruetsel*): *villa* (village) *Răuțel*. The credibility of this phonetism increases, if we invert the question: how would a Saxon, a Hungarian (or an Italian) spell the Romanian word *răuțel* (not *răuleț*, "small river", although both terms are diminutives from *râu*, "river"), without using special graphic signs for the Romanian sounds *â* (like Slavonic *y*) and *ț* (tz)? The form *Ruetsel* (*Resinár*), added in the 18th century *Transmissionales*, confirms once for all, in our opinion, the fact that *villa Ruetsel* (the village *Răuțel*) stands for the very name of the Romanian village of Rășinari (and not for the name of the Saxon village of Cisnădie, in Romanian, or Heltau, in German), attested in documents in the first quarter of the 13th century (in 1204 and 1223).

⁷⁵ *Transmissionales*, 1155. Title: *Vigesimarum Sextarum. Tabellae Topographicae Per Resinarienses Exhibitae Continentis antiquas Territorii Resinâr Metas, et Modernas exprimentis Continentiae est Sequens*. The proper topographic table (the map of Rășinari) was drawn on a separate sheet, page 1156. This map, missing in *Transmissionales* (the text continues from page 1155 to page 1157), was published by Vasile Păcală, *Monografia satului Rășinari*, p. 40-41.

⁷⁶ *Transmissionales*, 1157-1166. Title: *Vigesimarum Septimarum. Resolutionis Scilet Gublis Controversia Communitatem inter Pagi Resinar et Magistratum Cibiniensem Subversante Anno 1777. Die 30a May Emanatae Verbalis Continentia Sequit in haec Verba*. 5916. Marginal notation on the right side of the page: "Nro 26".

⁷⁷ *Transmissionales*, 1308.

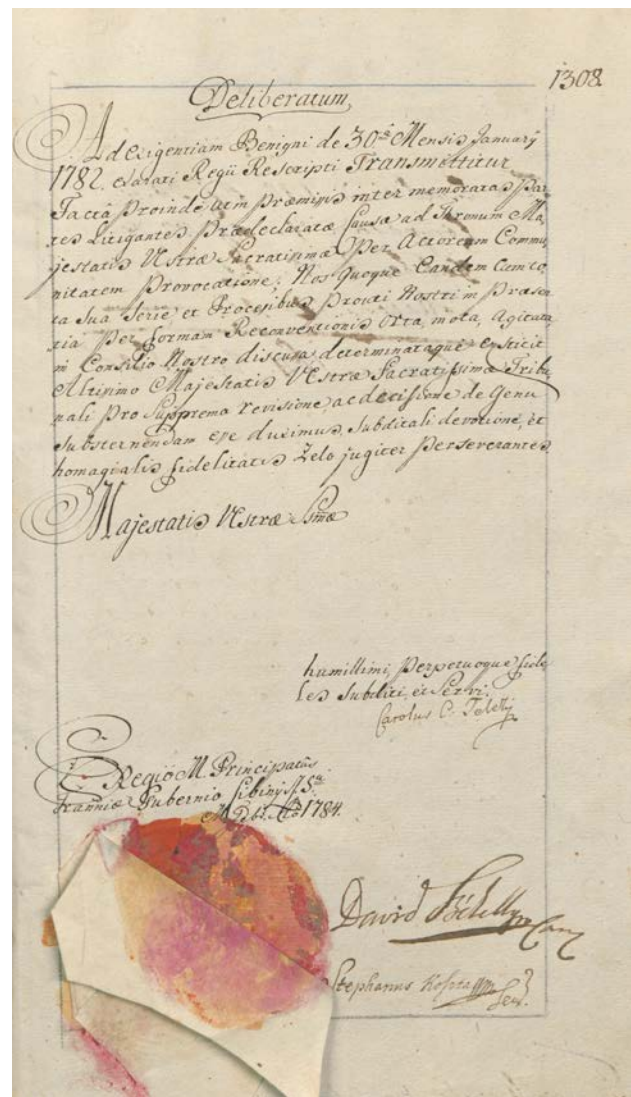


Figure 6. *Transmissionales*, p. 1308. *Deliberatum*, decision of the Transylvanian Gubernium, February 5, 1784, Latin language. Original with signatures and seal of red Spanish wax. Source: photocopy by GAL Mărginimea Sibiului and Biblioteca ASTRA, Sibiu, 2017.

