

**MAX PLANCK INSTITUTE FOR  
SOCIAL ANTHROPOLOGY  
WORKING PAPERS**



MAX-PLANCK-GESELLSCHAFT

Working Paper No. 69

**STÉPHANIE  
MAHIEU**

**LEGAL  
RECOGNITION AND  
RECOVERY OF  
PROPERTY:  
CONTESTED  
RESTITUTION OF  
THE ROMANIAN  
GREEK CATHOLIC  
CHURCH  
PATRIMONY**

Halle / Saale 2004  
ISSN 1615-4568

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# Legal Recognition and Recovery of Property: Contested restitution of the Romanian Greek Catholic Church Patrimony<sup>1</sup>

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## Abstract

Following its re-legalisation in 1989, the Romanian Greek Catholic Church after almost forty years of forced reunification with the Orthodox Church, attempted to react at several levels: at the material level, primarily property restitution, at the organisational level, in defining its structure, and at the dogmatic and ritual level, defining its liturgy. The Church chose to give priority to property restitution and started a campaign to this effect. This process, even though it is similar to other property restitution processes in Romania and in neighbouring countries, has specific features of its own: the official owner (the Romanian state) was not the user (the Orthodox Church) and many members of this Church did not favour systematic restitution of its properties.

The paper, based on three case studies, focuses on the juridical and non-juridical arguments implemented both by the Greek Catholic and the Orthodox Church in order to resolve property issues. I focus on the arguments presented by both sides to justify their actions at critical moments, which might turn into violence. I stress the gap between juridical decision and its implementation, and show that court decisions do not systematically prevent violence.

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<sup>1</sup> This paper was presented at the Workshop “Religion and Civil Society in Eastern Europe” organised by the Max Planck Institute for Social Anthropology in Cluj (Romania), 15-18 March 2004. It is a short version of the second chapter of my doctoral dissertation, “*Accords et désaccords autour des biens ecclésiastiques*” (Mahieu 2003). I am grateful to Chris Hann for inviting me and for his comments, to Alban Bensa, my PhD supervisor at the EHESS (Paris), to Elisabeth Claverie, Rose-Marie Lagrave, Paul Robert Magosci and Albert Piette, members of my PhD jury, and to Vintilă Mihailescu. I would like to thank Gabriela Coman, Iulia Haşdeu, Adina Ionescu-Muscel and Adriana Oprescu for their help during my fieldwork. I would also like to thank Chris Hann and Anja Peleikis for commenting on earlier versions of this paper.

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## Introduction

In this paper, I focus on disputes over Romanian Greek Catholic patrimony after 1990. I try to analyse the strategies implemented in Romania by both the Greek Catholic Church (or Catholic Church of the Byzantine Rite) and the Orthodox Church in order to get back and/or keep what they both consider to be theirs by right. I will look carefully at the interrelation between juridical and non-juridical forms of agreement in situations of potential conflict. The questions I want to address are the following: Is agreement only to be found in courts (national and international)? Are court decisions a way to prevent violence? How do people reach an agreement without commencing legal action? What is the interrelation between local and national levels?

The Romanian Greek Catholic patrimony case intermingles these different questions. This paper will suggest only some elements of an answer. I must add here that amiable negotiations between the two churches were officially favoured, among others by the Romanian state itself, e.g. in Decree 126/1992, which pleaded for the creation of a joint commission.<sup>3</sup> It must be stressed, that juridical arguments are not the only ones to be used when trying to define the *sense of justice* (Boltanski and Thévenot 1999: 359). As Iordachi says, “while Greek Catholics preferred to appeal to Court and to lobby for a political solution to her retrocession demands, Orthodox representatives stressed the lack of state legitimacy in solving the issue” (Iordachi 1999: 159). While the Greek Catholic Church used a juridical argument, based on owner’s rights, the Orthodox Church used a demographic argument, based on the number of believers attending each church. Of course, the more general question here is whether or not the Romanian State offers equal protection to all its citizens.

In this paper I will rather focus on three local situations where I have conducted ethnographic research based on interviews between 1998 and 2000: the Monastery of Bixad, the *Schimbare La Fața* Cathedral of Cluj, and, in Ieud, the Șes Church and the Presbytery.

In these three places, the contested restitution of the Greek Catholic Church patrimony appears as a *critical moment*, “which makes reference, at the same time, to the critical activity of the persons and to the unusualness of a moment of crisis” (Boltanski and Thévenot 1999: 339), where a discontent is expressed.

