
THE PRINCIPLE OF RELIGIOUS FREEDOM IN TERMS OF THE TRANSYLVANIAN LEGISLATIVE ASSEMBLIES DECISIONS FROM THE XVI CENTURY

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Abstract

The regulation of the principle of religious freedom in the principality of Transylvania goes through several phases in its development. As such, in year 1543, *the Country's Assembly* or *the Legislative Assembly* from Turda, proclaimed in Transylvania, for the first time in Europe, the principle of religious freedom. The text of this *Legislative Assembly* stipulated that: “*all shall remain firm in the faith received from God, without harming each other*”. The 1557 *the Legislative Assembly* from Turda decides: “*that all should keep the faith they believe in, with the new or old ceremonies; in respect to faith being free to believe as they wish, but without harming others*”. In this way, given the provision that faith is received from God, together with the provisions that each person is free to believe as he wishes and that no one must be harmed in manifesting his faith, we witness, for the first time in Europe, the refinement of the principle of religious freedom.

Keywords: Transylvanian legislative assemblies, religious freedom, legal religion

1. Introduction

The most important organs of Transylvania's central administration, alongside the prince, were *the Princely council*, *the Chancellery*, *the Princely court* and *the Estates and Orders Assembly*. *The Estates and Orders Assembly* was a representative institution of the three privileged nations (noblemen, Saxons and Székelys) established in the year 1437 in *the Brotherly Union* or *Fraterna Unio*, known also as *Unio Trium Nationum*, but also of the four legal or official religions from Transylvania, namely the Catholic religion, the Calvinist or Reformed religion, the Lutheran or Evangelical religion and the Unitarian religion. During the XVI century, Transylvania's legislative forum, namely *the Legislative assembly* or *the Country's assembly*, adopted for the

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first time the religious freedom principle; principle that was improved during this century, having some encompassing provisions which were unique in the world during that time. During Transylvania's voivodeship, *the Estates* or *the Estates and Orders Assembly* gathered under the leadership of the voivode and the vice-voivode in working assemblies, under the Latin name of *Congregatio generalis*. During the establishment process of the Transylvanian principality, this institution, *the Estates and Orders Assembly*, will slowly gain a new name, as an expression of its increased powers. At the beginning, the name under which *Estates* gathered was that of *legislative assembly* or *conventus generalis* (1538), *congregatio* (1540), *comitia* (1542), *congregatio seu diaeta* (1543) and *gyűlés* (1566). It's also important to underline the fact that, starting from the year 1683, the prince, although he summons the *Estates* at *congregatio*, these, in all the official documents drafted in the Latin language, are named only *comitia*, a term which beginning with the new political change, namely with the Habsburg ruling, will be replaced with that of *Legislative Assembly*. However, in respect to the terminology from the Hungarian documents, *the Estates Assembly* was named *gyűlés*, *országos gyűlés* or *országgyűlés*, terminology which in the Romanian language took the shape of *the country's giuliș*. Taking note of these few pertinent observations, during the study we will use for Transylvania's legislative forum from the XVI century only the name of *Legislative assembly* or *the Country's assembly* [1].

2. The legislative regulations concerning religious freedom and their consequences in the religious field

Before adopting any internal legislative regulations, the Transylvanian *Legislative Assemblies* thought that problems of religious or ecclesiastical nature must always have priority before any other secular or profane issues from the *Legislative Assembly's* agenda because these, namely the problems of religious nature, regulate the possibility to create a suitable framework for praying to God; framework that must allow the individual or collective consciousness to manifest its religious sentiments, as each person's consciousness requires, without being disturbed in manifesting their faith. This principle of prioritizing problems of religious nature or problems related to the things associated with God's glorification, is firstly discovered in article 1 from title I of *Transylvania's Approved Constitutions* or *The Approved* which stipulated the following regulations: "*This nation's deed was truly right and a model to follow from the beginning because wanting to decide in the country's assemblies, in respect to the common good, started, before anything else, with meditations (their activity) of the things that glorified God. For this reason, even now, it is thought that before regulating any other telluric matters, these must be preceded by the decisions concerning God's glorification.*" [2, 3]