4.6. The happy ending of *Transmissionales* (18th-19th centuries)

In 1786 Rășinari was declared a royal free village by Emperor Joseph II, who liberated the Romanian villagers from the false pretences of dominance evinced by the Saxon city of Sibiu. From now on, the inhabitants from Rășinari disclaimed and refuted any other landlord except for the prince of Transylvania, who was concomitantly the Austrian emperor himself⁷⁸.

Rășinari's new status was special, indeed, the more so as in the 18th century Great Autonomous Principality of Transylvania there were few royal free villages and only eight royal free cities⁷⁹. To grant such a status to a

⁷⁸ David Prodan, *Supplex Libellus Valachorum. Din istoria formării națiunii române* [Supplex Libellus Valachorum. From the History of the Making of the Romanian Nation] (București: Editura Științifică și Enciclopedică, 1984), 235.

⁷⁹ Cluj, Brașov, Sibiu, Târgu Mureș, Bistrița, Mediaș, Sebeș, Alba Iulia were the royal free cities in Transylvania.

city, town, *oppidum* or village of the Austrian Monarchy meant that the Habsburg emperors acknowledged important privileges to its inhabitants. Rășinari's acknowledgement as a royal free village determined its growing prosperity. In the first half of the 19th century, for instance, the customs registers indicated that the transhumant livestock had exceeded 1.5 million sheep⁸⁰.

The Transylvanian statistician and geographer Lucas Joseph Marienburg mentioned in 1813, in his description of "Rășinari (Reschinár), Picivicus, Städterdorf", that this "great Wallachian mountain village" was situated on the Saxon Land until 1786. Although the author reflected the perspective of the Transylvanian Saxons' historical privileges, he admitted that in the last mentioned year Joseph II had declared Rășinari a royal free village, to whom the emperor had granted "a territory (boundary) apart from the city, as well as the mills owned by the city, the freedom of selling wine, the mountains and pastures etc."⁸¹.

The privileged status preserved by Rășinari in the middle of the 19th century is confirmed by the Romanian inscription in Cyrillic script engraved on a stone postament (placed today near the Saint Paraschiva Church). Above the inscription, there is a reproduction of Rășinari's coat of arms, inspired by the pastoral village's particular cattle burn mark. The inscription text reveals that in 1847 the Village House and Hall (*Casa și Șura Satului*) was built from the budget of the imperial free village of Rășinari, led by the judge Iacob Ciucean, the jurors Nicolae Adam, Coman Cioran, Petru Vidrighin, Alăman Măț and the herald (*vornic*) Șerban Băcilă⁸².

5. Conclusions

This study highlights the significance and value of the legal documents discovered in the Church Museum of the Bishops' House in Rășinari (Mărginimea Sibiului).

Cartea ocolniță of 1488, identified by Nicolae Iorga (1906) and transcribed by Victor Păcală (1915), together with the extract of a deed of donation issued for the Saint Paraschiva Church in 1383 have drawn the attention of the Romanian historians from Cluj-Napoca. They focused on the documents' variants kept in Rășinari (recently discovered in the Church Museum of the Bishops' House) and Sibiu (at the National State Archives), as well as on the Latin translations inserted

in the manuscript volume *Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem 1784* (preserved at the same Bishops' House in Rășinari).

If one fine day the original document of the *Book of village boundaries* were found, then *Cartea ocolniță* of 1488 from Rășinari would become the first *known* document written in Romanian language. It would precede by 33 years the letter of 1521, addressed by Neacșu from Câmpulung to Hans Benckner, the city judge of Brașov⁸³. Yet, the lack of the original *Book of village boundaries* does not turn it into a fake. On the contrary, authenticity and veracity of the 15th century *Cartea ocolniță* are suggested exactly by its variants, copies and translations into Latin, and confirmed by the mural paintings of the Saint Paraschiva Church in Rășinari (as described in this study). They prove the document's high value as a monument of old Romanian language and as a legal document defending the possessionary rights of the largest Romanian pastoral village from Mărginimea Sibiului.

The long manuscript of *Transmissionales* (1784), also discovered in the Bishops' House of Rășinari and critically edited by the above mentioned researchers from Cluj-Napoca, is the best illustration of a legal mirror reflecting the medieval and premodern history of Transylvania, the legal history and the juridical practice involved in the use of the Romanian consuetudinary law (*Jus Valachicum*).

