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**ÀRBËRIA IN THE CENTURIES OF EUROPEAN
HUMANISM ACCORDING THE STATUTES CONFIRMED IN
THE EPOCH OF GJERGJ KASTRIOTI ¹**

I.

I was suggested to participate in the second session of the International Albanological Conference in the format *lectio magistralis*. For some days and weeks, I was somewhat undecided whether to hold this presentation, or another one.

Decades ago, since my dissertation on the Albanian heroic legendary epos, I have always posed the question why the cycle of Gjergj Kastrioti-Scanderbeg was preserved by the Arbëresh people in an almost complete way, while among the Albanians on the other side of the Adriatic the unwritten memory that kept him alive was only through *legends*, if we would have been served with the title of Marin Sirdani's deed; or in the post-Arbër epoch Albania's *onomastics* and *toponymy*. This is one of the most complicated questions of the Albanian knowledge, that until now has got its response only through questions:

1. Did the Ottoman Imperial rule obstruct the cult of Gjergj Kastrioti - Scanderbeg, while allowing the praise of Čuprilič, the family of the Koprülü dynasty, also even where there were held devastating campaigns such as in Bosnia? We can't say whether it is a bookish merit or an intuition merit that I. Kadare, in the novel *Pallati i ëndrrave* (*The Palace of Dreams*), the Greek rhapsodists invited by Kurt Qyprilli (Koprülü) are brought from Bosnia and not from their birthplace. Anyway, Čuprilič *the Vizier*, who in the traditional studies has been treated as a proper name, although indeed is simply one of the Koprülü viziers, viz, the Albanians Qyprillinj, has their glorified epos today

¹ This presentation is part of the discourse segments.

from the Albanian lute strummers, but there is not an epos dedicated to Gjergj Kastrioti - Scanderbeg. To the acceptance of an arbitrary interdiction from the Ottoman Empire, is also added the argument from some well-known scholars such as Kristo Frashëri, who also finds in the Fushë-Kosova battle cycle, names of identifiable heroes from the historic point-of-view, as Musa Arbanasi and Miloš Koplilić.

2. Always of a hypothetic framework remains also as answer the counterproposal if perhaps where the epicenter that guarded the epos was, including the cycle of the vizier Koprülü, *de gestibus Scanderbega* were not welcomed, because of the known rivalry between the Dukagjini and Kastrioti families, also expressed in the traditional unwritten law, at least in two definitions:

<i>The Canon of Lekas</i> (according to the Father Gjergj Fishta)	<i>The Canon of the Ghegs</i> (according to Father Gjergj Fishta)
<i>The house is inherited from the elder son:</i> referred to <i>seniority</i> concept and to the age ethic status, is even today the same authoritarian and sovereign.	<i>The younger, the best.</i> The foregoing generation lives with the younger son when the house is divided. This authority heritage principle in the family is similar with that of the Slavs, that synthetically is found in the expression <i>naimladši - nailudši</i> .
The heritage is inherited starting from the elder (expression of what is called <i>ius patris</i> , <i>the right of the elderly</i> , patriarchal right).	<i>The elder divides, the younger chooses</i> (Frano Illia)

3. On the other hand, this matter has complicated by the fact that it's almost an undisputable incompatibility that the country's cultural heroes of Arbër ends with the cycle of Fushë-Kosova battle, from where the heroic historic epic in which Gjergj Kastrioti - Scanderbeg is not shown but in people's stories and legends starts.

4. On the contrary, in the Arbëresh, at least starting with *Codice Chieutino*, which is authored by the well-known scholar Matteo Mandalà, *the cycle of Gjergj the Great almost pre-ready exits for Rapsodie di un poema albanese* of De Rada, and thus we have to carefully pull back from Macpherson's theories with which are explained the songs of this poem.

5. Because on *Gjergj the Great*, would be appropriate to remember that his name is mentioned in a side-writing code-graphic of 1441, and

rightfully Theofan Popa has addressed it to Gjergj Arianiti, because our Kastrioti in that time was neither great nor small. He had not returned in the country of his ancestors and was unknown to them.

6. A counter-answer, basing on the studies of Matteo Mandalà, would be in the form of a question if the Arbëresh, when they left, taking with them the icons, the bells, the codices, the genealogies, did they also take with them the cycle of Gjergj Kastrioti - Scanderbeg? Apparently not. Although even in the song *Moj e bukura Morea* (*beautiful Morea*) was composed after establishing in their new country of stay, as Mandalà thinks, when were somehow economically enriched, thought also to be enriched genealogically, and thus the cycle of *Gjergj the Great* can be considered *recreated*, in the form of the ancestor's memory, *prius parens*, and the questions takes a solution.

II.

I will pose some arguments about the question on *Àrbëria in the centuries of European humanism according the statutes confirmed in the epoch of Gjergj Kastrioti* because on reasons that are connected not only with the Pan-National Year of Scanderbeg, but also even with some essential issues of the Albanian knowledge.

1. For the statutes and the rules of the urban custody of Albania's cities in the centuries of European humanism in the coastal line of the Albanian territories and in a way even in the *hinterland* during the last two decades, there were some studies carried out by local and foreign scholars such as, Lucia Nadin, Oliver Jens-Schmitt, Gherardo Ortalli, Pëllumb Xhufi, Luan Malltezi, Aurel Plasari, Ardian Klosi, Ismet Elezi, Ermal Baze etc. that must be honored. However, this heritage, with rare exceptions, *has not been seen in its anthropologic and ethno-judicial side*.

