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ABOUT CONTRADICTORY POLICY OF PURCHASES OF MUSLIM ESTATES IN BELGRADE AND THE PRINCIPALITY OF SERBIA*

Abstract: The administration of the Principality of Serbia pursued a contradictory policy of purchases of Muslim estates. The paper highlights regulations and procedures which complicated rather than facilitated the purchase process and the resettlement of the Muslim population. It is shown that the state recognised the sale of private estates of Muslims who did not have tapis, although there were many of them, thus missing the opportunity of including into the state fund the lands unsecured by tapis, thus bringing a part of its population in a semi-dependent position. The state introduced the pre-emption right for the land user, but for the estates of those Muslims who already moved out and not for those who stayed in the country. It allowed Muslims to purchase land outside the varoš, despite the Hatt-i sharif provisions. It even granted land to some of them. All this shows that the move of Prince Miloš Obrenović was wrongly assessed – in 1833, the Prince allowed that Muslims should not leave until the spring, thus purportedly thwarting their fast and efficient resettlement, and allowing the Porte to change the policy of the resettlement of Muslims from the Principality of Serbia.

Keywords: Principality of Serbia, Belgrade, purchase of Muslims' estates, tapis, pre-emption right, tithe, vojvodluk.

Contradictory and controversial solutions can be observed if measures undertaken by the administration of the Principality of Serbia to purchase lands of the Muslim population are assessed from the aspect of rationality and consistency of policy, interests of the state and some social groups, and the efficiency of resettlement. The Hatt-i sharif of 1830, promulgated in Belgrade on 12 December in Turkish, and on 13 December in Serbian, envisaged that the Muslim population should leave the country, excluding the garrisons in fortresses, and sell their private immovables within a year,

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at a fair price, to be assessed by a separate commission.[1] This decision opened the following controversial issue, though of technical nature given the then technical and communication capacities and the number of Muslims – how to set up a commission within a year, assess the estates of all those interested, find a buyer and sell the estate. It is clear that Serbian policy at the time did not focus on the technical, but political aspect of the issue. It soon transpired that the Porte, which interpreted the Hatt-i sharif provision entirely differently, intended to resolve this technical issue only subsequently. This technical question became more complex with the decision of Prince Miloš Obrenović (1815–1839; 1858–1860) to enable Turks to stay in Serbia until spring.

The initial readiness of Muslims from Belgrade and other Muslims, including those who were reputable and rich, to sell their estates immediately upon the proclamation of the Hatt-i sharif, soon disappeared.[2] This was due to the controversial measure of Prince Miloš, who acquiesced that, because of winter and bad roads, Muslims should not move out until spring. On the one hand, this decision was used by Belgrade vizier

[1] Р. Љушић, *Србија*, Историја српске државности, књ. II, Србија и Црна Гора – нововековне српске државе (=*Историја српске државности*), Нови Сад б. г. [2001], 91–92. Literature usually speaks about the resettlement of the Turkish population, although Turks were not the only Muslims in Serbia. The term Ottoman was not used in the Principality of Serbia. The term Turk was used instead. All Muslims were considered Turks, regardless of whether they were members of the Turkish or other peoples, excluding Gypsies, whose belonging to the Roma people was always the main indicator of their identity, regardless of whether they were Muslims or Christians. In specific circumstances, usually when it had to be emphasised that they differed from Turks by their aggressive behaviour towards the Christian population, the names Arnauts and Bosniaks were used. The term Bosniak, however, was not reserved for Muslims only. It was used to designate Christians from Bosnia as well (Б. Перуничић, *Управа вароши Београда 1812–1912*, Београд 1970, 38, 53; Б. Перуничић, *Београдски суд 1819–1839*, Београд 1964, 117–118, 185; *Живети у Београду 1837–1841*, документа Управе града Београда, књ. 1, прир. група аутора, Београд 2003, 484; У. Шешум, *Арбанаси у Поморављу 1815–1834*, Алексинац и околина у прошлости, 500 година од првог писаног помена, 1516–2016, зборник радова са Међународног научног скупа одржаног 3. септембра 2016. године у Алексинцу, Завичајни музеј Алексинац, Алексинац 2016, 130–131).

[2] According to Bartolomeo Kunibert, within three days of the proclamation of the Hatt-i sharif, almost all estates of Muslims in Belgrade and the environs were sold, first of those who were rich and reputable, and later of the rest of them, and were paid immediately (Б. Куниберт, *Српски устанак и прва владавина Милоша Обреновића*, Београд 1901, 266). Prince Miloš ordered the Belgraders that no one should rent shops and houses from Muslims any more, but should buy the real estate used, which certainly increased the number of purchased estates (М. Гавриловић, *Милош Обреновић*, књ. III, *(1827–1835)*, Београд 1912, 317). It was not only Muslims from Belgrade who sold real estate and moved out, but others as well, such as those from Soko and Lešnica (Т. Р. Ђорђевић, *Архивска грађа за насеља у Србији у време прве владе кнеза Милоша (1815–1839)*, Српски етнографски зборник, Српска краљевска академија, књ. XXXVII, прво одељење, Насеља и порекло становништва, књ. 22, Београд–Земун 1926, 328–330).