The religious freedom principle regulation in the principality of Transylvania goes through several phases in its development. As such, we mention the fact that before the year 1550, in Transylvania, there was only one

officially recognized religion and precisely the Roman-Catholic religion. Back then, Catholicism was the only *legal religion*, namely the only officially recognised religion. The Roman-Catholic religion included the population of the three privileged nations (noblemen, Saxons and Székelys). In that period, the Orthodoxy which included the overall majority of the population from Transylvania was not a legal religion, but only a tolerated religion. The Romanian population from Transylvania was not part of the principality's privileged nations, such as the Hungarians, the Saxons and Székelys and consequently, their Orthodox religion was neither a legal nor an official one. A significant change in the religious field occurs in the year 1543 when *the Country's assembly (the Legislative Assembly)* from Turda, proclaimed, for the first time, the religious freedom principle in Transylvania. Adopting this principle had immediate consequence in the sense that the first proof of religious freedom was the official recognition of the Lutheran Church, meaning that of the Saxons, who sharing the ideas of the German reformer Martin Luther decided to segregate from the Roman-Catholic church and form a distinct church as a consequence of accepting the new dogma teachings. The official recognition of the Lutheran Church was carried out at the *Legislative Assembly* on the 22nd of June 1550. Therefore, *the Legislative Assembly* ordered: "*that all shall remain firm in the faith received from God, without harming each other*" [4-7].

Adopting the religious freedom principle could not have remained without major consequences. Hence, as a first consequence of regulating the religious freedom principle, with the occasion of *the Legislative Assembly* from Turda in 1543, besides the Catholic religion considered *religio antiqua*, the ancient religion, the old religion, in other words the ancestral religion, a new religion, namely the Evangelical-Lutheran religion considered as being *religio nova*, is recognized in the Transylvanian principality. After the year 1550, the Lutheran missionaries tried to convert to the new religion not only the Hungarians but also the Romanians in order to develop their new religion. In the first phase, the Lutherans succeed to win on their side even the Transylvania's prince, Ioan Sigismund Zápolya, because otherwise they would not have managed to be so easily recognized (legally) in Transylvania.

Transylvania, between the years 1550-1551, gave birth to the first legal religious compromise from Europe, in the sense that *the Legal Assembly* from Turda gives freedom to exercise the Evangelical-Lutheran religion. In the year 1552, *the Legal Assembly* from Turda declares that jobs or public positions shall not be distributed anymore on religious grounds. Another consequence of the religious freedom principle enunciation and legalization was the fact that when the Helvetica reform ideas, or those of Jean Calvin entered the Transylvanian region, it was deliberately allowed that theologians would have discussions over principles, theological debates on the topic of Eucharist (*The Lord's Supper, The Holy Communion*). From this perspective, the idea of religious freedom and the free propagation of their

beliefs increased significantly in the Transylvanian principality. First of all, we notice the fact that the decisions of the local religious assemblies increased in importance, thus, preparing the ground for the *Legislative Assembly's* main decisions. Francesco Stancarus cases, who was a convinced antitrinitarian, and those of priest Paul Wiener also influenced by the Reform ideas, highlight some aspects of the religious freedom from Transylvania, in the sense that they did find a tolerant place even for such ideas. These two cases are important because both of them were considered religious outcasts during that time in Europe and their reception and acceptance in Transylvania reveals the tolerance spirit over here. Stancarus who for his own beliefs and propagation activity of his Antitrinitarian ideas was persecuted and chased throughout Europe, indicates that around 1550 in Transylvania one could find tolerance towards different religious beliefs [8, 9].

