

Programme: Resurse Umane, burse postdoctorale

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Name of the project: *Evolution of the legal terminology in German and Romanian in Bukovina (1775-1918)*

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Description of the project and results

The interest of the research in the reconstruction of the multicultural landscape that marked up the social entity formed over time within the borders of the historical Bukovina – the northwestern region of the former principality of Moldavia, annexed by Austria in 1774, recovered by Romania in 1918, divided temporally between Romania and Soviet Ukraine by the 1940 Soviet ultimatum and for good after 1944 – has risen considerably after 1990 both in Romania and especially abroad. After the fall of the Soviet Union and the subsequent opening up of the Ukraine, the historians were amazed to discover a Central Europe of unexpected cultural complexity since it was long forgotten after the division of the continent by the Iron Curtain. They began to revalue the Bukovina society as a cultural and historical phenomenon with a marked specific difference.

Essential for this cultural reconstruction is the role played by the German language in the insertion of the politic experience of the Europe of the Age of Enlightenment, more exactly of Josephinism, in a territory inhabited by Romanians, with consequences of great importance for the entire subsequent evolution of this province. The project's goal is thus to examine the role of the German language particularly within the dynamic historical process of modernization initiated and controlled by the Habsburg authorities in the province of Bukovina, where the chronic economic underdevelopment characterizing the dominant rural civilization was increasingly challenged by the urban enclaves, above all the new regional capital Chernivtsi, products of Western social and cultural mobility in sharp contrast to the conservative inertness of the local traditional culture. The principles of the state of rights, part of the Josephinism, of the reform politics, were adapted to the local situation in Banat, Bukovina and Transylvania. Joseph

II introduces in 1782 German as the official state language in all the provinces of the Habsburg Empire. Thus, the German language became the *lingua franca* of the public servants, of the courts of law and of Bukovina's bourgeoisie. All procedures and trials were carried out in German. Although Bukovina was a territory at the confluence of different cultures and languages, not every man spoke all the languages of this area, some not even the official one. As part of the process of modernization and integration of the new provinces in the cultural and political life of the Habsburg Monarchy, many relevant laws or codes of laws were translated into Romanian. This legislation in force in Austria and translated into Romanian or adapted was influenced by the works of the Enlightenment, which are not only philosophical works, but also juridical works trying to found a school of natural rights, which offered not only the conquerors, but also the vanquished the possibility to find together solutions for the European conflicts and develop a doctrine of human and citizen rights. One step of the reform was the coming into force of *Das allgemeine Bürgerliches Gestsbuch* (ABGB) from 1811, translated only one year later into Romanian at Chernivtsi. The fact that no other than the illuminist thinker, philologist, linguist, historian and jurist Ioan Budai Deleanu (1760-1820), who studied in Vienna for almost ten years, contributed to the translation of the Criminal Code (1907) and of the Civil Code into Romanian shows the great importance of this legislation for the social and political life of Bukovina. The organizing by Scarlat Calimachi and Andronache Donici in 1813 in Moldavia of a commission of adopting legislation according to the state of rights, in which Christian Flechtenmacher, who studied law in Vienna, Gheorghe Asachi and Ananis Kusanos issued in a few years a new civil code, deriving from the Austrian civil code, the *Gerichtsordnung* of 1796, Zeiller's commentary of the Austrian civil code and *Handbuch für Richter* by Johann Michael von Zimmerl, shows clearly the impact of the political, social and cultural reality of the Habsburg provinces on the Romanian principalities. Furthermore, this example was followed in Bucharest as well, this being a big step for the reintegration in the European juridical thinking and a condition for the introducing *Code Napoléon* in 1865.