2. The Albanian historiography rightly has been based on the thesis that *Àrbëria of the pre Ottoman centuries had the development level with the countries along the Adriatic basin*. Confirmed by the dean of the Albanian medieval studies, Aleks Buda, this thesis permitted to hypothesize that the idiom Adriatic basin was a metonymy for *the European continent*. This thesis was confirmed through many other data, but not from the legal order that is proved in *corpus iuris*

statuendi, in the collection of the Albanian cities, referring with this term to the *Statutory codices*, belonging to the XIII-XVII centuries.

3. In the Albanian studies tradition, the statutes, the rules and the laws of establishing the urban order, have been for a long time an excluded object, for two principal reasons: 1. Because of a *deeply puritanical stand, to the foreclosed limits*, expressed in the opinion that these acts are foreign for the Albanian tradition, are vassalage rules towards the Serenissima Seignory; 2. Because that the statutes are the rules of establishing the urban life in Albania of humanity centuries, are considered approaches of *religious culture*. These two reasons explain why in the entire history of Albania, from the beginning to-day, the statutes and rules, *do not occupy more than a page*. As to the ethno-judicial anthropology outcomes, *the statutes have been and remain excluded* even for a technical reason: *because the statutes are a written culture, while the customary law is an unwritten one*.

4. The studies about the state of Gjergj Kastrioti - Scanderbeg's age do not lack. However, also in these cases, the legal order of Scanderbeg's state has been considered *through the ambassadors credentials, alliances and treaties, chancelleries' acts, but not from the statutes*. Here might have played an obstructive role the fact that *the statutes were a phenomenon of the coastal façade*, while the Kastrioti family with their possessions were situated in the hinterland, but anyway, we in a case have found indirect data on Novobërda statutes. However, in the pre-state order organization, more than the alliances and leagues, more than the treaties and the conditional armistices, is proved by the statutes.

5. In the lines of the European scholars that have dedicated their studies to heritage that is known by the name *studia humanitatis*, there has been a scientific discussion with extension in all the continent about *the extension borders of Renaissance spirit*. This discussion has been developed *in the form of two questions, with inter-complementary character*: 1. *Which is the contribution to the enrichment of the pretending people to be included in this area and in these centuries of epochal enlightenment centuries?* 2. *At what level was the urban development legal regulation in the pretending country found?* The answers that have been given to the first question tended to border

Europe of humanism centuries within the today West. Italy gave to Europe the painting, the sculpture and the famous epos *The Divine Comedy*. Spain granted to the humanist Euro-culture the first novel in history, *Don Quixote*. England enriched this heritage with the modern tragedies of Shakespeare. In the realm of the Germanic world was proclaimed Martin Luther's *Reform* and were born the people's languages of liturgy; along with Gutenberg and the printing. The Polish rightfully affirm that have given to Europe *the person who stopped the sun and moved the earth*, Copernicus. The great Portuguese and Spanish sailors; the discoverers of the new worlds; the French universities and other values, are considered *adequate certificates to be included within Renaissance*. With the heroes literature, started by Marin Barleti, the Albanians of that epoch asked for their deserved place, solemnly proclaiming that have given to the continent a priceless masterpiece lacking which Europe lacked: *the strategist and the protector of the ancient civilization*, Gjergj Kastrioti. If we could search the answer by referring to the second question, in the light of the latest documentary discoveries, the answer would have been irrefutable: *Albania of the Middle Age centuries was a historic space that had adjusted the local life with statutes and rules, the same as the whole of Europe*, and this was the order that had produced the ruling order of *Renaissance*, which, with the devise to return to the origin, have idealized the antique models of the republican-cities, with councils and senates, with *agorà* and *foro romanorum*.

6. An important issues is the one that *has to do with the necessity of comparative law discipline independence*, which still can be considered a lacking knowledge. Because *ethno-judicial anthropology for Albanians has been a science borne from romantic and colonialist premises*, in most of the cases with exotic inspiration, from more than two centuries, Albanians' identity has been promoted as the identity of a Canon people, self-governed with unwritten laws. This also for the fact that the Albanian science has kept a silent stand towards the written law. And here is not only about *corpus iuris statuendi*, but at least for other two corpuses: 1. *Nomocànone* of that part of the country that was building the life according to principles and rules according to the eastern Christianity; 2. *Corporativo corpus iuris*, or *corporates law*,

rüfet law, craftsmen law, that flourished in the XVII-XVIII centuries, especially in Voskopoja, where were there not few but 14 rules of city's craftsmen. These three traditions never have been seen in comparative point-of-view, nevertheless as the statutes, as the *nomocànone* and the craftsmanship rules have some common aspects dictated from the equal degree of development, including the family order, citizenship hierarchy and the relation with the powers.

7. Here it is the case to remember that *corpus iuris statuendi* does not contains only *the Statutes of Shkodra* and *the Statutes of Drisht*, but also *the Statutes of Durrës*, *the Statutes of Ulqin*, *the Statutes of Danja*, *the Statutes of Tivar*, to add these also other statutes, mentioned by distinguished savants as, Alain Ducellier, who believes in the existence of *the Statutes of Vlora*, or Vikenti Makušev, that was certain for the existence of *the Statutes of Lezha* since 1443. As about another heritage, that more often is presented with the name *social law, corporation law*, referred craftsmanship order, called *fraternitas* and *confraternitas*, the studies are more complete. While the *nomocànone*, six codexes that contain church rules of the cities of Berat, Gjirokastra, Korça and Elbasan, are almost known in the codex-graph description by Theofan Popa. These three heritages *remain totally self-isolated islands to each-other*. Zef Valentini, Injac Zamputi and Ilo Mitkë Qafëzezi, that opened some window for these corpuses to be seen in each-others mirror, didn't had any successor.