However, the main personality of the Transylvanian antitrinitarian was Francisc David, the superintendent of the Reformed (Calvin) Church from 1564. Ioan Sigismund Zápolya, Transylvania's prince, also played an important role in this respect, as a supporter of the reforming movement. Public theological debates were organized with the prince's approval and support. Having these open theological discussions indicates the religious freedom of expression manifested even in a public space. Anyone who wished could participate in these discussions. The possibility to have open discussions on different theological and religious topics in an open space, with the possibility for anyone to participate, reveals another aspect of the religious freedom, namely the possibility for public expression of faith and defending it. The possibility to carry out such public debates on religious topics is performed with the prince's support, meaning the political power at that time. [10].

Other political and religious changes occur in the principality due to the fact that in the year 1556 Isabella and the young Ioan Sigismund returned from Poland after *the Legislative Assembly* from the Saxon Sebeş in 1556 asked them to return to Transylvania. Thus, Ioan Sigismund and Isabella adhere to adopting new measures in favour of tolerance and religious freedom. So, the Transylvanian *Legislative Assembly* gathered at Turda between 1st and 10th July 1557 decides that it ensures again the religious freedom for the Catholic and Lutheran believers, recognizing the new Lutheran religion as being a legal religion. The promoter of this recognition was Francisc David (1520-1579). The law's formulation was unique in the XVI century Europe. *The Country's assembly* or *the Legislative Assembly's* decision in article 7 declared: "*Us and His Majesty, our son, at the urgent request of princes from our nation, we gracefully allowed for all people to have the religion they wish, with the new or old ceremonies; in respect to faith being free to believe as they wish, but without harming others, so that the new faith followers shall not abuse the old faith*" [7, 8, 11].

Through the Legislative Assembly decision, the religious freedom principle receives some improvements. Therefore, the ideas included in the new law article provisions are unique in the XVI century Europe. The law does not talk about either the Catholic religion or the Lutheran religion, but discusses only about *nova* and about *antiqua religio*, meaning about the two religious ceremonies, old or new. The legal text clearly states „*teneret eam fidem quam vellet quam novis et antiquis ceremonis*”, meaning “to keep the religion (faith) they wish, with the new or old ceremonies”. This legal text drafted by the *Legislative Assembly* has some specific aspects which must be explained.

The first aspect is the fact that we witness for the first time in Europe the drafting of the *fidem quam vellet* (to believe as one wishes) principle. The law formulation, in respect to the religious freedom, stipulated that: “*all shall keep the religion they want*”, or “*in respect to faith being free to believe as they wish*”. This means that each person’s religious will must have been strictly respected. The freedom of faith, manifested according to one’s own wish and will, was about to be allowed for everyone, yet, without being harmed in any way. This legislative formulation appears in the legislation from the European continent only a few centuries later.

The second aspect is the fact that while *the Country’s assembly (the Legislative Assembly)* from 1550 and 1551 was defending the new religion’s interest, namely *nova religio* (Lutheran religion) against *antiqua religio* (Catholic religion), at this *Country’s assembly (the Legislative Assembly)* beginning with 1557 it is decided to defend the *antiqua religio* (Catholic religion) interests against *nova religio* (Lutheran religion). From this we can infer the fact that as time passed by, the new religion, namely the Lutheran religion was developing, thus, increasing in believers’ number while the old religion, or Roman-Catholic, was decreasing in members’ number. This means that in a relatively short time, the Roman-Catholic religion from a majority religion becomes a minority religion though significant losses of believers who joined the Lutheran religion. The law’s formulation as “*so that the new religion’s followers shall not abuse the old faith*”, stipulates the minority’s protection because the Catholic majority becomes a Catholic minority. It can already be observed that the law defends the interests of a minority religion. A significant change occurred in the sense that firstly a new religion was protected, that was a minority, and then, the old religion that became in a short time a minority one. The law already defines the religious minority’s protection.