Metaphorically speaking, the rural pastoral community of Rășinari lived under the rule of two laws (as forms of justice): the law of men and the law of God. We noticed that any document describing legal actions or procedures of the villagers from Rășinari over time recorded the omnipresence of the judge, jurors and council of 40 old men, on the one hand, and on the other hand, of the local priests (fulfilling the Words: "Render unto Caesar the things that are Caesar's, and unto God the things that are God's."). Not by chance, the central village place, right in front of the Saint Paraschiva Church, was called *La Scaun* (*At the Seat*). Here was the seat of judgement, where until the 19th century all the local trials were judged in the court of first instance, according to the *Jus Valachicum* and *Mores Valachicales*.

The oldest church in Rășinari, already attested in 1383 and rebuilt between 1725-1758 as a baroque stone edifice, is concomitantly the oldest church in Romania devoted to Saint Paraschiva. The patron saintess, born in Epivata, near Constantinople, lived a short life and died in her green years (11th century). During the 14th century the saintess's relics were kept in Trnovo (Bulgaria), where they must have been venerated by the Romanian pilgrims and transhumant shepherds, who spread her cult into the north Danubian Principalities inhabited by a demographic majority of Romanians (Wallachia, Moldavia, Transylvania), too. In Mărginimea Sibiului, at Gura Râului, there is another stone-built church from the 18th century, that is devoted to Saint Paraschiva. Its late inscription (*pisanie*) at the tower base mentions 1202 as the (yet unproven mythi-

⁸⁰ "Mărginimea Sibiului. Prezentare generală" ["Mărginimea Sibiului. General Presentation"], on the website *Sibiu. Memoria locului - AFCN* [Sibiu. Memory of the Place]. Accessed March 30, 2020. <http://memoria-locului.ro/Marginimea/prezentare.html>.

⁸¹ Lucas Joseph Marienburg, *Geographie des Großfürstenthums Siebenbürgen* [Geography of the Great Principality of Transylvania] (Sibiu: Martin Hochmeister, 1813), II, 249: "Reschinár, Picivicus, Städterdorf, ein großes walachisches Dorf in den Gebirgen auf Hermannstädter Grund und Boden bis 1786 gelegen. In diesem Jahre erklärte es Kaiser Joseph II. für ein königliches freyes Dorf, und ließ ihm ein von der Stadt abgesondertes Gebiet (Hattert) anweisen, auch die von der Stadt gebabten Mühlen, Weinschankfreyheit, Gebirge und Weideplätze etc. zuteilen."

⁸² Ela Cosma, "Case și inscripții de la Rășinari din secolele XVI-II-XIX" ["Houses and Inscriptions from Rășinari in the 18th-19th Centuries"], in *Patrimoniul istorico-juridic românesc din Mărginimea Sibiului*, 237-242.

⁸³ The latter is considered to be the oldest known and preserved original document in Romanian language.

cal) year of the church foundation. These examples from Rășinari and Gura Râului speak about the early cult of Saint Paraschiva among the mountain villagers from Mărginimea Sibiului, long before 1641, when Moldavian ruler Vasile Lupu brought to Iași the relics of Saint Paraschiva. She is considered to be, until our days, Moldavia's beloved patron saintess⁸⁴.

The Saint Paraschiva Church in Rășinari preserves an exterior mural painting, just as beautiful but less famous than those of the Romanian monasteries from Bukovina (included in the UNESCO World Heritage). On the support pillars of the bell tower, there is a unique scene, called *Roata Vieții* (*Wheel of Life*). It is an un-

common genuine motive with an impressive symbolism, depicting divine judges and judged humans. A special significance is granted to the *Wheel of Life* by the villagers from Rășinari: even today, before the religious wedding ceremony, the wedded pairs make a halt in front of the picture, while the parish father tells them about the cycle and circle of life⁸⁵. Thus the history of the family mingles with the history of the village community, the past and present merge with the future. The eternal message of the *Wheel of Life* from Rășinari is that the youngsters' home and happiness will always rely on the elders' traditions and wisdom governed by the Supreme Judge (Fig. 7).



Figure 7. The Wheel of Life, exterior mural painting, Saint Paraschiva Church in Rășinari.

Source: photo by Ela Cosma, July 2017.

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⁸⁴ Tatiana Onilov, "De ce iubește Cuvioasa Parascheva România?" ["Why Does Saint Parascheva Love Romania?"], paper delivered at the International Conference of the Museum of the Land of Făgăraș "Valer Literat", Muzeul Țării Făgărașului "Valer Literat", Făgăraș, September 3, 2021.

⁸⁵ Florian Gâdea, "Roata Vieții de la Rășinari" ["The Wheel of Life from Rășinari"], *România liberă*, 1 July (2006). Accessed March 30, 2020. <https://romanalibera.ro/special/reportaje/-roata-vietii--de-la-rasinari--1369>.

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