Husein Pasha (1826–1833), who asked for instructions from the Porte, and was then scolded for allowing the sale of estates and resettlement of Belgrade Muslims. The Porte interpreted the Hatt-i sharif provision about resettlement in a way that the Turkish population would move out and sell their estates only upon the expiry of one year from the proclamation of the Hatt-i sharif, when a special commissioner would be sent to Serbia. This halted the sale of estates, led to the abandonment of court-certified purchase and sale contracts, and was to result in the return of tapis or money, which, it seems, did not happen, at least in the majority of cases.[3]

It is believed in historiography that by his heedless decision Miloš Obrenović thwarted efficient and fast resettlement of Muslims from the Principality of Serbia. He was derided for superfluous humanness and inadequate frugality. By postponing the resettlement, Prince Miloš shortened the time envisaged for final resettlement of the Muslim population by at least a fourth, and probably by a third, in circumstances which left little time for the completion of this process. This certainly complicated the resettlement process, though unnecessary as winter could be used to find buyers. However, this measure was assessed as excessive understanding of difficulties of the Muslim population and opening room for breaching the agreement.[4]

However, what the Prince was particularly criticised about was his misplaced frugality. On the other hand, by not spending money on gifts for the Belgrade vizier, he was accused of causing his dissatisfaction and change of attitude towards the resettlement of Muslims. Bartolomeo Kunibert saw the change in Ottoman policy in the fact that the Prince refused to pay to the vizier the requested 250,000 groschen for advocating successful conclusion of negotiations about the Hatt-i sharif. Therefore, the vizier, dissatisfied and fearful about his position, decided to advise Belgrade Muslims not to move out as Belgrade had the fortress and they could also be considered a garrison (since both the erliye and sipahis had military duties as well). He asked for instructions from the Porte about whether Belgrade Muslims could be exempted, which led to a change in Porte's policy. Already during the vizier's first address, the Porte made it clear that it interpreted the Hatt-i sharif provisions about the resettlement of Muslims in its own way, which indicates that the dissatisfaction of the Belgrade vizier and the lack of readiness of Prince Miloš to ingratiate with him with new presents could not significantly influence the Porte's policy and change the process of resettlement of the Muslim population, as well as that Kunibert's remarks about the feeling of "mercy in wrong time and poorly understood saving"[5] were not substantiated.

On the other hand, Mihailo Gavrilović, an undisputed authority in interpreting the history of Serbia during the first rule of Prince Miloš Obrenović, also underlines Prince's unreadiness to continue to bestow gifts on Ottoman dignitaries, both the

[3] М. Гавриловић, *Милош Обреновић*, књ. III, 318–319.

[4] *Ibidem*.

[5] Б. Куниберт, *Српски устанак и прва владавина Милоша Обреновића*, 269; Р. Љушић, *Кнежевина Србија (1830–1839)*, САНУ, посебна издања, књ. DLXX, Одељење историјских наука, књ. 12, Београд 1986, 317.

Belgrade vizier and those on the Porte, as an important reason for the Porte's changed policy. Bypassed during the distribution of "baksheesh" or dissatisfied with the gifts received for services they made during the debate and final review of the Hatt-i sharif, Ottoman dignitaries, as he believed, stopped providing any further support to the Prince.[6] Gavrilović broadens the responsibility of the Prince saying that he disregarded Serbia's interests by "not placing at disposal all means that would facilitate the migration" of the Muslim population from Serbia.[7] This critical interpretation of Prince's policy implies that his adequate policy had to contain financial support – personal or state, for the fast purchase of estates (as the Prince ensured other conditions).

Immediately upon the proclamation of the Hatt-i sharif, more reputable and wealthier Turks were usually selling their estates, while more reputable and wealthier Serbs – mainly civil servants, were buying them. The purchase of such highly valuable estates implied large quantities of cash in circulation. Interested civil servants and MPs, who came to Belgrade on the occasion of reading of the Hatt-i sharif, purportedly expected a fast sale of estates and brought cash for payment. However, it is more probable that such "necessary amounts of money" were intended for downpayment, as it is said that in the months that followed, due to the uncertain destiny of the Muslim population in Belgrade and fortress outer towns, buyers refused to receive downpayment, hoping for a favourable solution to the problem, while Belgrade Muslims spent the money received in downpayment as they often went to find shelter in the fortress and returned to their houses in the varoš.[8]

The criticism directed at Prince Miloš because of his unreadiness to facilitate the purchase of estates with his or state money, i.e. to make their purchase easier and speed it up by placing into circulation a much greater quantity of money seems, after all, ungrounded for several reasons. In the first half of the 19th century, Serbia had a chronic shortage of cash, which is why loans and partnership operations were rather widespread.[9] Loans were given by affluent persons – mainly merchants and clerks, who could now engage their capital more adequately when purchasing Muslim estates. On the other hand, the state collected considerable amounts in its funds, primarily in the State Treasury. Only somewhat lesser funds were collected in Prince's treasury.[10] This money could be used to intervene during estate purchases and it was

[6] From 1830 to 1834, total 3,842,001 groschen were spent on gifts to ministers and other Ottoman dignitaries, of which 2,274,837 groschen in money and other gifts for the Sultan, 354,216 groschen for ministers and dignitaries, and 240,767 Turkish groschen for other dignitaries (М. Петровић, *Финансије и установе обновљене Србије до 1842*, Београд 1901, 517–518).

[7] М. Гавриловић, *Милош Обреновић*, књ. III, 318.

[8] Б. Куниберт, *Српски устанак и прва владавина Милоша Обреновића*, 266, 269–271.

[9] D. Milić, *Trgovina Srbije 1815–1839*, Nolit, Ekonomska biblioteka 9, Beograd 1959, 197–199; *Историја Београда*, књ. 2, *Деветнаести век*, ур. В. Чубриловић, Просвета, Београд 1974, 392–393.

[10] Budget surpluses were recorded almost every year (apart in the second half of 1815 and both halves of 1816 and 1818), ranging from 215,400 to 1,589,000 groschen from 1830 to 1837

only Prince Miloš who could grant a loan from the state fund for such purposes as a public loan still did not exist at the time.[11] Even in the conditions of Prince's authoritarian rule and given that he did not make a stark difference between the state and his own treasury, it is hard to imagine that in 1830, in such a short time, he could grant significant loans from the state treasury for paying private purchases by civil servants and other affluent members of society – even more so as significant amounts from the state and his personal treasury were already engaged in loans he granted to merchants for the purpose of cattle trading, and loans that he granted through his banker German and otherwise to wholesalers, such as the Simić brothers, Miša Anastasijević, Haim Davičo, for salt trade.[12] According to the "Protocol on money given for loans in 1839, 1840, 1841 and 1842", which also recorded 97 loan items opened in 1836–1838,[13] the first loans from the State Treasury were disbursed only in 1836. This suggests that longer-term loans were not granted in earlier years and that, given the lack of capital, it was most opportune to invest state money not in real estate, but in trade, which could yield high returns and ensure economic activity.