The third legal aspect concerns the prohibition of harming others, harming someone for his religious belief as any free man was free to believe as he wishes and to freely express this faith, without bringing any prejudices (or harm) to the other.

Such legislative provisions related to the freedom of faith or the religious freedom where everyone could believe as he wished, could accept and adopt the dogmas or the religious ceremonies, be it new or old, without

anyone having to suffer any harm due to the willingness to manifest his religious beliefs, were truly a giant step forward in those times in regard to the human rights issue. Such legislative precepts, adopted by the *Legislative Assemblies* from Transylvania, were truly unique in the XVI century Europe. Lutheranism has consolidated its religious position in the Transylvanian principality and at the *Legislative Assembly's* meeting, gathered in Turda, on the 10th of June 1557, when, even if there was decided that: “each believer is free to adhere to his favourite faith, without those who adhere at the new faith (Lutheran) to abuse those keeping the old faith (Catholics and Orthodox), the Lutherans intensified their missionary activities with the goal to win new members for their new religion. At this *Legislative Assembly* it was also tried to officially recognize Calvinism in Transylvania, but due to the high number of Lutherans at the *Country's assembly (the Legislative Assembly)*, the Calvinists had to give up their wish to be officially recognised at that moment, making subsequent steps into that direction [12].

Due to the fact that between the Lutheran believers and the Calvinists certain disagreements start to emerge, it was proposed that the representations of the two religious confessions would gather in a Council in order to present their own teaching. The proposed Council took place in Oradea on the date of 18th of August 1559. From the participants at this council we name the following: Francisc David, the one who established the Unitarianism in Transylvania [13], the priest Melius Iuhász Peter from Debrecen (the one who was classmate with Francisc David at Krakow, Wittenberg, Vienna, Zürich and Geneva), the priest Kopácsi István from Baia Mare, etc. The ones present in that religious Council tried to reconcile the Calvinism with Lutheranism (because, Calvinism was considered by them as being a subfield of Lutheranism). At that Council, however, it was noticed that, in what concerns the teaching about ‘The Lord’s Supper’ (*The Holy Communion, Eucharistia, Ūr Vacsará*), Calvinists are distinct from the Lutherans, and as no agreement was reached between the two, the religious Council was dissolved. Other theological discussions, between the Calvinism and Lutheranism’s representatives with aim to reconcile them, took place afterwards in the localities Mediaş and Turda, but without any result at that moment [12, p. 135, 137].

Taking into consideration these events, the Transylvania’s prince, Ioan Sigismund Zápolya, convened a Council at Mediaş in the year 1560 in order to avoid segregation between Lutheran believers and those reformed. With the occasion of the Council, the Lutheran believers were named ‘sibieni’ (the ones from Sibiu), and those reformed, ‘clujeni’ (the ones from Cluj). However, the convened Council did not have a positive result in respect to their reconciliation. Until the year 1564, the Calvinists tried to gain official recognition from the side of the *Legislative Assembly*, but the decision on this matter was always postponed. In the year 1564, a Council held at Aiud approved the definite rupture between the Lutheran believers and those reformed [14].

A step forward concerning Calvinism official recognition is made in the year 1564 when Francisc David was chosen as a Calvinist superintendent who pleaded and managed to convince the *Legislative Assembly's* representatives during the *Legislative Assembly* meeting from Turda between the 4th and 11th of June 1564; so the *Country's assembly* or the *Legislative Assembly* decides the official recognition of the Calvinism reformed religion, becoming the third *legal religion*. The adopted law by this *Legislative Assembly* from Turda, in article 5, stipulates the following provisions: “*because differences in the religious problems were raised, especially in the way of participating at the Lord's Supper, to avoid shortcoming and to re-establish peace, it was decided: that both parties shall be free, to be possible to follow either the people from Sibiu's religion or the one of the people from Cluj. If a village or city wants to preach the religion of the Cluj church, imposing on people to receive it, they are not allowed to do it. This also applies to the followers of the religion from Sibiu, but to call for preachers of their own belief. Anyone shall be able to go and take the Lord's Supper without obstacles anywhere he wants, without being offended, mocked or aggressed.*” [7, 15]