The scientific history, sociological, cultural, literary and linguistic treaties and articles about Bukovina, as many as they may be, seem to fail in reconstructing the evolution of the German and Romanian legal terminology. The research highlighted mostly the Western or central provinces of the Habsburg Monarchy and paid less attention to the eastern ones. The only work worthy to be mentioned regarding this topic

is Emanuel Turczynki's article from 1986, *Deutsch-rumänische Kulturbeziehung in der Zeit von Aufklärung und Frühliberalismus*, which analyses among other aspects the evolution of the legal terminology in Banat, Bukovina and Transylvania. Thus, the present project appeared as a necessity in the present context of the Bukovina research, approaching an aspect of great importance to the cultural, social and political phenomenon in this region, the use of the German legal terminology, conveying the levels on which the process of modernization unfolded itself, from functional differentiation and socio-communicative rationalization to the specific relation between the Center and the peripheries, between the metropolis and the province in the traditional territorial sphere of influence of Habsburg Vienna.

The reconstruction of the evolution of the legal German and Romanian is at the same time a juridical historiography of Bukovina by recovering all the necessary documentary material, laws and codes of laws in force between 1775 and 1914 and their translations, glossaries and dictionaries and reconstructing the biographies of those great men, translators and jurists, who contributed to the modernization of this region. As a result of the documentation in the Mihai Eminescu Central University Library of Iasi, at the Library of the Romanian Academy of Iasi and Bucharest, at the National Library, at the National Archives (Iași, Suceava, București), at the National Austrian Library of Vienna, the goals for the first period stated in the project application were reached. The documentation aimed three kind of materials:

1. materials regarding the history of Bukovina during the Habsburg period and the use of German as state language, including materials regarding the evolution of the Austrian legal system and certain personalities, jurists and translators of that period who were concerned with the translation and theoratisation of laws;

2. Lexicographic as well as theoretical materials regarding the linguistic variations of the German used in Bukovina;

3. primary materials: laws and their translations.

The following materials regarding the economic, social and politic reality of Bukovina were studied: Mihai-Ștefan Ceașu, *Un iluminist bucovinean: boierul Vasile Balș. 1756-1832*, Iași, 2007, *Parlamentarism, partide și elită politică în Bucovina habsburgică (1848-1918)*, Iași, 2004, *Bucovina habsburgică. De la anexare la Congresul*

de la Viena. Iosefinism și postiosefinism. 1775-1815, Iași, 1998; *Procese politice, sociale, culturale și economice în Bucovina, 1881-1918*, Rădăuți, 2002; *Die Bukowina unter österreichischer Verwaltung, 1775-1875*, Lemberg, 1876; Cordon, Cecile, *An der Zeiten Ränder. Czernowitz und die Bukowina*, Wien, 2002; Gamper, Anna, *Volksgruppen und regionale Selbstverwaltung in Europa*, Nomos, Wien, 2008; *Social Change in the Habsburg Monarchy*, Winkler, Bochum 2011; Hars, Endre (Hg.), *Zentren, Peripherien und kollektive Identitäten in Österreich-Ungarn*, Tübingen, 2006; Hobler, Ernst (Hg.), *Vor 200 Jahren aus der Pfalz nach Galizien und in die Bukowina*, Stuttgart, 1982; *Nation und Nationalismus in wissenschaftlichen Standardwerken Österreich-Ungarns, ca. 1867 – 1918*, Wien, 1997; Maner, Hans-Christian (Hg.), *Grenzregionen der Habsburgermonarchie im 18. und 19. Jahrhundert*, Münster, 2005; Scharr, Kurt, „*Die Landschaft Bukowina*“, Wien, 2010; Schmale, Wolfgang (Hg.), *Josephinismus – eine Bilanz*, Bochum, 2008; Slawinski, Iona (Hg.), *Die Bukowina. Vergangenheit und Gegenwart*, Bern, 1995; Toroutiu, I. E., *Poporația și clasele sociale din Bucovina*, București, 1916; Wojciechowski, Mieczyslaw, *Historische Grenzlandschaften Ostmitteleuropas im 16.-20. Jh.*, Torun, 1996.