“The demonstration of this discontent might end up in a ‘scene’. The scene itself takes different shapes. It can easily turn into violence (...). More frequently, the scene turns into a discussion in which criticisms, blames and grievances are exchanged. The scene

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<sup>3</sup> See: Romanian Ministry of Justice Archive’s website: <http://domino2.kappa.ro/mj/superlex.nsf>. A joint Orthodox/Greek Catholic Commission for Dialogue has been created, but so far (as of 2004) it has not contributed to a global solution of the property problem.

develops into a dispute. The word ‘scene’ suggests domestic quarrels, and the word ‘dispute’ judicial litigation. The first are seen as informal, whereas the second are managed by the judiciary system. But there are plenty of intermediate cases.” (ibid.: 360)

The Greek Catholic patrimony case appears as an intermediate case, both informal and judiciary. For Boltanski and Thévenot, people involved in disputes are subjected to an imperative of justification and they will therefore develop different kinds of arguments. In the local situations I analyse, I will focus on the arguments used by the persons and institutions involved in the restitution process of Greek Catholic Church patrimony.

### **Greek Catholic Patrimony Inside and Outside the Courtroom**

Before analysing the three local situations, I will briefly present the general configuration of the problem concerning the Greek Catholic patrimony.

The Romanian Greek Catholic Church, established in 1700 in Transylvania after the Habsburg conquest, numbered 1,559,857 believers (7.9 % of Romania’s population) and 2,498 churches in 1948 (Rance 1994; <http://countrystudies.us/romania/36.html>). The Romanian Constitution of 1923 recognised the Greek Catholic Church as a Romanian national church and in 1929 the Concordat between the Romanian state and the Vatican assured the same status to the Orthodox and the Greek Catholic cults (Gherman 1967: 190).

On October 21, 1948, a forced ecclesiastical ‘reunification’ synod of the Greek Catholic Church with the Orthodox Church took place. The majority of the Greek Catholic priests and all the bishops refused to comply with the ‘union’, and many were sentenced to prison (see Gillet 1997, Gherman 1958, Prunduș 1994). On December 1, 1948, Decree no. 358 concerning the legal situation of the former Greek Catholic Cult (*Decretul 358/1948 pentru stabilirea situația de drept a fostului cult greco-catolic*) disbanded the Greek Catholic Church and handed over its properties to the Romanian state.

Decree no. 358 stipulates that the Greek Catholic Church was disbanded as a result of ‘reunification’ with the Orthodox Church. Article 2 indicates that all its properties and goods become the property of the Romanian state (Gherman 1967). This is important to underline; legally, the Orthodox Church did not receive the Greek Catholic properties. After 1948, the majority of the properties were used by the Orthodox Church, but some of the buildings were abandoned, while others became schools, orphanages, convalescent homes, etc. For three main reasons the situation is therefore more complex than the other contested ownership problems in post-socialist countries (Hann 1998b). First, this is not just another type of private

property, since the church (as a building) is the place where ‘religious transports’ take place (Latour 1991) and also provides access to the sacred (Piette 1999, 2003), where believers meet the Christian God. Secondly, there is a juridical distinction concerning property within the Catholic and the Orthodox Church: Catholic canon law indicates that the property of a Catholic parish is the prerogative of the bishop, while in the Orthodox Church the buildings belong to the local Orthodox community (Metz 1997: 142). Finally, the fact that the official owner during the communist period (the Romanian state) was not the user makes things very complex on a juridical level.

The Council of the National Rescue Front (*Consiliul Frontului Salvării Naționale*) abrogated Decree 358/1948 by Decree-Law no. 9 on December 31, 1989. In April 1990, Decree-Law no. 126 stipulated amongst other things that “the goods, except for the estates, that became state property by Decree no. 358 and are now part of the state heritage are to be returned, in their present-day state, to the Romanian Greek Catholic Church”.<sup>4</sup> As to the goods taken by the Romanian Orthodox Church, article 3 of Decree-Law no. 126/1990 stipulates that:

“To establish the legal situation of the religious dwellings and of the parochial houses that used to belong to the Romanian Uniate (Greek-Catholic) Church and were taken over by the Romanian Orthodox Church, a joint commission will be formed, consisting of clerical representatives of the two religious cults, that will take into account the will of the believers of the two communities sharing these goods.” (ibid.)