The statutes, notary and cadastre register, are typical phenomenon of passing from the canonic writing in the evidential one. For the first time, the status of the *scribe* changed from imitator to transcribed. The writing culture is known as one of the most important signs of Renaissance environment. Only the city of Berat had six schools *ars scribensis* and calligraphy. In Shkodra there were three brotherhoods: one with the name of *Shën Barbara (Saint Barbara)*, the other with the name *Shën Mëri (Saint Mary)* and a third with the name *Kryqi i Shenjtë (Holy Cross)*. While in Drisht there were two other brotherhoods. On 1349, in Ulqin, Tivar, Pult and Shkodra, there were 18 Albanian notary scribes, viz two third of the total scribes number. Durrës was the city where *notary* knew the flourishing of two schools: in Greek and Latin.

The western side of the Balkan peninsula had achieved its maturity in regulating the life of the urban communities with statutes in all its extension. Statutes also had Kotorr, Budva and Raguza, Zara, Kapodistria, Pirani and Trieste. All these statutes, with no exclusion are already published in original and translated in the countries' language.

III.

Following, except the unavoidable cases, we shall not refer to the *Statutes of Shkodra* and nor to the *Statutes of Drisht*, because they already are well-known to Albanian studies.

To the collection of Albania's cities at the end of the Middle Age, the majority of which more than once confirmed for the last time during the age of Gjergj Kastrioti - Scanderbeg, are added:

1. *The Statutes of Danja*, with 597 articles, more than double of the *Statutes of Shkodra*. This document is preserved in the *Archive of Croatia* and is considered the most analytical statute of the European Renaissance for the Albanian historic space. Is found in the collection of the documents that Milan Šufflay had selected in function of drafting a history of Albania. These statutes are in the beginning confirmed on 1319 and then are reviewed, amended and reconfirmed some time, including the age of Gjergj Kastrioti - Scanderbeg. Three pages from this statutory codex have been donated to the National Central Archive on 2002.

2. *The Statutes of Tivar (statuta et leges Antibarensis)* during the three last decades almost are reconstructed on the bases of referring system in the judicial decision making from two well-known Croatian scholars Lovorka Čoralić and Savo Marković. The existence of these statutes has been mentioned for the first time on 1929, in Italy. Based on the notary acts, in the cadastre registers descriptions and especially in the acts of written right on them can be considered from indirect sources, these statutes are already known.

3. From the manuscript of the *Statutes of Ulqin (Statuta et leges Dulcinji)* exist two pages, exposed without any description in the Museum *Gjergj Kastrioti*. Also, these statutes are made widely known from two Croatian scholars, especially from Lovorka Čoralić, with the same restoration method. The *Statutes of Ulqin* mentioned since 1907,

in the same catalogue of the Italian Leone Fontana, who served as guide for the discovery of the *Statutes of Shkodra* with his descriptions.

4. On the *Statutes of Durrës*, the information is earlier and have been served by Konstantin Jireček. Milan Šufflay, in an unpublished study, entitled *Statuta, episcopis et civitas Durazzo*, that is preserved as manuscript in Zagreb, offers additional data on these statutes. According to Alain Ducellier, *Durrës was governed with its own statutes* at least since 1272.

With more importance are some archival sources that *inform for statutes and rules taken by the Arbëresh in Italy*. These statutes were used by them as legal reference and support to stabilize their situation in a new environment. The first that has informed about the agreements between the locals and the new comers on the inherited statutes bases by the latter, is the Italian Giuseppe la Mantia, who in his book *I capitoli delle colonie greco-albanesi di Sicilia dei secoli XV e XVI*, since 1904 mentions *the agreements of Arbëresh localization*, in which *were also taken into consideration the statutes that they have taken with them*. Another document, that is known with the name *Codice capitulazioni Frassinetto*, on which is spoken about the adjustment of Frasnita's Arbëresh status according the accepted chapters and rules, signed on 1440, which we have published ten years ago. The Arbëresh gained their status through legal acts inherited from their birthplace, as the chapters (*capitulazioni*), the agreements with the local authorities who welcomed them. The Arbëresh of Palazzo Adriano, the agreement chapters of acceptance were firstly signed on 1482 and twice reviewed and confirmed: on 1501 and on 1507. For the adjustment of their final status there was a breve from the Pope Leon X on 1518. The Arbëresh of Piana degli Albanesi signed the acceptance chapters of the legal stay on 30 August 1488. This document was renewed and reconfirmed on 1565, 1574, 1588 and 1606. The Arbëresh of Mezzojuso signed the acceptance chapters on 3 December 1551 and those of Contessa Entellina on 2 December 1520.

Referring to what is called *ius cesarianis*, it should be said that the interest on the Albanian cities statutes and rules during the Middle Age centuries, chronologically has been drafted by Italian savants, more than a century ago. The Catalogue *Bibliografia degli statuti dei comuni*

dell'Italia superiore, volume III (1907), always remains a primal important source.

In a later phase, the collection, the publishing and the study of the Albanian medieval statutes absolutely belongs to the Croatian Albanologist Milan Šufflay and to his collaborator Viktor Novak, which made known for the first time *Statuta et ordinationes ecclesiae civitas Drivasti* on 1927, in *Arhiv za arbansku starinu, jezik i etnologiju* (Belgrade 1927). There is no second to Milan Šufflay as collector and scholar to the Albanian cities statutes.