The materials regarding the evolution of the Austrian juridical system (i.e. *Österreichische Rechtsgeschichte*, Graz, 2008) brought to light the fact, of high importance for the present project, that it was not until 1938 that the Romanian legislation was extended totally in Bukovina through the decree-laws nr. 3406 and 3735. As a result of this new data, we consider it necessary to extend the period and the materials of our research to follow the evolution of the juridical terminology in German and Romanian also after the unification in 1918.

Regarding the laws and their translations there were established two periods:

1. 1775 – 1848. Between 1775, when Bukovina is occupied by the Austrian troupes and becomes an administrative division of the Habsburg Monarchy and later in 1786 a district, *Kreis Czernowitz* of the Austria constituent Kingdom of Galicia and Lodomeria, and 1848, when it became a separate Austrian *Kronland* under a *Landespräsident* and declared *Herzogtum Bukowina*, when the laws were published in form of fly sheets or codes of laws;

2. 1848-1918, the period until the unification with Romania, when for every year existed a publication called *Reichsgesetzblatt* containing all laws and orders.

Regarding the fly sheets, which appeared in a considerable number, there will be made a catalogue on the basis of the existed consulted catalogues in the Library of the Romanian Academy in Bucharest¹. Unfortunately these fly sheets, although listed and described in catalogues, were not to be found neither in the sheets, neither in the library, so that in a next stage they will be searched in other institutions.

As part of the documentation in the institutions mentioned before there were scanned or photocopied most of the laws in force during the studied period in Bukovina, as well as their translation, or it was identified the modality to access them online, when possible, so we can present at the present moment an initial list with the laws, codes, collections or law publications and their translations.

As a result of the discussions with the mentor dr. Mihai-Ștefan Ceaușu and the librarians of the Library of the Romanian Academy of Bucharest, it was identified the catalogue which comprises most of the laws and their translations, namely *Bibliografia românească veche* by Bianu and Hodoș, the works listed here being also available online (on the site DacoRomanica – Biblioteca Digitală a Bucureștilor: <http://digitoool.dc.bmms.ro:8881/R> in the collection *operă tipografică românească*), excepting the fly sheets:

Title	Year	Language	Cotă în BAR
<i>Allgemeine Gerichtsordnung / Rânduiala judecătorească de obște</i> (the Josephian Court Regulation)	1787	Germană, română (translated by Ioan Budai Deleanu)	CRV 513
<i>Pravilă de obște asupra faptelor rele și a pedepsirii lor</i> (penal code)	1788	Română (translated by Ioan Budai Deleanu)	CRV 522
<i>Orânduiala lui Iosif al II-lea pentru pădurile din Bucovina</i>	1786	Ger, Ro	CRV 504
<i>Orânduiala lui Iosif al II-lea pentru vânătoare</i>	1786	Ger, ro	CRV 505
<i>Așezământul lui Iosif al II-lea pentru cadastru</i>	1786	Ro	CRV 499

¹ Ioan Bianu și Nerva Hodoș, *Bibliografia românească veche. 1508-1830*, vol. I-IV, București, 1912 and Al. T. Dumitrescu, *Foi volante din colecțiunea Academiei Române*, București, 1912.

<i>Așezământul lui Iosif al II-lea pentru țăranii din Bucovina</i>	1786	Ro, ger	CRV 500
<i>Carte de pravilă ce cuprinde legile asupra faptelor răle și a călcărilor grele de poliție. Vol. I-II (penal code)</i>	1807, Cernăuți	Ro (translated by Ioan Budai Deleanu)	CVR 714
<i>Legi pentru granița militărească</i>	1808	Ro	CVR 743
<i>Cartea legilor pravililor de obște părăgărești pentru toate țările moștenitoare nemțăști a Monarhiei austricești (civil code)</i>	1812, Cernăuți	Ro (translated by Ioan Budai Deleanu)	CVR 803
<i>Manifestul lui Francisc I</i>	1813	Ro	CVR 829
<i>Pravila sau lege a căsătoriei</i>	1816, Cernăuți	Ro	CRV 917A