According to preserved data, Prince Miloš granted a loan from the state treasury for the purchase of estates owned by Muslims, but only in 1833, in Ćuprija.[14] In 1834, he granted a 300-ducat loan to Milosav Zdravković Resavac, who was buying estates of local Muslims in Ćuprija for his own and Prince's account. The loan was granted as Resavac was temporarily short of cash only because his son Jova had still not arrived in Ćurpija. Resavac was obliged to repay the loan immediately upon his return to Belgrade, which is why it is probable that it was a short-term loan.[15] Other direct data about the fact that private purchases of Muslim estates after the 1833 Hatt-i sharif were financed by money from the state treasury have not been found, and one can therefore assume that such form of lending was not widespread even in 1833.[16] On the contrary, there are data indicating that a significant portion of Muslim estates

(М. Петровић, *Финансије и установе*, књ. I, 504–509). In 1830, the Prince had 582,129 groschen in cash, the following year 738,624 groschen, in 1832 – 826,653, in 1833 – 1,905,765 groschen at the tax exchange rate. Over the following five years, cash in his treasury ranged between 414,922 and 1,173,720 groschen (*ibidem*, 497).

[11] A loan from public funds was approved in 1839 under the Decree for a State Treasury Loan, which prescribed loan disbursement terms, and under the Degree on Intabulation, which defined loan collateral terms (*Зборник закона*, I, 1840, 116–118, 124–125).

[12] *Историја Београда*, књ. 2, 1974, 393.

[13] Архив Србије (=АС), Министарство финансија (=МФ), Казначејство, инв. бр. 239.

[14] Under the 1833 Hatt-i sharif, the deadline for the resettlement of the Muslim population was five years, whereafter those who stayed had to withdraw to fortresses, excluding Belgrade Muslims who could live in the Outer Town as well (М. Гавриловић, *Милош Обреновић*, књ. III, 615; Р. Љушић, *Кнежевина Србија*, 317–318).

[15] Т. Р. Ђорђевић, *Архивска грађа за насеља у Србији*, 206–207.

[16] It is possible that loans were granted under similar conditions as Resavac's loan, and were repaid before 1836, when the first systematic data about the granting of loans from the State Treasury were recorded.

was purchased by those who agreed with owners on their own. Prince Miloš also purchased high-value estates Muslim for his account and with his money.[17] It is true that many estates were bought with money from the state treasury, but such money was not used to finance private purchases, but purchases in state interest. In Ćuprija, for instance, already in 1833, Milosav Zdravković bought the "entire çarşı" upon the Prince's order, and "almost all fields and meadows, and up to 40 houses […] which were a bit better" and "all fields in Ada". Until 24 February, he spent 115,000 groschen for these and other purchases. Sellers were usually "these main" Turks. The Prince ordered that state money be used also to purchase small-value real estate, in possession of a great number of Muslims, including those almost valueless, which no one wanted to buy.[18] This was to ensure the resettlement of a greater number of Muslims. Even in later years, when the Porte endeavoured to aggravate the sale of estates of the Muslim population still remaining in Serbia, Muslims' agricultural land, plots of land, houses and economic facilities were purchased with state money.[19] The real estate purchased became state ownership.

The state treasury and "loans" from the state treasury were engaged usually for purchases of greater land parcels owned by well-known Muslim families, such as the Jajićs and Vrenčevićs, worked by a larger number of peasants, or during the purchases of land, worked by the very poor population that could not purchase the parcels they used. In such circumstances, the total amount was paid to the owner with state money, and users then returned money to the state treasury. Such "collective loans" from the state treasury were granted to entire villages or all users of an estate. The total sum was equally distributed to all purchase participants. An obligation with a precise term of repaying the borrowed money was issued. These loans were used usually when there was no other way to pay the land offered for sale.[20] However, there is no evidence that loans were granted from the state treasury to private persons for purchase purposes.

It was only after the resettlement of the Muslim urban population from fortress outer towns in 1862 and the years that followed, that loans from the state treasury became to be regularly used when purchasing estates owned by Muslims. A real estate price hike, particularly in Belgrade, triggered by the final sale of estates owned

[17] Т. Р. Ђорђевић, *Архивска грађа за насеља у Србији*, 209. Prince Miloš purchased with his own funds high-value estates, particularly in nahiyes which were joined with the Principality of Serbia in 1833. Among tens of different buildings and land particles – watermills, plots of land, fields, meadows, grazing fields, the most valuable were Danube guards, (В. Стојанчевић, *Кнез Милош и Источна Србија 1833–1838*, САНУ, посебна издања књ. CCXCVII, Одељење друштвених наука, књ. 26, Београд 1957, 209, 211–212; Н. Живковић, *Ужички немири 1828–1838*, Титово Ужице 1979, 250).

[18] Т. Р. Ђорђевић, *Архивска грађа за насеља у Србији*, 207–209.

[19] Б. Перуничић, *Земљишна својина у Србији 1815–1845*, Београд 1977, 302.