Because *the Statutes and the rules of the city of Drisht church* are published and re-published including that of Prishtina, in the periodic *Gjurmime albanologjike* on 1972, lately transcribed and translated by Etleva Lala and Musa Ahmeti, we will not focus on their content, but it's useful to be brought in the memory the quasi unbelievable history that how Šufflay achieved to secure their copy.

This manuscript is mentioned for the first time in the *Catalogue 438* and after in the *Catalogue 477* of the German bibliopole Karl Wilhelm Hiersemann, in June 1915. Hiersemann auctioned it, but the manuscript was not sold. Milan Šufflay, not having the possibility to buy the manuscript himself, because of the very high price the owner has set for the auction start, sent for the help of a Croatian rich men, with the call *to buy it for the Zagreb's University Library*. The same call for help he sent to the well-known Albanologist Holger Pedersen. Because this call of his remained unanswered, Šufflay tried again to possess it through his friend L. Thalòczy, by recommending him to buy it on account of *Vindobonensis Academy*, but without success. At the same time, he has required for the help of the Serb Academy of Sciences. On 1920, Šufflay was informed that now the manuscript has been sold for the dizzying price of 2000 marks. He was very much concerned, especially because the name of the buyer has not become known. Through his friend Henri Barić, on 1924, he achieved to identify the name of the buyer, the Danish Sir Thomas Philipps. In collaboration with the Albanologist and with his other friend Viktor Novak, Šufflay again addressed a supplication to the Danish Albanologist H. Pedersen to intermediate on the new owner to secure a photographed copy of the manuscript. Finally, on 1925, when he achieved to have a reproduction of the statutes, together with V. Novak, in a record time, prepared the

known edition of 1927, in *Arhiv za arbanasku starinu, jezik i etnologiju*.

The history of *Statuta et ordinations ecclesiae civitas Drivasti* stabilization is known. Here we will mention only a fact. For the validation of the latest review was the Pope Pius II the one who gave positive response to the cathedral of Drisht authorities. On 1463, as is attested by the data of *Hierarchia catholica* publication, the Pope had charged with the duty Pal Engjëlli and one of his aides to prove if the reformation of the previous statutes of Drisht was necessary. The official recognition of judicial validity was made on 21 November 1464, with the presence of Pal Engjëlli, of the noble Gjergj Topia and of the region's nobles and clergymen.

On these statutes and the history of their preservation during the 1930, had written in sparing words, Marin Sirdani.

IV.

At the time of the city self-governance blossom, on the statutes and rules of Durrës, the city commune had a codex - *codex iuris civitatis*, where were registered all the public governance acts.

The sources where is mentioned the codification of the law in *the Statutes of Durrës*, prove that that these statutes are reformed and reviewed at least twice until the XIV century: on 1297 and on 1392. *The Statutes of Durrës* were confirmed even in the time when the city was rule by the Topia family.

In *the Statutes of Durrës*, a central place occupied the governance law. In it was defined that the city and the suburbs (*suburbis*) were protected by *two magistrates*. One of them had to focus on the municipality problems, the other with the protection of the city.

When Gjergj Topia was forced to surrender the city to the rulers of *Serenissima Seignory*, in the reached agreement was marked that *the city would be ruled with the old statutes of the country*, which should be not abolished for a long time; and that *both magistrates should continue to further stay in duty* under Venice's authority. However, *the Statutes of Durrës* soon become an obstruct for the Seignory authorities. From this cause, the local statutes were abolished, the magistrates were replaced, and this served as encouragement for the beginning of war between Durrës and Venice. On 1401, *the Durrës*

citizens achieved to copy 35 articles of the Statutes of Durrës and sent them to Venice to prove their seniority and authenticity.

Even in other circumstances, the city of Durrës, accepting the vassalage towards a foreign ruler, has put as condition the keeping in force of the proper statutes. So it happened on 1272, when the Durrës inhabitants asked to Anjou rulers to not touch *bonos usus et consuetudines* of the city tradition. The scholars are inclined to believe that also the Anjou achieved to pacify the population and to establish tranquility for their governance by recognizing to the local people *the old statutes (riconoscendo alle popolazioni locali gli antichi statute)*.

According the city statutes, the inhabitants of Durrës were divided in three categories: *local inhabitants*, who have reached the citizen status and the right to participate in the public life; *the foreigners* living in Durrës; and *the others*, staying for a short time in the outskirt neighborhoods (*suburbis*). The highest body of the city was *the commune council*, which approved the new laws *and its summit was a celebration day for the city itself*.

The statutes had their part in the penal law, on which bases should be judge and convicted the public violence, the injustices, the crimes against the life, blood feud, forgeries for property gain. By statute were established the rules and the rights of the foreigners: sailors, merchants, pilgrims.

In the Venetian relations regularly was specified that in *the Statutes of Durrës* there were formulas according to *proprie uxance* and *boni usi* of country's population. Andrea da Mosto, former director of Venice's national archive, 70 years ago wrote that the Republic of San Marco, even there were was dominant through its officials, asked for proportional adjustment in the self-governance (*grande autonomia*) and the outer republican control, by ruling *con i propri statuti*. Interesting is to study what represented the institution of the *lodge* that had legal authority in *the Statutes of Durrës*.

V.

For *the Statutes of Tivar* the earlier information comes from the studies in Italy, since 1929. Its more than a century since was notified that from 1427 *Tivar had a proper statute, nevertheless for the complicated cases should address for appeal to Ragusa tribunal*.