On the grounds of article 2 of this Decree-Law, eighty buildings and urban domains were formally transferred from the property of the state into that of the Greek Catholic Church by the Government Decision no. 466/1992. The Bixad Monastery was one of the buildings that had to be given back.

I have defined three major not exactly sequential stages in the restitution process: demands, conflicts and resolution. Immediately after the Revolution, in 1990, the newly created Romanian Greek Catholic Church was in a very uncertain situation: it had been banned for more than forty years, it had almost no hierarchy anymore, all of its churches and other goods had been nationalised by the socialist regime and generally used by the Orthodox Church. Furthermore, the number of its believers was less than 15% of what it had been previously. In 1948, the official number of Greek Catholic believers in Romania was 1,559,857

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<sup>4</sup> Romanian Ministry of Justice Archive’s website: <http://domino2.kappa.ro/mj/superlex.nsf>.

(<http://www.recensamant.ro>). According to the 1992 census, they numbered 223,327. The 2002 census indicates an even smaller number: 195,481<sup>5</sup> (ibid.).

The Greek Catholic Church had to react at several levels: a material level exemplified by property restitution demands, an organisation level, i.e. to define its hierarchy, and a dogmatic and ritual level, i.e. to define its liturgy. I argue that the Greek Catholic Church gave priority to the first, for what might seem obvious reasons. What was at stake in this property issue was the very existence of the Greek Catholic Church; without buildings there would be no chance of renewal. One of the major consequences of this choice was the relatively large freedom left to believers and priests in liturgical matters, as I have shown in detail in my dissertation (Mahieu 2003).

Let me begin by underlining that some of the people I interviewed were nostalgic for the “catacomb” church period and the first years after the Revolution. As Viorica Lascu, President of the AGRU (*Asociația Generală a Romanilor Uniți*), an association of Greek Catholic believers, told me: “You should have seen how beautiful it was, this open air church. Sometimes, I feel nostalgia for that period, it was so beautiful, the pigeons taking our prayers to the sky”. Even though their Church experienced political repression, or perhaps more precisely because of this repression, the believers had a very intense religious life within small, non-hierarchical communities during the socialist period and immediately after 1989. For some of them, it has been difficult in recent years to define their role as laymen inside the re-established institution. This was especially obvious in the definition of the liturgy: the Vatican, through its new Code of Canons of the Eastern Churches (1990), strongly and explicitly encouraged the Greek Catholic Churches to return to their ‘true’ tradition in liturgical matters. Cardinal Achille Silvestrini, Prefect emeritus of the Congregation for Oriental Churches in the Vatican writes that:

“(…) the Eastern Catholic Churches, although influenced by the weight of Western tradition, have maintained in the field of liturgy a more faithful conformity to their true traditions. It is precisely their liturgies, restored to greater authenticity and vitality by eliminating that which has altered them, that could be a starting point for the growth of their specific identity.” (Silvestrini 1997: 16)

However, many believers prefer to combine Latin and Byzantine liturgical elements. Scant attention has been paid to the liturgy in recent years, but this could change if permanent solutions are found to the patrimony problem.

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<sup>5</sup> See: <http://www.recensamant.ro>. The Greek Catholic authorities quote figures as high as 800,000. A possible explanation for the gap between the two figures is that the Oaș and Maramureș area, where the return to the Greek Catholic Church was the most significant, have for 10 years been regions of massive legal and illegal migration.

In the years 1990-1991, the Greek Catholic Church demanded *Restitutio in Integrum*, that is, an immediate and unconditional restitution of more than 1800 buildings appropriated in 1948. Where the number of Greek Catholic believers was too small, compared to the number of Orthodox believers, or in cases where a village had only one church, they demanded the *Simultaneum*, this is, the shared use of the single church. The *Restitutio in Integrum* demand was immediately rejected by the Orthodox Church, and the *Simultaneum* was considered unfair by many Orthodox believers. As two Orthodox believers in Ieud told me:

“G.H.: There, where your daughter lives [near Timișoara] they share the same church, the Orthodox and the Greek Catholics.

I.H.: Yes, but there, there are almost no Greek Catholics, this is why they agree, but here, we are the majority. And they want us to miss the mass on Sundays? It is as if a stranger would enter my kitchen and would start to cook in it. I wouldn't accept that!

G.H.: Yes, but, still, there, they agree!