[20] Р. Љушић, *Кнежевина Србија*, 328; Б. Перуничић, *Земљишна својина у Србији*, 318–319, 324. If they could not or did not wish to pay the obligation, new tentative users lost their right to land, which could be sold to another person (*ibidem*).

by Muslims, resulted in unprecedented profits within a year or two – for instance, a house worth 2,500 or 3,050 ducats in 1867 could be sold for 4,000 already in 1869.[21] This encouraged many to buy at auctions the estates of resettled Muslims, which were now owned by the state.[22] During these purchases, it was envisaged that a half of the auctioned price be given in cash "in circulation for several weeks", while for the rest, they [buyers – B. M. K] "will be received by the Administration of Funds for Debtors about Granting Money at Interest from its Treasury".[23] The government previously prepared itself for this process and the State Treasury, with other state funds and court deposits was merged in 1862 into the Administration of Funds – a monetary bureau operating as a mortgage bank.[24]

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The policy of proving ownership of real estate during the purchase of estates owned by Muslims was also inconsistent and controversial. According to the Hatt-i sharifs of 1830 and 1833, Muslims had the right to sell real estate in ownership – *miljk*.[25] Ownership over real estate was proven by tapis. In some cases, the Serbian state also recognised ownership confirmed by senets. The sales of ownership proven by tapis were never disputable.[26] However, Muslims enjoyed many estates, considering

[21] Н. Крстић, *Дневник. Приватни живот*, књ. II, *(3. јануар 1867 – 6. децембар 1874)*, прир. А. Вулетић, библиотека Два столећа, књ. 15, Завод за уџбенике и наставна средства, Београд б. г. [2007], 43, 110, 229; Ил. Н. Ђукановић, *Убиство кнеза Михаила и догађаји о којима се није смело говорити*, књ. I, Београд, б. г, 194–198, 200–203, 206–208. The sale of ten Muslim estates in Belgrade in late 1867 and early 1868 resulted in the revenue of 514,012 tax groschen and 20 paras (Ibid, 197).

[22] Under the agreement between the Serbian and Turkish party from 1865, concluded based on the Kanlica conference, the state undertook the obligation to pay for Turkish real estate in Belgrade (including the damage caused by the bombing and conflicts in 1862) the sum of nine million groschen (150,000 ducats). The property was proclaimed state ownership. At auctions, such property was first leased. The decision on sale was adopted in 1868. Already in 1869, full sale was abandoned and the state opted for gradual sale in order to maintain a high price of such real estate (Б. Перуничић, *Управа вароши Београда*, 679–680; Ил. Н. Ђукановић, *Убиство кнеза Михаила и догађаји о којима се није смело говорити*, 194–201, 206–208).

[23] Ил. Н. Ђукановић, *Убиство кнеза Михаила и догађаји о којима се није смело говорити*, 197.

[24] The Administration of Funds merged all state funds – of central and local authorities, municipalities, churches and monasteries, court and deposit funds, including funds of private persons deposited with courts or invested for saving purposes, i.e. lending money at interest. The Administration of Funds granted loans worth 1,000–50,000 tax groschen by the order of application; higher-value loans were granted under separate decisions, provided sufficient funds were left (*Закон о управи фондова*, Зборник закона XV, 1863, 87; *Закон о давању новаца под интерес из касе Управе фондова*, Зборник закона XV, 93–94).

[25] Р. Љушић, *Кнежевина Србија*, 7–8.

[26] Б. Перуничић, *Земљишна својина у Србији*, 287, 301, 327; Б. Перуничић, *Једно столеће Краљева*, 125–126; Б. Перуничић, *Насеље и град Смедерево*, 394–395. As of 1839, the Serbian

them private ownership, while not having tapis on them. In such circumstances, the Serbian administration acquiesced that ownership of real estate be recognised also based on testimonies of "good witnesses"; later, it was sufficient to have a testimony that the land was not seized to recognise ownership.[27]

Accepting the factual situation created a number of problems and brought about unexpected situations, particularly in urban settlements. For instance, in Smederevo, in 1841, a problem which occurred because Muslims did not have tapis was solved by leasing the disputable lands first to Muslims, the purported owners, and the state later purchased them from them. A similar decision was made for the Turkish land in Valjevo.[28] There were also other unexpected consequences of such inadequate policy. The erstwhile masters in Kladovo paid a tithe, since in 1834 Prince Miloš allowed the Muslims of Kladovo to reap harvest, provided they delivered a tenth part of products to the Serbian authorities. The so-called urban tithe was also paid by the Muslims of Soko in 1836.[29]

Real estate owned by Muslims was created mainly by the sale of state property. In urban settlements, it consisted mainly of plots of lands and buildings (shops, inns, watermills, hans, houses, etc.), and to a considerably lesser extent of arable land. In rural settlements, it consisted mainly of arable land, though there were also buildings, mainly barns and watermills, while someone also had a han and very rarely a house with a plot of land.[30] Abandoning the policy of proving ownership of tapis was a problematic decision, particularly in regard to urban land – both urban plots of lands and agricultural land in urban settlements.[31] The decree of 1839 regulated the legal status of urban land owned by Muslims, with the exception of land outside the town moat (varoš), which was in some settlements also called the vojvodluk. At the time,

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state allowed the resettled Muslims who had tapis to agree on purchases at border quarantines and meetings, without entering the country (Б. Перуничић, *Смедеревска Паланка и околина*, Смедеревска Паланка 1980, 358–359).

[27] Р. Љушић, *Кнежевина Србија*, 325; Б. Перуничић, *Једно столеће Краљева*, 67. A difference was made between tapis issued by sipahis and the so-called vizier tapis, issued by the Ottoman authorities. Only vizier tapis were considered valid. There were doubts (or awareness) that sipahi tapis were issued mutually so as to legalise the right to the seized lands, which is why it was necessary to testify that the land had not been seized (Б. Перуничић, *Крушевац у једном веку*, 99–100; Б. Перуничић, *Земљишна својина у Србији*, 319, 325–326.).

[28] АС, Државни савет, 1841, Но 11, 233, 371, 442; АС, МФ, П, 1841, ф. V, РНо 378; МФ, П, 1840, Дел. протокол бр. 113, 154.

[29] В. Стојанчевић, *Кнез Милош и Источна Србија*, 149; Б. Перуничић, *Земљишна својина у Србији*, 340.

[30] В. Стојанчевић, *Кнез Милош и Источна Србија*, 147–148; Б. Перуничић, *Једно столеће Краљева*, 62, 99–102.