With *the Statutes of Tivar* in the last two decades have drawn the attention of foreign scholars: especially Croatians and Italians, in the framework of scientific interests for the development of the coastal cities in the Adriatic in the period of the European humanism, of similarities in the processing that happened in those centuries in the entire Mediterranean basin, of the Venetian and Dalmatian studies, of the studies on the maritime and trade law. The most complete studies belong to Savo Marković, author of the long paper *Statuta et leges civitatis Antibari*, followed with the study *Kontribut për studimin e Statutit të Tivarit në Mesjetë/Contribution for the study of the Statute of Tivar in the Middle Age*. To this scholar belongs the merit of the first effort to present some of the most secure sources not only for the existence of *the Statutes of Tivar* as historic document, but also for the governance and judicial activity that was developed during the centuries according their judicial power.

The source data prove that the judges, the councilors and the commune of the city of Tivar (*judices, consilarii et commune civitatis Antibaris*) have existed since the XIV century. As Ulqin and Kotorr, Tivar enjoyed from its statutes a wide autonomy of a *city - republic*, in which the sovereign (Venice's Seignory) *was represented by a count, that by rule was a local Latin*.

The Statutes of Tivar were drafted in the first decades of the XIV century. The earlier source in which are quoted *the Statutes of Tivar* as regulators of a legal act (an agreement for lend) is dating on 19 May 1330. In it is spoken for six inhabitants of Tivar loaning 300 perpers from an inhabitant of Kotorr, accepting the pay back on the day of Sant Stefan, *according all the previews in the statutes and rules of the city of Tivar (omnibus legibus et statutis civitatis Antibari)*.

After the fall of Rasha's kingdom, Tivar was ruled by the Balshaj family and controlled by Venice. In this period, was demanded the confirmation of the city statutes *by Pope's authority and privileges*. More clearly *the Statutes of Tivar* are mentioned on 1406, in a Venetian document, who guarantee that the city would be governed *according its statutes*. In another document, of an earlier period, is affirmed that the city of Tivar would have a new law (*civitas Antibarensis novam legum formam acciperet*). While in Serb "*povjela*", *the Statutes of Tivar* are

estimated as a model to be recommended to Budva's citizens and rulers how to fix their life.

Because *the Statutes of Tivar* have been time after time in a higher hierarchy degree than *the Statutes of Budva*, the latter deserve fewer words. *The Statutes of Budva*, with 285 articles, are opened with the knyaz's power definition (*kneževe regalije*) and concluded with the punishment for the borrowers that delay the debt payment. In these statutes, is mentioned many times how should be reviewed and adapted the laws for the city of Budva, including the case of surrendering the city, with the condition that the new ruler should accept the legality of some local habits (*uxance*), as are confirmed in *the Statutes of Tivar*. The voluntary acceptance of surrendering Budva in the hands of Venice, starting from August 1442, is concluded with the request to be governed *with the statutes of Tivar (con statuti d'Antivari)*.

Statuta et leges Buduae were in power until 1650, when become known that the city accepted again the Venetian vassalage, with the condition to be governed with all the laws that were in power under Gjergj Balsha, *that are the same with those of the city of Tivar (...con tutte le leggi che questa città godeva sotto Giorgio Despot, che erano uniformi con quelle della città di Antivari)*.

From the order of the officials of the statutes, can be imagined that which was the degree and the model of the urban development of Tivar, Ulqin and Kotorr: count (*comes*), captain (*capitaneus*), castellan (*castellano*), magistrate (*magistrati*), ambassadors (*balio, ambassatores*), prosecutors (*procurators*), judges (*judices*), counselors (*consiliari*), chancellors (*cancellari*), chamberlain (*camerlengo*), mayor (*podestà*), notaries and proto-notaries, canonicals. In the XIV century are mentioned: the nobility and the people of Tivar (*seniores et populum Antibari*); the judges, the counselors and the commune of the city of Tivar (*judices, consilarii et comune civitatis Antibari*); the mayor and the general council (*maius et generale consilium - majori et generali consilio seu tota universitate dicte civitatis*). On 1428 are mentioned *three sworn judges along with the great council and the small council (... cum majori et minori consilio)*.

Between the 1423-1512, Tivar was under the archbishop's authority. On 1501, is again mentioned the mayor and the general council *maius*

et generale consilium), a *secret council (conseiglio segreto)* and *the commune's palace (palazzo di comuna)*.

Referring to all the data known until today on *the Statutes of Tivar*, their chapters could not be partially reconstructed, but only as complete law codes. In the following lines, we will make known the content of these statutes on a codified basis. Here, I see necessary to thank my daughter Danja, with education in law, without which help, especially in the terminology interpretation of some historic law notions, I wouldn't complete a recapitulation more or less stabilized of their articles, referring to the essential categories of law.

The private law:

In a disposition of *the Statutes of Tivar* is previewed that *every sale of real estate should be made public in advance through in go-between announcement. The advanced announcements of properties sale have to be previously marked in the notary registers, accompanied with a map.* Expressively, in *the Statutes of Tivar* is said that the properties' sale are announced with the ringing of the bells according the orders and the statutes.

The Statutes of Tivar recognize to the citizens of Tivar *the right of regaining their lost property if this was unjustly lost*, in accordance with the right of heritage, of complain and advocacy. From an appellate trial in Ragusa, comes out that the right of inheriting the lost property, in Tivar, as all in the Dalmatian coastal cities, was preserved until 40 years, *as required by our rules (quaranto anni chome se richiede secondo lo ordine nostro)*, with exception of Budva, where this term was 30 years. The specifics of the heritage statutory rights in Tivar is also proved by another trial of 1465, *casus of Boz's Saint Mary church versus a citizen of Tivar*, to whom was promised the equivalent in compensation for leaving three olives parcels, but the court refused, because *the statutes do not recognized the exchange (concambio)*, except voluntarily cases.