I.H.: Of course, but this is because there, the number of Greek Catholics is very small.”

The argument given here is that the *Simultaneum* has a greater chance of being applied in places where the number of Greek Catholics believers is small. In its official claims, the Greek Catholic Church tended to present the opposite argument: if the number of Greek Catholics believers is large enough, then the Orthodox Church has to accept sharing the churches. The *Simultaneum* was eventually applied only in a very small number of cases. No amicable agreement was found between the two Churches.

Following this failure, the Greek Catholic Church changed its strategy; it demanded restitution of certain churches through civil justice. This phenomenon has been observed in many countries after the fall of the communist regimes. According to Zerilli, in Romania, more than 80% of civil law cases in recent years directly concerned property rights, and particularly property restitution (Zerilli 2002, 2003). In the Greek Catholic case, this strategy was not especially successful, except for the cathedral in Cluj (see below). However, in many cases, such as Ieud, the decision was in favour of the Orthodox Church, and when the sentences were in favour of the Greek Catholics, they were usually not applied. The Greek Catholic Church even addressed the European Court of Human Rights in 2001, claiming infringement of certain rights guaranteed in the European Human Rights Convention for the Saint Vasile Polona Church in Bucharest.<sup>6</sup>

At the legislative level, following the political change in 1996, there was an attempt to find a global juridical frame for the Greek Catholic property problem, the Boila<sup>7</sup> retrocession bill

<sup>6</sup> See: Human Rights Without Frontiers website: <http://www.hrwf.net>.

<sup>7</sup> Matei Boila is a Greek Catholic priest and MP, member of the National-Peasant Party.

(*Proiectul de Lege privind utilizarea unor lăcașuri de cult de către Biserica Română Unită cu Roma Greco-Catolică*) was proposed in 1997. This was violently attacked by the Orthodox Church. For Patriarch Teoctist, the draft law, if passed, might have had “unexpected consequences for the peace of Transylvania” (Iordachi 1999: 163). Approved by the Senate, the bill was rejected by the Chamber of Deputies in 2001. The Joint Commission for Orthodox-Greek Catholic Dialogue<sup>8</sup> (*Comisia mixtă de Dialog Ortodoxo-Greco-Catolică*), even though it had several meetings, did not really lead to any pragmatic decision.

I argue that what has radically calmed the situation is the building of new churches, both by the Greek Catholics and the Orthodox. Many people said that their restitution demand was more motivated by the fact that they did not want to pray outdoors or in private buildings, and not merely by the claim of a rightful owner. I also want to stress here the large variety of situations I saw in Transylvania concerning Greek Catholic property issues. On the local level, the forms of agreement or disagreement depend on factors such as the priest’s personality (both on the Greek Catholic and Orthodox side), the number of churches in the locality, the number of Greek Catholic faithful etc. The example of the Peter and Paul Monastery in Bixad shows how priests’ personalities can influence the restitution process.

### **Legal Recognition Without Recovery: the case of Bixad**

This first example illustrates the gap between judicial decisions and their application. Bixad is a large village situated in the Oaş region near Satu Mare. I conducted field research there in August and September 1998. The Peter and Paul Monastery is situated outside the village on a small hill. It was founded in the 15th century and became Greek Catholic with the Union in 1700 (Rus 1995). It was and still is a major annual pilgrimage destination on the feast of the Assumption (August 15). During the inter-war years it was an important Greek Catholic intellectual centre. After 1948, the monks were arrested or went away. Orthodox monks arrived and stayed until 1954, when monastic activity stopped. After that, the state used the Monastery first as a convalescent home for coal miners and afterwards as an orphanage. Between 1981 and 1988, the Monastery was restored by the Orthodox Church and it was consecrated in March 1989. Monastic (Orthodox) activity resumed in 1991.

In 1992, Government Decision 466 ruled that the Bixad Monastery and eighty other properties had to be given back to their original owner, the Greek Catholic Church. But in 1998, it was still being used by the Orthodox Church (as it still is as of 2004). However, the Greek Catholic Church did not attempt to take it by force. The Monastery became once again

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<sup>8</sup> See: <http://www.greek-catholic.ro>.

a major pilgrimage destination, and in 1998, more than 15,000 Orthodox pilgrims came to Bixad. I too went up the hill and chatted with some Orthodox pilgrims and monks. The answer a young monk gave me to explain why the state had recognised the right of the Orthodox and not that of the Greek Catholic Church was that “first of all, from the 15th to the 18th century, the Monastery was Orthodox and was taken by force by the Greek Catholics”. He added that, of course, everyone in the Maramureş and the Oaş area, including his own family, was Greek Catholic before 1948, but that before 1699 everyone was Orthodox. This argument resembles the ‘politics of the past’ that Chris Hann has described in the case of the Greek Catholics in Poland (Hann 1998a). The ‘precedence principle’ has also been activated in Kosovo, in Bosnia, or in Transylvania (Mahieu 2000).