As part of documentation there were identified and photocopied the following collections of laws or translations for the next research stage:

Name	Year	language
<i>Alphabetisch geordnetes Repertorium aller für Galizien, Bodomerien und Bukowina erschienenen Gesetze, Verordnungen, Patente, Gubernial- und Kreisschreiben im politischen Justiz- und Kameralfache, welche in der sogenannten Piller'schen Patentsammlung vom Jahre 1772 bis 1818 und in der Provinzial-Gesetzsammlung vom Jahre 1819 bis 1848 erschienen sind</i>	1856	ger
<i>Codul civil austriac</i>	1937	Ro, traducere de Aurel Tarnavski, Octavian Pienescu, Anton Iliese, George Alexianu
<i>Auszug aus dem neuen Strafgesetzbuch „König Carol II“</i>	1937	Ger, traducere de avocat Felix Hönig
<i>Decretele-legi nr. 3406 și 3735 privind unificarea legislativă</i>	1938	ro

Upon consulting the librarians of the Austrian National Library in Vienna, I came to the conclusion that in the period 1849-1918 the laws in force in Bukovina and their translation into Romanian were published every year in *Reichsgesetzblatt*, available online on the site of the library Digitaler Lesesaal: http://alex.onb.ac.at/tab_rro.htm.

There were also gathered and studied materials regarding the jurists and translators who activated in Bukovina: Ioan Budai Deleanu, Exodiu Hurmuzachi, Teodor Racoce, Teodor Bălan, Aurel Onciul, Florea Lupu, (Teodor Bălan, *Teodor Racoce și Chrestomaticul românesc*, Cenăuți, 1925; Teodor Bălan, *Activitatea refugiaților moldoveni în Bucovina*, 1944, Sibiu; Lupu, Florea, *Offene Antwort an die Landtagsabgeordneten Landeshauptmann Johann Lupul, R. v. Wolczynski und Genossen. Eine Abwehr vom Reichstagsabgeordneten Florian Lupu*, Czernowitz, 1902; Lupu, Florea, *Offene Antwort an den Reichsratsabgeordneten Herrn Nikolaj Ritter v. Wassilko*, Wien, 1908; Onciul, Aurel, *Das Gesetz vom 30. März 1888*, Wien, 1894; Onciul, Aurel, *Der Versicherungsvertrag nach österreichischem Rechte*, Wien, 1896; Onciul, Aurel, *Dreptul administrativ roman*, Wien, 1900; Onciul, Aurel, *Marturisiri politice. (Politische Bekenntnisse.)*, Cernauti, 1905; Aurel Constantin Onciul, *Aurel Ritter von Onciul und der nationale Ausgleich in der Österreichischen Bukowina*, Nürnberg, 1999; Onciul, Aurel und Lupu, Florea, *Repertoriu pentru secretarii comunali*, Concordia, Cernauti, 1895; Onciul, Aurel, *Wirtschaftspolitisches Handbuch von Rumänien*, 1917; Onciul, Aurel, *Zur österreichischen Sprachenfrage*, Wien, 1898; Teodor Bălan, *Exodiu Hurmuzachi și colecția lui de documente*, Sibiu, 1944).

With regard to the linguistic aspects, we began the study of the material which will help in placing the legal terminology within the context of the evolution and relations between the two languages and defining the linguistic comparative work methodology: *Bukowiner Deutsch. Fehler und Eigentümlichkeiten in der deutschen Verkehrs- und Schriftsprache der Bukowina*, Wien, 1901; Dahmen, Wolfgang (Hg.), *Lexikalischer Sprachkontakt in Südosteuropa*, Tübingen, 2006; Ernst, Gerhard (Hrsg.), *Deutsch-Rumänische Sprach- und Kulturbeziehungen im 19. Jahrhundert*, Regensburg, 1992; Pommer, Sieglinde, *Rechtsübersetzung und Rechtsvergleichung*, Frankfurt am Main, 2006.