Testamentary law (*corpus iuris testamentis*):

The statutes of Tivar are quoted as legal reference in many cases of law that is qualified as *mortis causa - inter vivos: the will of dead among the living*. On 1330 the mayor of the commune left heritage to

the church of Shën Gjergj of Tivar his wealth, *according the country's statutes*. While on 1421, Andrea Zara registers his testament for leaving a wealth heritage to a cathedral in Ulqin.

In *the Statutes of Tivar*, the recognition of the trustee status, administrator and executive of the testament will, was not considered legal if *was not left by writing*. The closest people of the family: husband, wife, children, parents, are considered *trustee with high credibility* to confirm the testament's will.

Even in the cases when is interpreted a heritage testament in favor of the children, legally are invoked the statutes and the rules of the city. The Statutes preferred the conditioning of the property heritage right with the family genetic line continuity. The swordsman Marin Tivarasi left both his children his pharmacy, with all what belongs to him, and the art of swordsman mastery (*meam apothecam cum omnibus ferris et rebus pertinentibus ad artem meam magistrium spatarie*). On 1421 the inhabitant of Tivar, Gjon, in his will, except the wealth he inherited to the heirs, specifies that has left an amount *for his soul*, which can be declared to the priest he was confessed to, after passing 50 days from his death.

In terms of statutory law, a heritage can be called a *property inherited by some generations*, bought or donated. In a referred property act on this right is said that *Marush, citizen of Tivar*, had one hundred years that possessed a property-garden, inherited by his parents and preserved and gained with his money, and now he would depart in peace from this life, because the property would be at the hands of his children. The Statutes encourage the property's *non-division and the non-sale of the bought lands from somebody out of the kinship*, without being completely into consideration the possibility of division with the kinship members (*cum consanguineis suis*), because in this way that property becomes more credible to be sold.

The Statutes had prescription on *the right of the women for a dignified dowry when the time would come to marry*. The dowry (*miraz, dote*) could have been described in a contract prior to marriage. To the husband was recognized the right to enjoy these properties, but not to sale them. The Statutes didn't contained limitations or definition if the woman's dowry that is married if should be real estate or not. As in *the Statutes of Shkodra*, and in those of Tivar, was guaranteed the

right of the daughters, married or unmarried, for their part of family or kinship wealth. The married daughter has the right to use for herself only one fifth of the dowry, while the other part has to preserve and to inherit to the children, as is confirmed by court verdict of 1435, in which is stated that the woman who leaves a heritage has spent only *one fifth of the dowry*, as was previewed in the statute (*segondo la forma del statuto*). Was also previewed the obligation towards the concubine, which has to be granted a guarantee to give birth and raise with dignity the children born out of wedlock.

The maritime and trade law:

The maritime right in *the Statutes of Tivar* is not presented the same at the time of the international maritime law. There is a distinction of the regulation degree of these relations compared with those on land's property.

From two acts of buying sailing ships from citizens of Tivar on 1281 and 1630, can be partially rebuild the content of *the Statutes of Tivar's chapters on the maritime law*. In the first act is mentioned the son of the master Petraq from Tivar as buyer of half of a ship, in accordance with the country's laws, prior buying the ship, *it has to settle all payments and fees for goods charged*, in accordance with the terms of the maritime law *naulum et lucrum*, tariffs and payments. In the second act is marked that the citizen from Tivar called Nikollë Ujku, before buying a part of the ship and to sign a sailing contract with it, accepted the condition referred in the term of the maritime law *pro aptatione, for maintenance*, according city's *de legibus*.

The notion of the maritime insurance in case of harming of complete lost is proved by the Ragusan archival sources, on which is spoken for *insurers that have been paid in advance* to afford these expenses, according the *legal conditions that are the same in Ragusa and in Tivar*. Two oil merchants from this city, on 1571, have insured the goods in the measure *three percent of risk*, while on 1582 in the measure of *two percent of risk*.

Categories of the maritime law that contained *the Statutes of Tivar* are found inclined with the testamentary law, as the case of the sailor Gjergj from Tivar, who, on 1517, left as heritage to the church of Shën Mëri of Rotac an amount for celebrating a mass for the salvation of his

soul. While on 1420 in an abbey out of the city, is marked as profiteer of 100 florins, from one of the advance paid taxes for a sea cargo.

Obligations law:

The category of the trading company, partnership (*socio*), is known in the laws of the commune's statutes since 1358. The partnership of the merchants from Tivar, according the country's laws, could be *for a voyage, for some voyages, or permanent*. Such companies are known for the trade of wheat, wine, oil and wood. Their main principle is *the proportion of capital gains and losses*. The citizen of Tivar was allowed to invest simultaneously. From the court verdicts comes out that the statutes foresaw *the right of the tribunal to preserve 15 percent of the one property value* for administering it in the latest stage in the occasion of putting an end to the activity (bankruptcy, lost, failure).

The notion of giving up illegal claims, that is referred to the term *renuntiando*, was applied in Tivar for any borrower, who preliminarily had to declare that, with the settlement of the obligations, had no other right but to exercise the activity. The borrowing in the commune of Tivar had as limit *five to six years*, while the default interest was limited to 20 percent, as both in relations within and outside the municipality.

