

## UNVEILING THE PRIVATE LIFE OF THE 18<sup>th</sup> CENTURY. A DIVORCE ACT OF 1795

Lilia ZABOLOTNAIA

Institute of History of Moldavian Academy of Sciences  
lilizab61@gmail.com

### **Rezumat: Dezvelind viața privată a secolului XVIII. Un act de divorț din 1795**

*Această notă exploatează conținutul unui document extrem de important, aflat în Arhivele Naționale ale Republicii Moldova. Informațiile sale valoroase completează perspectiva asupra vieții private de la sfârșitul secolului al XVIII-lea. Studiul de caz – care face obiectul articolului – se bazează pe un act de divorț din anul 1795. El prezintă nu doar legislația din epocă, ci și particularitățile poziției sociale și juridice deținute de femei. Cu alte cuvinte, în acest articol sunt identificate noi aspecte de viață privată, care pot fi analizate atât din punctul de vedere al mentalităților, cât și din cel al raporturilor de gen.*

**Abstract:** *The paper exploits the content of a very important document, found in the National Archives of the Republic of Moldova. Its valuable information enhances the insight into the private life of the late eighteenth century. The case study – which is the subject of the article – is based on a divorce act of 1795. It shows not only the law of the time, but also the particularities of the social and legal position held by women. In other words, this article identifies new aspects of private life, which can be analyzed both in terms of mentalities and that of gender relations.*

### **Résumé: Dévoilant la vie privée du XVIII-ème siècle. Un acte de divorce de 1795**

*La note ci-jointe exploite le contenu d'un document extrêmement important, qui se trouve aux Archives Nationales de la République Moldavie. Ses informations valeureuses complètent la perspective sur la vie privée de la fin du XVIII-ème siècle. L'étude de cas – qui fait l'objet de la note ci-jointe – est basée sur un acte de divorce de l'année 1795. Celle-ci ne présente pas seulement la législation de cette époque-là, mais aussi les particularités de la position sociale et juridique que les femmes détenaient. En d'autres termes, on y identifie de nouveaux aspects de vie privée, qu'on peut analyser du point de vue des mentalités, mais aussi de celui de rapports de genre.*

**Keywords:** *women's position in the society, laws and customs, legislation, divorce, physical separation, dowry, royal decision, private life.*

The recent research in the National Archives of Republic of Moldova has led to the disclosure of an extremely important document<sup>1</sup>, since its prominence

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<sup>1</sup>National Archives of Republic of Moldova, F. 220.R.1. D.642. Original. Mihai Suțu ruled from 30 December 1792 to 25 April 1795. The mentioned document is authentic, with its original seals. See L. Zabolotnaia, *Un document necunoscut despre viața*

stands out both historically, and in terms of its content, due to the valuable information it provides on the aspects of private life. It is an act of divorce dating from 1795. As a social fact, the divorce in Moldova of the XVIII<sup>th</sup> pondered a very discreet perception, which would not be really publicly displayed. The dissolution of marriage was a complicated and complex process that had attached to it various rules, habits and religious customs. Because at that time the marital union (marriage) was being considered as one of the seven mysteries of the Church, it could be solved only by the Church authorities. The marital institution has kept its religious feature all along the years. This highly sensitive issue compelled the members of the family to keep the divorce secret. Nevertheless, in cases where the dissolution of the marriage could not be peacefully completed, the spouses had to appeal to the Princely Court.

This paper presents two documents: the letter addressed to the ruler of the Moldova Principality, Mihai Suțu, dated 26 April 1795, and “the demand”<sup>2</sup> (*porunca*) addressed to the Lord Justice of the *Second Department*, which contained the stipulation concerning the solution of the conflict between (*sulgerul*) Alexandru Hrisoverghi and his wife, who followed the papers for the divorce process: “With the grace of Lord, one’s majesty, (voevoda), Mihail Constantin Sutsu, the ruler of the Moldavian Principality. Rendering the report in question (anafora)<sup>3</sup>, to my Peers, scouring for enquiry of the governors from the Second Department (Court of appeal), one resolves that after finding the right way according to thy and the sacred council of the Lord’s Metropolitan priest, as one is a true disciple of the holy rules (pravile), for the defendant (sulger) to be separated from his wife for a year”<sup>4</sup>. This divorce proceeding has reached the Princely Court after thorough investigation by the Church Tribunal, “through the sacred council” and “through the secular council of the noblemen”<sup>5</sup>.

Firstly, the noteworthy fact in this procedure is the princely decision, which implied, not the immediate divorce but a temporary separation. It is nevertheless prominent to mention that the “physical separation from the bed and table”, cannot be assimilated to the marriage itself, as the spouses lived together anyway. Thus, despite officially declared separated (mostly physically), the husband and wife would still stay that way. In case the real reasons of the disunion were foregone, the two could retake any time their wedlock<sup>6</sup>. This sort of convention of disunion was regarded more or less as a “last chance to keep the family together”. However, after the genuine detachment of the marital union,

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*privată. Un act de divorț* [An unknown document about privacy. A divorce act], in „Revista de istorie a Moldovei”, 3 (71), Chișinău, 2007, p. 86-92.

<sup>2</sup>*Porunca* – decision, disposal, order.

<sup>3</sup>*Anafora* – official proclamation addressed to a royal/princely figure (filed by a senior governor/lord).

<sup>4</sup>National Archives of Republic of Moldova, F. 220. R.1. D.642.

<sup>5</sup> *Ibidem*.