The *Legislative Assembly's* decision from Turda between the 4th and 11th of June 1564, had the goal of settling the intolerant actions from the side of the two religions, Lutheranism and Calvinism, between which, as the presented legal article by Szilágyi Sándor mentioned, different arguments, disputes and even fights occurred. At that time in Europe, we cannot find such high regulations concerning religious tolerance. From the legal text several law principles are revealed, namely: The legal text speaks for the first time about consciousness, in the sense of being set free and not being constrained. The law speaks about the action to reconcile the consciousness of both parties. Constraining someone in order to follow a certain religion was not allowed. The idea of keeping and confessing the religion is stipulated, meaning the right to have a religion but also the right to confess it, to make it known to the other as well. We find for the first time in the legal text the terms of priest and preacher. Choosing the faith and the preacher was a duty left to the people who had the freedom to accept and adhere at the desired faith. The priest or the preacher had the freedom to safely preach his own religion. The preacher could have free access in any borough, city or village where his religion is accepted, namely where there are believers who share that religion, in order to serve there.

From another viewpoint, due to the fact that disagreements and fights persisted between the Catholic and Lutheran believers in respect to choosing the religion, the *Country's assembly* or the *Legislative Assembly* from Sighișoara, convened between the 21st and 26th of June 1564, stipulated the following aspects in relation to the prohibition of bringing prejudices to someone based on the manifestation of his faith: “*In what concerns the religions situation and the different controversies, the country's nobles liked that anyone could embrace the faith he wishes and none of these parties shall bring any damage, hate or injury to the other*” [3, p. 247; 12, p. 223; 16].

In these conditions, besides the Roman-Catholic religion, the Lutheran religion and the Reformed or Calvin religion was officially admitted. There were already three legal religions or confessions in Transylvania. After the Calvin religion was officially recognized in 1564, the disagreements with the Lutherans decreased and in the end stopped. If the *Legislative Assembly's* decision provided the prohibition for both religion to 'steal the sheep' or the believers, these would tacitly leave the missionary possibility between the Romanian Orthodox believers. Therefore, tacitly, the *Legislative Assembly's* decisions related only to the legal religions and not the tolerated Orthodoxy. Orthodoxy, the religion of Romanians, was not part of the legal religion and as a consequence, both religions would try, through different methods, to attract Romanians to their religion. In history, we will witness a large range of methods to attract especially Romanians, to one of the two religions.

In respect to the freedom of preaching the Word of God, the Transylvania *Legislative Assembly*, gathered in Sibiu between the 30th of November and 13th of December 1566, decided: "*that the word of God shall be freely voiced, especially amongst Romanians...*" [17]. These *Legislative Assembly's* provisions stated that anyone can freely present the Word of God without having to suffer due to such manifestations, be it public or private. Transylvania's *Legislative Assembly* gathered in Turda between the 6th and 13th of January 1568 adopted a new law regarding religious freedom, from which we quote: "*His Majesty, our prince, as he enacted with his country with the occasion of the previous legislative assemblies in respect to the religious problem, he now strengthens that preachers should voice the Gospel everywhere, each as he understands it, and if the community wants to receive it, then, it is fine, but if not: no one should force them if their soul is unhappy; the community shall be able to belong to the preacher whose teaching she (the community) likes. For this, no one from the superintendents or others shall be able to offend the preachers; no one shall be mocked on religious grounds, according to the previous constitutions. No one is allowed to threaten someone with prison or with deprivation of his place, for his teachings; because faith is God's gift, it comes from hearing, and hearing comes from the Word of God.*" [12, p. 78; 18]

With the occasion of this *Legislative Assembly's* works, Unitarianism was declared an official or legal religion. This *Legislative Assembly* was the first and last legislative organ from Europe who gave freedom to Unitarians [12, p.274; 19]. Therefore, in that moment, Transylvania had four legal religions, namely: Catholicism, Lutheranism, Calvinism and Unitarianism.