The Statutes of Tivar recognized the duty of prosecutor, if was previewed with contract or registered in a notary office, to carry out the fulfillment of the public cases and the obligations towards the citizens connected to a trade activity, *with the right of a commissioner*. In this function are also often presented the clergymen of Tivar.

The statutes recognized the omnipotence of a mandated person by writing, who was charged with matters of an important order, as *restitutions*, in the case of trials with far communes, including the republic of Ragusa and Venice. On 1494, *in the capacity of a omnipotent advocacy*, a citizen from Tivar called Anton de Paskui, ordered for *the case Crnojević*, to represent as *claiming party for the return of a ship together with the cargo it possessed*.

When the case had to do with profits, property interests, the order formulation for the prosecutor or the lawyer had to be specified and specifically foresee if was about sale right, gift, rent; for a *casus* at trial or previously judged. On 1337, a Kotorr inhabitant gave an omnipotent

order to his wife Dobra in Tivar (*uxor mea Dobre in Antibaro*), with the right to sell, inherit or transferring to the new contract all his properties.

The Statutes of Tivar recognize the right of self-representation in a tribunal, without previously asking for mandate. This omnipotence right for protection was recognized to the citizens that the tribunal might have invited as witness. Marinza, a self-protected woman, is remembered as a *brilliant witness before the small council, city mayor and guarantors*.

Similarly, the commune set the limits and the interests of crediting, also the collateral of the real or movable estates and the guarantee of a debt till was paid off. On 1360 the archbishop of Tivar accepts as mortgage assets, according the city's statutes, *two silver chalices and a codex entitled of Gjon*. While the citizen of Tivar, Marin Zara, is recognized as *guarantor self-sufficient with his personality*, that within *two years would pay off the remained debt*.

The pawning also previewed how would be sold the *pawn property*, the way of pawning in a trade society, and the occasion commissions. The pawning terms were clearly specified in the statutes in 2, 3, 4, 5, 6 and 12 months. The months counting was made referring the saint days in the church calendar: *from Shën Gjergj to Shën Mark (Saint George to Saint Mark)*.

In the period 1308-1339, between Tivar and Venice results that are signed 36 credit agreements, all with obligation settlement within the foreseen term.

The inability to repay obligations within the set deadlines in the statutes and accepted in agreement with them was punished with serious penalties and fines or other ways. In a Ragusan document of 1370 has been recorded the statement of a citizen from Tivar, through which is guaranteed that if he would not returned in due time the obligation that was foreseen in the agreement, he would allow the sale of his properties and would assist himself in the public sale.

Except this sanction, the statutes provided the imprisonment, in case of non-payment of the obligation from the sale of his other properties. In the notary office of Ragusa, was written the affirmation of the consent of a citizen from Tivar for his imprisonment sentence if he doesn't pays off the debt.

Statutory regulation of lease and rent agreements is widely reported through court arbitration. It is possible to identify objects that according to the statutes were considered for rent, from a house and other assets that could bring profit. Do not lack the articles for *exclusion from obligations in cases of natural disasters, war or epidemics*.

On a rent contract were also based the relations master-prentice in the city's crafts. The master, in addition to teaching the craft, over a period to 6-8 years, took over the student's clothing and food, work tools and the holiday. While the prentice recognized the obligation to work for free for the master according to the signed deadline, which would be the same even if he would learn the profession in advance. The prentice should fulfill the loyalty condition towards the master. The relations master-prentice and those of employment of a paid worker were agreed by the principle of the Roman law *locatio-conductio* and contain the essential elements of a service contracts.

All the work contracts should be in accordance with the commune's statutes. For cases of non-compliance were provided severe penalties. They excluded coercive formulations, the parties had to commit only voluntarily: *I promise, I will fulfill, on this job he will be rewarded*. Job relations in the statutes *previewed also an executive element*, as was proved by the statement of Matteo Ruci, who accepts 20 *zecchini d'oro*, which should have been given to him since two years ago by his employer, but *the condition was not applied*. The employer is forced by the commune and its laws to liquidate this obligation.

Though in a more limited degree, is proved the existence of sanctions on bank relations. Are mentioned guarantee banks and compulsory court verdicts against those that were not correct in payment of debts, or non-liquidated obligations. One of them was the Florentine bank house *Bardi e Peruzzi*.

Jurisdiction law on the penal and civil cases

In a specific way has been settled in the statutes the jurisdiction on statutory and legal cases, starting from the penal ones. Was not excluded no authority to overpass the given responsibility in the statutes. On 1423 is registered a punishment on the voivoda of Tivar, whom, out of his legal power, kept for five days tied in chains in the city stronghold a thief.

On 1444, the mayor of Tivar requires by writing that *the criminal cases* to be judged according *the Statutes of Venice*, while on *civil cases* to be applied the local statutes and the rules (*statuta et ordines dicte terre*). In the document is mentioned that *this division has to do with the honor and authority of the Republic of Venice*. However, in the cases when was lack of punishments in Seignory's law, could be applied the punishments of *the Statutes of Tivar*. The Seignory itself has asked to knyaz of Tivar the acceptance of the competence *to justly punish, taking into consideration the honor of our government*. The punishments according the Venetians rules of the rebels agaisnt the Serenissima Seignory ruler, that is informed on 1559, included torture, public lynching by dragging the rebels in the public roads, in the market and squares, tied with chains and *the ring*. These punishments prove that the jurisdiction on criminal cases belonged till lately to *the Statutes of Venice* and to the tribunals established on their bases. However, the non-application of the country's statutes and the punishments by Seignory's law, encouraged a new rebellion in the city.