The Greek Catholic Church organised a counter-pilgrimage on the same day, down in front of the new Greek Catholic church, which still was under construction at that time; 5,000 pilgrims attended their liturgy. The Orthodox pilgrims, on their way to the Monastery, had to pass through the Greek Catholic crowd. I was surprised that the atmosphere was peaceful. During the liturgy, the Greek Catholic priest of Bixad thanked the pilgrims for attending in such large numbers. He finished his sermon by saying: “This year, once again, we celebrate the Assumption down here, in the village, but it would be nice if, some day, we could walk together to celebrate it in the Monastery”. This was said in an ardent manner; he made clear to the Greek Catholics believers that the official owner was not the Orthodox church.

A few hours later, I tried to interview the ardent Greek Catholic priest, because I wanted him to explain to me why, even though the right of the Greek Catholic church over the Monastery had been recognised, he had not tried to get it back. He said that he agreed to be interviewed, but that he would have to leave me at a certain moment, because he had to go to a funeral. I quickly understood that the Orthodox priest would also celebrate that funeral, because the deceased’s family was partly Orthodox and partly Greek Catholic, and each ‘side’ had asked for its own priest. I realised afterwards that ‘joint funerals’ were common in Bixad and other places. After the interview (and before the funeral), he drove me to Tîrşoţ, a neighbouring village, where violence had occurred between Greek Catholic and Orthodox villagers. He strongly denounced all kinds of violent action and underlined the fact that the situation was now peaceful, thanks to the building of a new Greek Catholic church in Tîrşoţ.

How is one to analyse this contrast between the two utterances (I use the linguistic term deliberately): in the morning, there was a public speech against the Orthodox monks and yet in the evening, during the interview, he denounced violent action and a common practice of co-operation was maintained. The two situations are very different and can be elucidated using the categories proposed by Piette concerning Catholic utterances about the way people,

objects and narratives travel between situations (Piette 1999). In the morning, the priest was in a socio-political situation where he, as a member of the Greek Catholic hierarchy, was claiming the right of his Church to regain the Monastery. In the evening, his private speech (during and after the interview) can be analysed as an exemplification of another role of the priest, i.e. his duty to respect ritual, which on that precise day happened to be a joint Orthodox/Greek Catholic funeral. In the two cases, the term 'Orthodox' refers to different contexts: in the first case, it is a political category, the Orthodox institution, with which the Greek Catholic Church is in a situation of competition and judicial conflict. In the second case, the term 'Orthodox' refers to his 'colleague', with whom the priest is in a situation of co-operation.

What is the interrelation between the global or national level (Decision 466/1992, nationwide Orthodox/Greek Catholic competition, the fact that pilgrims came from all over Romania) and the local level (co-operation between the priests, mixed families) in this kind of situation? Why did the Greek Catholics in Bixad not attempt to get the Monastery back, even by force? I can hazard some hypotheses: first, in Bixad, during the socialist period, many former Greek Catholic believers attended Roman Catholic services, first in Huta Certeze, a neighbouring Hungarian-speaking village, and later in Boinești, a Bixad hamlet, where a chapel was built during the 1960s. Bixad represents, then, a major difference vis-à-vis the vast majority of the places in Transylvania where the Greek Catholic believers attended the Orthodox services after 1948. In 1998, the Roman Catholic believers were building a new church near the railway station. The presence of a significant number of Romanian Roman Catholic believers certainly played a role in the absence of violence at the local level in Bixad. There is indeed no frontal confrontation between the majority church in Romania (The Orthodox Church) and the minority church (the Greek Catholic Church), but rather a situation of religious pluralism and consensus. In Bixad, none of the three churches (Orthodox, Greek Catholic and Roman Catholic) is in a position of clear domination, and co-operation between the three priests is a reality.