Of great importance for our research for this period is the *German-Romanian Legal-political Dictionary* by Aurel Onciul and Florea Lupu, published in Chernivtsi in 1895 (found at the National Library of Vienna), which appeared as a necessity, in order to

facilitate the work of the communal secretaries, but also for the daily use of all citizens. The authors sustain that the legal terminology is complete, whereas the political and technical ones are only partial. An objective of our research would be thus to determine whether the legal terminology to be found in this 200 pages dictionary is indeed complete, to determine how many editions of this dictionary were published und its use in the courts of law. The legal terminology to be found in this dictionary will be analyzed in relation to the political reality of those times, there will be discussed the choice of words for the translation of some terms. Another objective would be that of comparing the terminology found here with the one in use today in German and Romanian. We consider that this was the best and the most accurate dictionary of legal terms from German into Romanian, so that we consider it our mission to reedit this dictionary and make it available online, for the use of the translators who are at a loss using the dictionary available today (Gerhard Köbler's *Rechtsrumänisch. Deutsch-rumänisches und rumänisch-deutsches Rechtswörterbuch für jedermann* from 2006).

Further objectives for the next stages

The main contributions to the research field will be that of pointing out an aspect of great historical, cultural and linguistic importance for the Bukovina, i.e. the implementing of the Austrian laws in this area, its impact on the local population, the problems arising from this transfer, a comparison between the Austrian legal system and the Romanian one, highlighting those pioneers who facilitated the adaptation of the local customs to the new forms of administration (the jurists and the translators), the analyze of the legal terminology in Romanian and German and of the impact of the Habsburg legislation and the German legal language on the Romanian one, the consequences of this language confluence after 1914. The results of this project, which will constitute a breakthrough in the history of law, in the cultural and sociological research of the historical Bukovina and in the linguistics, will be synthesized and published in form of at least two public presentations at international conferences, at least two BDI articles and a monography, which will be published at the end of the project.

A benefic consequence of this review of all Austrian laws in force in Bukovina and their translation would be that of creating the essential premise of any future researches having at base an objective evaluation of the existing and – theoretically –

accessible documents by regulating the problems concerning the recording and the setting in time of all those documents, the complete listing of the documents' titles in the intended typology and the precise dating of their existence and period of being in force. Such a historiographical research which requires a minimal accustoming to the targeted texts, but also with the context in which these texts co-existed leads to a more precise estimation of the factors which, in the same time with the advance of the urbanization, stimulated the administrative organization. This approach, which is essential in the interdisciplinary investigations on the complex represented by Central Europe, may facilitate – in a following stage – a more accurate definition of the concept of provincial metropolis to which the history of Chernivski may be associated doubtlessly.

The researches are carried out mostly at the Library of the Romanian Academy of Iasi and Bucharest, at Mihai Eminescu Central University Library of Iasi, at the State Archives of Suceava, at the Central University Library of Cluj-Napoca (for the archive moved in 1940 from Chernivtsi), at the University and State Archives of Chernivtsi (Ukraine), at the National Austrian Library of Vienna, at the University Library of Vienna, at the Max Planck Institute for European History of Law of Frankfurt, at the Institute for Foreign Affairs of Stuttgart, at the Institute for German History and Culture of the South-Eastern Europe from Munich, at the State Library of Berlin etc.

The final stage of the drafting will be preceded by discussions with the Romanian colleagues specialized in lexicography of the team of “Alexandru Philippide” Institute of the Romanian Academy, with colleagues from the Faculty of Law of the “Alexandru Ioan Cuza” University of Iasi, with Romanian colleagues specialized in culture of Bukovina from the German Department of the Faculty of Letters of the “Alexandru Ioan Cuza” University of Iasi (Andrei Corbea-Hoisie) and with foreign colleagues from the Institute of German History and Culture of South-Eastern Europe from Munich and from Bukovina Institute of Augsburg.

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