[31] In Užice, for instance, the vojvodluk occupied the area of one-hour walk (Н. Радосављевић, *Ужице, град и нахија – окружје у времену страха (1788–1862)*, Ужице 2013, 147), while it did not exist in Belgrade, though Muslims possessed land around settlements and in Vračar, and were leasing it, as if it was located in the vojvodluk.

it was not agreed whether the rights of Muslims to keep real estate concerned that area as well, or only the varoš. Under this decree, churches received waqf lands for use, which used to belong to mosques, while state property and abandoned plots of the Muslim population were proclaimed state ownership of the Principality of Serbia.[32] Under the decree, waqf plots of lands were delivered to churches for use (but not in ownership). This decision was respected in the Principality of Serbia, as attested by the fact that in Smederevo, in 1841, upon the Turks' complaint, land – earlier delivered to the church, was returned to the mosque.[33] However, in 1840, the policy determined in 1839 was abandoned. By the decision of 30 June 1840, waqf lands became state-owned. Therefore, in 1842, the decision from 1839 was confirmed again, and all waqf lands which did not belong to mosques where services were performed were again delivered to churches.[34] Such legal changes were, in fact, not important for Muslims remaining in Serbia.

The decree of 1839 envisaged that the urban land of the Muslim population, which consisted mainly of plots of land, should be divided into three categories. The plots of land whose owners were known were to belong to municipalities, which was to sell them to Serbs at a precisely defined maximum price for each category. Municipal and state plots of land were sold at the same price – the first-class plot for three thalers, the second-class for two, and third-class plot for one thaler.[35] As mentioned, the decree exempted plots of land in Belgrade outside the moat, and they were divided into categories (classes) in 1842 – in six, and not in three classes as in other urban settlements. The last, sixth class consisted of Palilula plots of land, on the outskirts, next to the cemetery and roads.[36] Tapis were issued as proof of ownership to buyers of such municipal and state plots of land. However, when the Constitution Defenders came to power, such purchase in some areas was declared null, purportedly because the land did not belong to the state, and money was returned to buyers. In other cases, however, purchase was recognised and new tapis were issued to buyers.[37]

According to the decree of 1839, the plots of land which had owners but at the time the decree was adopted no longer had owners or owners were unknown, belonged to the state. This concerned agricultural land as well.[38] By abandoning the policy of strict observance of proving ownership by tapis, the Serbian state deprived itself of significant surfaces of urban land, which could bring revenue from sale, which

[32] Б. Перуничић, *Земљишна својина у Србији*, 247, 370; Р. Љушић, *Прво намесништво (1839–1840)*, Просвета, б. м., б. г. [Београд 1995], 80; *Зборник закона*, 30, 1877, 268–269; Б. Перуничић, *Насеље и град Смедерево*, 592–594.

[33] Б. Перуничић, *Земљишна својина у Србији*, 246–247.

[34] *Ibidem*, 248–250; Б. Перуничић, *Једно столеће Краљева*, 137–142, 146–148.

[35] *Зборник закона*, 30, 1877, 268; Б. Перуничић, *Једно столеће Краљева*, 93, 72–95.

[36] Б. Перуничић, *Земљишна својина у Србији*, 372.

[37] Р. Љушић, *Кнежевина Србија*, 61.

[38] *Зборник закона*, 30, 1877, 268; Р. Љушић, *Кнежевина Србија*, 61; Б. Перуничић, *Насеље и град Смедерево*, Смедерево б. г. [1976], 391–392.

it could use to erect state buildings and other facilities, or ensure resources through its use, perhaps space as well, for the regulation or urbanisation of the urban area, as the chance was lost to include such real estate into the state land fund.

It was only in 1845 that a regulation was adopted recognising only the purchase from Muslim owners who had tapis whose authenticity was confirmed by the Ministry of Foreign Affairs, if the owner already moved out. In addition, an estate offered for sale had to be "investigated", i.e. checked by "people knowledgeable about it". They confirmed that the land belonged to the owner, within the specified boundaries, as it often happened that the seller would sell land within much greater boundaries or that the buyer stated he had bought the land in much greater boundaries.[39] However, this regulation was aimed at preventing abuse and court disputes about proving ownership, rather than at accelerating the purchase process, as it required new binding procedures.

The importance of tolerating sales without proving ownership by tapis was particularly conspicuous in Užice. The Turks of Užice managed to proclaim the local vojvodluk, which was once a part of the sultan hass, a private estate and enjoy it until 1862.[40] The usufructuaries of unsold land owned by Muslims were treated by the Serbian state as lessees, who gave a tithe to Turks on account of the lease[41], which was then sold at auctions. Land owners, mainly resettled to Bosnia, were paid from the sum obtained. The users of agricultural land of resettled Muslims in rural settlements had the same obligations and status. For instance, in Podrinje and Jadar, large non-purchased land was given to users in lease, on the condition that they paid a tithe.[42] Such situation, however, placed the usufructuaries of such land in a specific

[39] *Зборник закона*, IV, 1849, 38; Б. Перуничић, *Земљишна својина у Србији*, 297; Б. Перуничић, *Једно столеће Краљева*, 67; Б. Перуничић, *Алексинац и околина*, Београд 1978, 263; D. Milić, *Trgovina Srbije*, 59. *Зборник закона*, III, 1847, 86, 168–169; IV, 1849, 37.

[40] А. Николић, *Султански спахилуци (мукаде) у Србији (1815–1835)*, Зборник Музеја Првог српског устанка I (1959) 34; Р. Љушић, *Кнежевина Србија*, 324; Н. Живковић, *Ужички немири 1828–1838*, Титово Ужице 1979, 285–286; Н. Радосављевић, *Ужице, град и нахија*, 147.