A second explanation is that the Greek Catholic believers managed to raise funds to build a very large church in the centre of the village. The Oaș region is indeed extremely wealthy, especially since many villagers went abroad after 1989. Getting back the Monastery did not seem then to be of such crucial importance, since the Greek Catholic believers could all attend the liturgies inside the large building. I will now address a more violent situation by looking at the Cluj Cathedral case.

## **Legal Recognition, Violent Recovery: the case of Cluj**

In Bixad, even though property rights of the Greek Catholic Church over the Monastery had been recognised, the decision was not applied. In Cluj, however, it was. On March 13, 1998, the Cathedral “*Schimbare la Fața*” (the Transfiguration) in the centre of Cluj was taken ‘by force’ by a group of Greek Catholic believers. Until then, the cathedral had been used by the Orthodox Church. This event<sup>9</sup> was widely reported by the mass media throughout the country; it was perceived and presented both by the media and some Orthodox believers as an extremely violent clash between the two Churches. I stayed in Cluj in April and May 1998, and in June and July 1999. In Bixad, I had carried out direct observation. The data I used to analyse the “*Schimbare la Fața*” event were different: newspapers and narratives of some of the participants, formulated more than one year afterwards.

The Cathedral was built in the 19th Century by the Franciscans and was first given to the Holy See by the Franciscans in 1918. In 1924, it was given by Pope Pious XI to the Greek Catholic Bishop Iuliu Hossu. After 1948, it was used by the Orthodox Church. At the beginning of the 1990s, the Greek Catholic Church tried to get it back and commenced legal action. The case was taken to court. In 1996, the Cluj Tribunal ruled that the Cathedral had to be returned to the Greek Catholic Church (civil decision 9392/1996). On February 20, 1998, the Bucharest Appeal Chamber also recognised the right of the Greek Catholic Church, and, additionally, ruled that the Cathedral should be evacuated by the Orthodox Church.

On Friday, March 13, 1998, a small group of Greek Catholic believers appeared at the Cathedral’s door with a bailiff, in order to enter it and to take it officially. What happened next is controversial. The Orthodox authorities qualified that day as a ‘black Friday’ and the action of the Greek Catholics as a profanation. In the official review of the Cluj Orthodox Archiepiscopacy, *Renașterea*, they declared that the presence of the Orthodox believers in the Cathedral was legal, canonical and peaceful, that the action of the Greek Catholics was aggressive, and therefore a statutory offence, and that the action had been prepared and had taken place with the complicity of the Cluj police, allegedly manipulated by the Greek Catholic prefect of the Cluj county and brother-in-law of Matei Boila. They described the whole event in a military style: “some Greek Catholics had wormed their way into the church earlier and occupied strategic positions”,<sup>10</sup> in order to physically attack the Orthodox seminarists.

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<sup>9</sup> On the concept of event in anthropology, see: Bensa and Fassin, 2002.

<sup>10</sup> Press release Nr. 553/17.03.1998, Vad, Feleac and Cluj Orthodox Romanian Archidiocese PR office, in *Renașterea*, No. 3, 8<sup>th</sup> year, March 1998, p.2.

On the other side, the Greek Catholic authorities denounced the manipulation of the facts in the media. They indicated that

“the information given by local radio stations and other media distorted in a monstrous way the events which took place in our Cathedral. Everything that was written about violence and profanation is untrue. We invite the population and the media to visit our holy Cathedral, which was given back to us by a decision made by the supreme authority of Romanian justice. They will be able to see that everything remained untouched and that our believers, who are in the church, are just praying peacefully. These believers will remain in the church until the bailiff officially gives us the keys, in conformity with the decision.”<sup>11</sup>

In the two points of view concerning the same event, there is an obvious opposition between the ‘sentimental’ argument presented by the Orthodox side, who took care of the building for almost fifty years, and the legal argument presented by the Greek Catholic Church. As Iordachi (1999) suggests, the two Churches adopted two very different strategies in the contested property process. The Cathedral’s Orthodox priest, quoted by Iordachi, said: “we will not obey the law, since the Romanian system of justice does not obey the law itself, in a situation in which tens of thousands believers are thrown out of a religious edifice simply because the Court took into account only the right to property” (Iordachi 1999: 161). This quotation illustrates the more general problem in property restitution issues of a too narrow interpretation of the property principle, usually in favour of the former owners. But in fact in the case of the Greek Catholic properties, the user’s rights (i.e. the Orthodox church) prevailed over the owner’s right in most of the cases.