Procedural trial law

According *the Statutes of Tivar*, the citizen of the commune couldn't be suddenly appealed in the court. Exist specific terms how long before the citizen must be summoned even as convicted, or as witness. Suddenly can be appealed only for major cases, that are proclaimed as such from the commune's authorities.

The Senate of Venice protested by writing agaisnt the modifications made to the procedure for summoning in court in Tivar, especially to the right of the authorities *for sudden call*, and informed that would not recognize any punishment that would be inflicted *to her citizens of the republic with the local statutes*. Moreover, if a Venetian national commits a crime in a foreign country, he cannot be judged from the tribunal of that country but has to present himself in the Seignory courts. The judge should present himself in his duty even if the defendant does not respond to the summon.

The Statutes of Ulqin, nevertheless drafted, edited, confirmed and reconfirmed according the model of the Republic of Venice, preserve clear signs of traditional habits. The authority of the Republic of Venice was limited mainly by setting the trade relations. In the reports

of the Venice envoys is spoken about *bonos usus*, on *loro usanze*, *loro statuti*. One of these *good behaviors* is expressed in the severity of sentences of *prostitutes*, incomparable with those of the Republic of Venice, foreseeing light punishments, except the repeated cases. The efforts to establish walls between the local ethno-judicial tradition and the statutes, even between the Albanian population and the population that was governed by the statutes, is just as exclusive towards the truth, as the efforts to present them in a total local development. Arnold von Harf, the pilgrim cleric who travelled in Europe and in the Balkans, to draft his *Dictionary*, had prepared a nest of questions on words and useful standard expressions for a foreigner not only on the Albanian language, but for all the languages and the spoken dialects he met during his pilgrimage. In Albanian, the answer for the expression *I require a women* lacks, differently from the other languages, because in the Albanian mentality couldn't be accepted *to be required a women*, *as was required the cheese, the wine, the bread, the tavern*, what was connected with the local heritage.

The relations between *the Statutes of Shkodra*, Drisht, Tivar, Ulqin, Dana, Durrës, Kotorr, with *the Statutes of Venice* are an *archetype-variant* relations. How was the degree with the *archetype*, this is proved by the innumerable cases of mentioning the traditional character of Albania's city statutes with that of Seignory in *Acta et diplomata*, in *Hierarchia catholica*, in *Monumenta montenegrina* and other medieval corpus sources. The presence of two essential categories of the peoples law on this side of the Adriatic: of the oath on just testimony, according the *besa/faith*, sourcing from Albanian tradition (is rightfully considered as the first time of presenting by writing of the word *besë*) and of the category of *uražba*, deriving from medieval Slavic meaning *retaliation*, is an evidence that the Venetian law not rarely was found unprepared to linguistically express the presence of *usanze popolare*.

VI.

Were the Statutes of Durrës, Shkodra, Drisht, Danja, Tivar, Ulqin, Kotorr and in other unidentified statutes, as those of Vlora, Lezha, Kruja and Shas, transcription of *the Statutes of Venice*?

Some expressed opinions, that the statutes are a foreign culture and has not to do with the Albanian tradition the same as the canons do not

stand, because for the simple reason that the authorities of the Republic of Venice themselves, as is thoroughly proved at that time documentation, inform their missionaries, legations, merchants, that in the Albanian cities there are statutes, but they *are not like ours*, because are based on *loro usanze*. The opinion that *the Canon of Lekë Dukagjini* is not only *the totality of the norms of customary law*, but this deed contains *the ethnic marrow of the Albanian nation and its culture*; there is place for discussion. Has been father Gjergj Fishta the first who, in the *Parathânjën e Kanunit të Lekë Dukagjinit/Foreword of the Canon of Lekë Dukagjini*, has affirmed the aristocratic and the civilized character of *the ancient laws, called statutes*, referring to *the Statutes of Drisht*, that had just been published by M. Šufflay and V. Novak.

As belonging between to the aristocratic character of the statutes and the patriarchal-tribal character of the canon, is enough one of the most quoted articles of *the Canon of Lekë Dukagjini: The price of the man's life is one, as for the good also for the bad. Everyone says is good and says to himself: "I am a man" and the others say to him: "Are you a man... Therefore the blood feuds are left by Lekë as one thing: from the good comes out the bad and from the bad comes out the good. Soul to soul, because the appearance is given by God.* This article is the ultimate nail on the coffin of the old aristocracy. A new aristocracy, based on the military investiture of the former Ottoman empire, on the base of sword merit and service, would occupy the place to the once great patronymic families, with European titles: *capitaneus, count, duke* etc. To conclude the comparison between the statutes and the canons, to the urban law and the mountains law, of the written law and the unwritten law, we are in parallel quoting only the status of the woman within the family:

The women in *the Statutes of Shkodra*:

Article 166: *Everything that gain husband and wife together is considered equal, viz half belongs to the man and half to the woman;*

Article 186: *The daughter and the woman in general have the right to issue a testament, starting from 12 years old and on;*

Article 196: *The woman that is a mother has the right to issue a testament and to spare for prayer to her soul one fifth of the dowry, if this dowry had not meantime passed to her daughter. Otherwise, she*

had to give her requiem that has remained after distributing to the sons their share.

The women in the canon of *Lekë Dukagjini*:

Article 20, chapter III: *The Albanian women has no heritage on her parents, none in property nor at home. The canon considers the woman as redundancy in the house. The parents do not think for dowry and anything else for the proper daughter: he who marry her, will take care on her.*

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