3. Conclusions

The principles concerning religious freedom adopted by the *Legislative Assemblies* from Transylvania during the XVI century were the first of this kind in Europe [20-22]. So, for the first time, we witness in Europe the drafting of the *fidem quam vellet* principle (to believe as one wishes). This

formula appears on the European continent only a few centuries later. We summarize the religious freedom and consciousness defining elements from the XVI century Transylvania; therefore, the Transylvanian *Legislative Assemblies*, from the Transylvanian *Legislative Assembly* from Turda (1543) to the Transylvanian *Legislative Assembly* also from Turda (1568), from the first enunciation of the religious freedom principle and until its presentation in an improved form, indicates the fact that within 25 years this principle developed from some simple provisions, stipulated in 1543: “*all shall remain firm in the faith received from God, without harming each other*” [7], to an improved principle: “*...preachers should voice the Gospel everywhere, each as he understands it, and if the community wants to receive it, then, it is fine, but if not: no one should force them if their soul is unhappy; the community shall be able to belong to the preacher whose teaching she (the community) likes. For this, no one from the superintendents or others shall be able to offend the preachers; no one shall be mocked on religious grounds, according to the previous constitutions. No one is allowed to threaten someone with prison or with deprivation of his place, for his teachings; because faith is God’s gift, it comes from hearing, and hearing comes from the Word of God.*” [12, p. 78] In 25 years, this principle had an incredible evolution, evolution that we cannot find anywhere in Europe at that time.

The Transylvanian *Legislative Assemblies* stipulated new principles and ideas concerning liberty of faith, religious freedom, such as: faith is God’s gift, it comes from hearing, and hearing comes from the Word of God; each person is free to believe as he wishes, without being mocked for his faith; each believer is free to adhere to his favourite faith, without those who adhere to the new faith to abuse those who keep the old faith, meaning that the ones who part from a certain religion and accept another religion should not be persecuted for this; we encounter for the first time in a legal text the usage of the word of preacher attributed to persons who preach the Gospel or the Word of God; preachers should voice the Gospel everywhere; the preacher should have free access in any borough, city or village and should not be offended for the ideas he presents, for the religious views he preaches; choosing the faith and preacher was a duty left to the people; the man is free to embrace the religious faith he wishes, but no one had the right to bring to another person any ‘damage, hate or injury’ on religious grounds; it was not allowed to constrain anybody to follow or not follow a certain religion; no one could be threatened or doomed to prison or to a certain deprivation; for the presented teachings. This does not mean that there were no things unsettled in the religious field, by the Legislative Assembly, because Orthodoxy, which included the majority of the population from Transylvania, was not yet recognized as a legal religion, but it was only a tolerated religion. Also, as a consequence of the Reform in Transylvania, there was already a group, significant in the number of its members and namely the sabatariens who also made arrangements to be recognized as a religion. Even if these situations were still unsettled, despite this, the adopted principles until then, in the

principality of Transylvania, in the area of religious and consciousness freedom, were unique.

In respect to the fact that the confessional situation from Transylvania was unique, we present some affirmations that have been written about the Catholic prince Ștefan Báthory and the religious freedom from Transylvania: „Ștefan Báthory was coming from Transylvania, a country where the problem of tolerance found a solution in a peaceful manner, a thing that did not occur anywhere in Europe” [16, 23]. We can conclude, on no grounds of denial, that nowhere in Europe, and not just in Europe, but in the world, during the XVI century, were there any such high regulations concerning religious and consciousness freedom, such as the ones adopted by the *Legislative Assemblies* from Transylvania.

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