[41] Serbs who worked land parcels of Muslims in urban areas gave from one ninth to one fourth of products, depending on the case and settlement. For the non-purchased land in Podrinje, the state envisaged a tenth of products (АС, ДС, 1841, Но 11, 233, 371, 442; МФ, П, 1841, ф. V, РНо 378; МФ, П, 1840, Дел. протокол бр. 113, 154; *Књажеска канцеларија, Ужичка нахија (1831–1839)*, књ. II, прир. Н. Радосављевић, Ужице–Београд 2005, 194–197; *Зборник закона*, 30, 1877, 267).

[42] Б. Перуничић, *Земљишна својина у Србији*, 292–295, 304–305, 314–315. It is interesting that the lessee status was favoured by at least a part of the rural population. In 1837, they asked to purchase only the fruits from the land they used, whose yields were given for lease at auctions, claiming: "giving a tithe in the sown Turkish lands is very useful for us and we are perfectly satisfied" (Б. Перуничић, *Земљишна својина у Србији*, 296). In Serbia, ownership of fruits was separated from ownership of orchards, i.e. land, and the owner of fruits was the person who planted them (Мил. С. Филиповић, *Својина воћака по народним правним обичајима*, Историско-правни зборник, орган Општег семинара за историју државе и права, год. I, св. 2 (Сарајево, 1949) 71–73; Б. Перуничић, *Насеље и град Смедерево*, 750–751).

legal position, which was not the case with the remaining part of the Serbian population. They were in a semi-dependent position as their legal status practically did not change compared to the time when the sipahi system functioned.[43]

In 1835, Prince Miloš tried to abolish the tithe to the unsold land of Muslims, but the order was not implemented, nor was the decision of the Regency (1839–1840), which aimed, after the lapse of five years envisaged for the resettlement of Muslims under the 1833 Hatt-i sharif, to abolish that right for lands in the vojvodluk of urban settlements. When in 1841 "lessees" themselves stopped giving a tithe, the state administration also missed the chance to support their requests and the requests of Užice district authorities to "liberate" those subjects "and other Serbian people from paying taxes to Turks". The arguments of local authorities clearly show that they were aware of the specific position of users of land owned by Muslims.[44]

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Even more controversial was the readiness of Serbian authorities to grant to Muslims, after the Hatt-i sharif of 1833, arable land, allow them to buy land in the town area and tolerate land usurpation in that area. In 1836, Nikola Hadži Brzak, president of the Belgrade court, granted to four Muslims – vizier's officers, total 32 days of arable land in the Belgrade area (around 18 ares). It is even less comprehensible that Tabak Ibrahim and Ibrahim Tabaković Ali bey were allowed to buy land outside the moat on several instances – in 1850, 1861 and 1862. They bought it through private arrangements, as well as at auctions – not only arable land (vineyards), but land for brickyards as well. The former possessed around 1,600 m^2 of land in the area, and the

[43] Р. Љушић, *Кнежевина Србија*, 335; Н. Живковић, *Ужички немири*, 260; Т. Р. Ђорђевић. *Архивска грађа за насеља у Србији*, 312, 438; Б. Перуничић, *Насеље и град Смедерево*, 607. From the Constitution of 1838 and the Law on Land Return of 1839, the lessees of state land settled in aliyas obtained the right of ownership of such land (Р. Љушић, *Кнежевина Србија*, 60). Since then, only the lessees of agricultural land of resettled Muslims remained in the specific status of tithe payers. That it was not ordinary lease paid in kind is reflected in the fact that in the sipahi system, the issuance of tapis for agricultural land, during the transfer of estates from one "owner" to another, meant, in fact, the transfer of the lease right as the sipahi himself did not have the ownership right (М. Гавриловић, *Милош Обреновић*, књ. II, *(1821–1826)*, Београд 1909, 340). It is therefore not possible to believe that there was a change in the legal position of lessees of estates owned by Muslims. The specific status created by paying a tithe is also indicated by the fact that the Serbian authorities did not allow the owners of land purchased from Muslims, where somebody else's crops remained, to collect the tithe – not even in the first and only year when somebody else's crops were there (Б. Перуничић, *Земљишна својина у Србији*, 335–336). As understood by the Serbian authorities as well, the tithe was legally connected only with the use of land owned by Muslims.

[44] Б. Перуничић, *Земљишна својина у Србији*, 311–315; Р. Љушић, *Прво намесништво*, 83; Р. Љушић, *Ужице у обновљеној Србији*, Историја Титовог Ужица (до 1918), Историјски институт, Београд–Титово Ужице 1989, 390.

latter almost 43,000 m^2. The time of purchase of some parts was not known, meaning they may have been bought even before the Hatt-i sharif of 1833.[45]

As it can be seen, Belgrade Muslims acquired great surfaces of land outside the varoš even after they were forbidden not only to purchase, but also to own land outside urban settlements. Though one might ascribe this to corruptive behaviour of the Serbian administration as the two above persons were rich and reputable Belgrade Muslims, the fact that even anonymous vizier's officers were receiving and keeping, until the early 1860s, land in the area supports the view of inadequate policy of the Serbian administration. Such policy was sporadically implemented not only before but also after the expiry of the five-year deadline envisaged by the Hatt-i sharif of 1833 for the resettlement of the Muslim population. In such circumstances, it is no wonder that local authorities tolerated vizier's usurpation, whereby he almost doubled his çair in the Belgrade area and that lesser usurpations of other reputable Muslims were tolerated for decades.[46] The controversy of such policy is reflected in its breach of valid regulations of the Principality. That no corruptive behaviour was in place is also confirmed by the fact that in 1837 the Serbian authorities granted agricultural land to the Muslim population in Soko, "so that they would enjoy it".[47] A similar situation was seen in Šabac, where Muslims acquired land until 1844. Local authorities tolerated such practice not only in regard to natives, but also in cases when land was acquired by Muslim newcomers. Parallel attempts were made to prohibit the use of land to those Muslims who did not leave Serbia, at least the land on which they had no tapis. Such an attempt was made in 1842 by Prince Mihailo Obrenović (1840–1842; 1860–1868) through a special order.[48]

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The policy of efficient resettlement of the Muslim population and purchase of their estates contravened some legal solutions about the purchase of those estates. The regulations governing the purchase stipulated the pre-emption right for the usufructuary, i.e. owner of a building in somebody else's land. This is entirely understandable as the state thus protected its subjects, particularly the social position of the major part of the population – the peasantry.[49] However, the pre-emption right was binding only for Muslims who stayed to live in Serbia. Those who left could offer their land for sale to anyone.[50] Such legal solutions facilitated the sale of estates of the

[45] *Живети у Београду*, књ. 3, 211–212.