<sup>6</sup> Vasile Chirvaiu, *Dreptul matrimonial* [Matrimonial Law], vol. III, Oradea, 1933, p. 399-400.

the side effects were far worse. The unbinding of the family reflected at that point was irreversible.

Secondly, the ruler decides, along the “physical separation” period, on the keeping, of the wife's dowry after the list of the dowry goods (*izvod*)<sup>7</sup> and of all the gifts the husband might have given to her during the marriage. As for the social insurance of the lady, a particular person was to be appointed for this charge. One is to make a conveyance (*teslim*)<sup>8</sup> to the governor in question, “one which is to be chosen by us, as to be careful and reliable”. “Distinguished lords, as you surely comply with sacred rules, one has already found a way and chosen the right Lord (stolnic) Ion Carpu, as he is honest and honorable, and is related with the defendant's (sulger) wife, so he will take care of her, of her lands, dowry, goods, both variable and fixed, and so he will be able to look after her and ensure her well-being (pofitaxi)”<sup>9</sup>. Hence the decision in question, one may safely deduce the idea that women were to be socially protected.

According to the historical sources, it is well-confirmed that the defendant has to register all his wife's goods and revenues, including the gifts given during the marital union. On the engagement day, the parents of the daughter decided upon the dowry. However, all the necessary paperwork concerning the dowry was to be realized on the wedding eve, “with all the relatives of the groom”. The dowry had a specific meaning for the wife, as it belonged to her solely and she was its exclusive master. The gains and the goods she would have received from the sale of parts of the dowry, were also concerned (as in they would all belong to her)<sup>10</sup>. The dowry and the wedding gifts would be lost only if the wife had been acknowledged guilty of adultery, indecent manners (drunken), malice, lack of prudence, waste of wealth and incompetence of the household sustenance, or if the wife was not a virgin on the wedding night<sup>11</sup>.

In Moldova, according to the customs and “the land patronage” from the Middle Ages period, the dowry belonged only to the wife and the husband did not have any rights at all over her property: he could not sell it, alienate it or pledge it<sup>12</sup>. The

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<sup>7</sup> *Izvod* – dowry paperwork filed in the presence of witnesses.

<sup>8</sup> *Teslim* – conveyance, transmission.

<sup>9</sup> *Pofitaxi* – to ensure.

<sup>10</sup> Șarolta Solcan, *Femeile din Moldova, Transilvania și Țara Românească în Evul Mediu* [Women in Moldavia, Transylvania and Wallachia in the Middle Ages], București, 2005, p. 35-36.

<sup>11</sup> Lilia Zabolotnaia, *Dreptul femeilor la divorț în Moldova Medievală (secolele XVI- XVII)* [Women's Right to Divorce in Medieval Moldova (XVI-XVII Centuries)], in „*TYRAGETIA*”, XIV, Chișinău, 2005, p.148-154.

<sup>12</sup> Idem, *Situația femeilor din Moldova în evul mediu. Imaginea, statutul social, drepturile și obligații (sec. al XVI-lea - mijlocul sec. al XVII-lea)* [The Situation of Women in Moldova in the Middle Ages. Image, Social Status, Rights and Obligations (XVI – mid XVII Centuries)], în *ROMANIA: A Crossroads of Europe*. The Center for Romanian Studies. Iași -Oxford -Palm Beach -Portland, 2002, p. 43-57.

document that serves as a confirmation-basis of the wife's rights on her dowry is the *Calimachi Code*. Despite the fact that it has been printed in 1817, it is a document of high significance, since it has been constituted according to the Moldovan laws and customs. A worth-mentioning record is *Chapter 31, on marital contracts*, which reflects the legal situation on the matter, as in with regards to the position of the wife and her dowry:

**§ 1610.:**

1. *The husband is not to be entitled to the wife's dowry, or its revenues.*

2. *The husband is to guarantee the dowry's safety-net.*

**§ 1639. The husband is indebted:**

a) *To conserve the dowry as a wise provident.*

b) *Not to alienate it or to constitute a mortgage of it.*

**§ 1649.** *One is to return the dowry after the disunion of the wedding, due to decease or other reasons. Also, the content of the dowry and its revenues, both variable and multiplied, received before the wedding and after its dissolution, with their real value; in case of outgoings, one is to reimburse their equivalent both in quantity and quality"<sup>13</sup>.*

From the entire above mentioned, one could not reasonably establish: the real motives of the divorce (*pricinii dihonii*)<sup>14</sup>. It is nevertheless worth mentioning that the wife was never guilty. The Justice/Court gave always to consider on the possible solutions of the conflict, for instance the reconciliation of the spouses during the year, which might have led to the possibility for the „husband to go back to the wedlock with his wife”. This, in effect, induces the fact that it has always been the husband's initiative.

A remarkable fact in the matter is the respectful manner in which the woman was treated: she would behold to her property during the „physical separation” and in case of divorce, she would be safeguarded by a specific person in charge of her representation in court, appointed by the magistrates.

In a male-dominated society, the women were usually presented in the background of the male activity. They were respected and appreciated as long as they were protected by a man (father, brother, husband). But as the matter of a divorce was disclosed, her social status would radically change, the society would normally turn its back on her, converting her in defenseless person with no rights. The document in question is enormously valuable as it allows a profound study of the private life from multiple points of view: legal, social, but especially moral.

<sup>13</sup> *Codul Calimach (1817)*, Andrei Rădulescu critical edition, București, 1958, p. 555, 557, 561, 565, 567.

<sup>14</sup> *Dihonie* – disagreement, conflict.