[46] *Ibidem*.

[47] Б. Перуничић, *Земљишна својина у Србији*, 301.

[48] Б. Перуничић, *Попис турских земаља и кућа у Шапцу*, Годишњак Историјског архива VI (Шабац 1968) 478–480; Б. Перуничић, *Земљишна својина у Србији*, 315–316.

[49] Б. Перуничић, *Земљишна својина у Србији*, 314. There was also the obligation to sell land to the house owner on the plot of land owned by a Muslim, with Prince Miloš insisting that the owner of the building should buy land from the Muslim (М. Гавриловић, *Милош Обреновић*, књ. III, 317; Б. Перуничић, *Насеље и град Смедерево*, 593).

[50] *Зборник закона*, III, 1847, 168.

already resettled Muslim population, and aggravated the sale for those who remained to live in Serbia, as land users were often not prepared to purchase it. Favouring the sale of estates of already resettled Muslims at the expense of social security of the domestic population was certainly a controversial measure, moreover so as it would be expected that, if sacrificing the social position of its own population, the state did so to encourage the sale of estates of Muslims who stayed to live in Serbia, in order to accelerate their resettlement.

The rule of the Constitution Defenders was the time of harmonisation of legal practices in various fields. Thus, conditions for sale and purchase of agricultural land owned by Muslims were harmonised. However, instead of the expected harmonisation of the purchase policy for both categories of Muslims on the principle of respecting the pre-emption right, the state acted quite to the contrary. It equalised the conditions by abolishing the pre-emption right. In 1843, usufructuaries of agricultural land of Muslims were given a deadline until St Peter's Day of 1844 to purchase the land which they worked, while land owners were allowed to sell it to anyone after the expiry of the deadline. The long-lasting practice of usufructuaries' procrastination to buy the plots of land which they tilled or used otherwise certainly influenced the change in the purchase policy. The decree, however, did not achieve the expected result and did not accelerate the purchase of agricultural land. It was therefore published in 1845 in a stricter form. In 1847, a decree was adopted, declaring null and void all purchases not based on the regulation of 1845.[51]

Changes in legal norms, their non-compliance with the assumed aim of the Serbian state – this being the resettlement of Muslims as soon as possible and the sale of their estates – and the Porte's policy which after 1833 aggravated and even hindered the sale of Muslim estates to prevent or postpone for as long as possible their resettlement from urban settlements, prolonged the purchase process and brought about the deterioration of numerous Muslim estates and, on the other hand, resulted in unauthorised seizures of Turkish land and property usurpation.[52] Serbian authorities tried on several occasions (1849 and again in 1852) to prevent unauthorised seizures of such land. By the decree of 1852, it was also treated as unauthorised seizure of municipal land, if no force was applied during the seizure, while those who forcefully seized land were brought before the regular court.[53] Neither of these safeguard measures was efficient. The first failed because municipal land was not sufficiently protected either, while the second failed because the usurper usually could not apply force against anyone since the owner had already moved out. Muslim property in urban settlements was also usurped – in Belgrade particularly after the bombing of 1862. Under the Kanlica agreement, Muslim property became state-owned, which the state gave in lease or sold to interested persons.[54] Local

[51] *Зборник закона*, IV, 1849, 37–38.

[52] Б. Перуничић, *Град Ваљево и његово управно подручје 1815–1915*, Ваљево 1973, 488–494, 501.

[53] Р. Љушић, *Кнежевина Србија*, 324–325; *Зборник закона*, VI, 1853, 152–153.

[54] Ил. Н. Ђукановић, *Убиство кнеза Михаила и догађаји о којима се није смело говорити*, 193–198.

authorities in Belgrade endeavoured to arrange their ownership rights and user rights of usufructuaries of Muslim estates. This is why those estates and their users were recorded in 1865. According to that list, including 683 ordinal numbers of recorded Muslim estates (only one estate was not entered under one ordinal number), at least 451 estates were usurped.[55]

In 1843, authorities tried to resolve numerous disputes and court procedures – carried out in relation to disputing the ownership right to plots once owned by Muslims – by supplementing the Law on Land Return of 1839. The supplement envisaged that the usufructuary could keep the land if he proved how and when he took property; if he failed to do so, the land was transferred to state ownership.[56] Although these solutions were not important for resettled Muslims and Muslim real estate owners in general, they were highly important for final regulation of ownership rights in the country.

[55] Б. Перуничић, *Управа вароши Београда*, 571. The list shows that a great portion of Muslims' property was in a dilapidated state (as many as 117 plots of land were empty because houses collapsed or were in such a dilapidated state (arabat) that no one wanted to live in them (or even usurp them), while many that were inhabited were described as bad, dilapidated and similar. It is also visible that owners themselves – Muslims, leased a very small number of their real estate (only 75), while even fewer pieces of real estate (38) were leased with the consent of the Serbian authorities. The list also specifies those users whose status was not precisely defined (85), with a high probability that it was illegal, and 26 of those who were as users "found" there before the bombing of Belgrade. There was, however, real estate (21), mainly houses, leased to Christians by other Christians, although it was a list of property owned by Muslims (Б. Перуничић, *Управа вароши Београда*, 606–650).

[56] АС, МФ, П, 1841, ф. V, РНо 357, ф. VI, РНо 419, 423; 1843, ф. VI, РНо 1; *Зборник закона*, VI, 1853, 152–153; Д. Милић, *Развој привреде у Јадру до 1914. године*, Јадар у прошлости, Лозница 1985, 346.

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BELGRAT VE SIRBİSTAN PRENSLİĞİ'NDE MÜSLÜMANLARA AİT EMLAKIN SATIN ALINMASINDAKİ İHTİLAFLAR

Özet

Devletin ve bu devletin yönetiminin Müslüman nüfusun Sırbistan Prensliği'nden göç etmesine ve emlakını satmasını hızlandırmaya olan kalıcı bir niyetinin var olduğu kabul ediliyorsa eğer, bu emlakın satın alınması politikasının da bir noktaya kadar ihtilaflı olduğu göz ardı edilmemelidir. Bu mülkün devlet hazinesine katmak veya ekim amaçlı kullanmak adına kendisine toprak almaktan aciz yoksul kırsal kesimi desteklemek için devlet parası ile satın alınması haricinde devletin aldığı önlemlerin büyük bir kısmı etkin satın alma sınırları içerisinde ihtilaflıydı.

Müslümanların sahip olduğu mülkün Hatt-ı Şerif'te yer alan hükümlerce satılması/alınması öngörülüyordu. Her ne kadar mülk sahipliği tapular aracılığı ile ispatlansa bile 1845 senesinde kadar Sırbistan devleti mülkiyeti kanıtlayacak geçerli belgeye sahip olmayan Müslümanlardan emlak alımına göz yumdu. Böylece, kayıtlı olmayan mülkün devlet hazinesine dahil edilmesi fırsatı kaçırılmış ve bazı teammüller Müslüman nüfusunun (Ujice voyvodalığına) nihai göçüne kadar beklemek zorunda kalmıştı.

Satın alma işleminde güçlükler çıkartan, buna karşın kullanıcıların toplumsal mevkisini gözeten öncelikli satın alma hakkının satın almada kullanıcı çıkarları açısından ekiklikleri olduğu 1845 senesinde fark edildiğinde bu hak kaldırılmıştı. Ne var ki öncelikli satın alma hakkının ilgası halihazırda göç etmiş Müslüman nüfusun lehine olup Sırbistan'da hala yaşamakta olanlar için lehte olmamıştır. Buna ek olarak devlet, her ne kadar Hatt-ı Şerif'te öngörülen taahhütlere ve Sırbistan Prensliği lehine pozitif düzenlemelere karşı olsa da Müslümanlardan taşınmaz mülk satın alımına göz yummuştu.

19. yüzyılın altmışlı yıllarına kadar Müslümanlar ekilebilir arazi, iktisadi teşekküller ve şehir içerisinde konut mülkünü hem özel şahıslardan hem de müzayedeler aracılığı ile satın alabiliyor, bazı araziler ise yerel yetkililer tarafından hibe edilebiliyordu.

Yıllar boyu devam eden ve uyumsuz önlemler içeren politikalar Miloš Obernović'in politikalarına yapılan muhalefetin hiç de akıldışı olmadığını göstermiştir. Bu muhaliflere göre Miloš Müslümanları Sırbistan'dan ivedi bir şekilde sınırdışı etme fırsatını değerlendirmemiş, Hatt-ı Şerif'in 1833 Aralık ayında yürürlüğe girmiş olmasına rağmen Türk yetkililerinin - Bab-ı Ali'nin - Sırbistan Prensliği'ndeki Müslümanlara karşı politikalarının değiştiği bir sonraki senenin baharına kadar kalmalarına izin vermişti.

Anahtar Kelimeler: Sırbistan Prensliği, Müslüman emlakın satın alınması, öncelikli satın alma hakkı, öşür vergisi, voyvodalık

Бојана Миљковић Катић

О ПРОТИВУРЕЧНОСТИМА ПОЛИТИКЕ ОТКУПА МУСЛИМАНСКИХ ИМАЊА У БЕОГРАДУ И КНЕЖЕВИНИ СРБИЈИ

Резиме

Уколико се претпостави да је држава и њена администрација била трајно заинтересована за што брже исељавање муслиманског становништва из Кнежевине Србије и продају његових имања, политика откупа тих имања била је у одређеној мери контроверзна. Изузимајући откуп тих имања државним новцем ради укључивања у фонд државног власништва и ради помоћи сиромашном сељаштву које није било у стању да откупи земљишне парцеле које је обрађивало, значајан део мера које је предузела држава био је противуречан са становишта ефикасног откупа. Хатишерифи су предвиђали да се продају/купују имања у власништву муслимана. Иако је власништво доказивано тапијама, српска држава је до 1845. толерисала откуп поседа муслимана који нису имали тапије као доказ власништва. Тако је пропуштена прилика да тапијама необезбеђено земљиште уђе у фонд државног земљишта и створени су преседани који су се одржали до коначног исељавања муслиманског становништва (војводлук у Ужицу). Право првокупа, које је отежавало откуп, али је штитило социјални положај корисника, укинут је 1845, када се увидело да корисници нису претерано заинтересовани за откуп. Међутим, првокуп је укинут у корист већ исељених муслимана, а не оних који су остали да живе у Србији. Држава је толерисала и куповине непокретности од стране муслимана, иако је то било противно хатишерифима, па и позитивним прописима Кнежевине Србије. Муслимани су све до почетка шездесетих година 19. века куповали у градском атару обрадиво земљиште, привредне објекте, и куће за становање, како од приватних лица, тако и на лицитацијама, а некима је земља и додељена од стране локалних власти на уживање.

Вишегодишња политика неусаглашених мера указује да су неутемељене критике на рачун кнеза Милоша Обреновића који је, наводно, пропустио шансу за брзо исељење муслимана из Србије дозволивши да после проглашења Хатишерифа у децембру 1833. остану до пролећа у земљи, чиме је омогућио Порти да промени своју политику према муслиманима у Кнежевини Србији.

Кључне речи: Кнежевина Србија, Београд, откуп имања муслимана, тапије, првокуп, десетак, војводлук.