It is interesting to note what happened in the months after this event and to present how it was seen by some of the actors, such as Viorica Lascu:

“It wasn’t as shown on television. No one entered the sacred place behind the Iconostasis. (...) The decision was clear: we had to get the Cathedral back. But there was all this mess. And I wrote a personal letter to the Orthodox Archbishop, and I told him: ‘Your Highness, if, during your stay in the USA, you had learned what «fair play» means, if, instead of all this show, you had left the Cathedral with dignity, in a eucharistic procession, if you had embraced the Greek Catholic priest, while giving him the keys, then you would have won. But now, because of that, many Orthodox believers came back to us’.”

There is here a juridical argument: “the sentence was clear”. But, unlike the Bixad Monastery, the Cluj Cathedral became an important national issue for both sides.

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<sup>11</sup> See: L’ÉGLISE EN DÉTRESSE DANS LE MONDE, No. 101, Janvier-Février-Mars 1999, «Cluj: information et désinformation», pp. 19-25. Also see Nicula 2003: 382.

The transformation of a potential conflict into violence almost always involves several categories of people and institutions (Boltanski and Thévelot 1999). In the “*Schimbare la Fața*” event, one can suggest that the Greek Catholic Church as an institution needed at least one symbolic victory in its restitution campaign. But the presence that day in Cluj of MP Matei Boila, a Greek Catholic priest, author of the bill proposing a global juridical frame for the Greek Catholic properties and a major Cluj personality, is certainly also a piece in the puzzle, illustrating the interrelation between local and national issues.

### **Recovery Before Legal Recognition: the case of Ieud**

The situation in Ieud (in the Valea Izei, Maramureș area) as it appeared during my ethnographic research in July, August and September 2000, is again very different. In Bixad, a government decision in favour of the Greek Catholic Church was not applied, without conflict. In Cluj, the law was applied, but in a rather violent way. In Ieud, one judicial decision went against the Greek Catholic Church (concerning the presbytery), while one went in favour of it (the Șes Church).

#### *The Șes Church*

Ieud’s Șes church was built in typical Maramureș style in 1700, even though the local Orthodox priest claims that it was actually built in 1697, before the Union of the Greek Catholic Church with Rome. After 1948, it became Orthodox and it was the village’s main church until a new church was built in 1984. The new church was apparently built by all the villagers, and some Greek Catholic believers demanded financial compensation after 1990, since in 1984, they had contributed both physically and financially to a building that now had nothing to do with them. Some of them even pretended that it had been secretly consecrated according to the Greek Catholic rite. The case of the new church is interesting since few churches were built in Romania during the Communist era. However though some Greek Catholic believers claimed it, no action was undertaken to recover it. The Greek Catholics wanted the Șes church

Having tried in vain to regain the Șes Church in 1990, a group of Greek Catholics broke a padlock on December 6, 1990 and occupied the building. Decision 466/1992 included the Șes Church on the list of 80 buildings which had to be given back, but by then the Church had already been taken, unlike the Monastery of Bixad. Many believers mentioned this event, in terms such as this:

“M.S.: There were many people out there. First, they asked politely, they asked them to allow us to enter, but they didn’t want to, so, then, we broke the padlock, and we entered the church, and that’s it!

Q.: Was there a priest with you?

M.S.: Yes, there was one of my brothers-in-law, he’s a Greek Catholic priest, he came and we did a wonderful liturgy. We always had a priest since 1989. At the beginning, during a long winter, we did the liturgy outside, in the snow, everyone would stand outside, with the children, and they would leave us like that! But how could we stay like that? If we are free, we go where we want. Should I be forced to go to the Orthodox church? There are three churches in the village and they wouldn’t let us even use one of them. Our churches, and they wouldn’t give them to us! Should we have begged them, until they agreed? This is how we entered the church, that’s it!”

Four arguments are presented here to justify the breaking of the padlock: 1. The Greek Catholics did not have any place to pray, they were forced to stand outside in the snow and so they had to take the church. 2. If there is freedom of religion, people should go where they want. 3. There are many churches in Ieud; the Orthodox do not need them all. 4. These are Catholic churches, since before 1948 the whole village was Greek Catholic. However, one could object that the arguments presented here are valid in other villages, but were not accepted by the Orthodox side. I argue that in this case the outcome was not one of violent confrontation, since the Şes Church was not used as the village’s main church.

### *The Presbytery*

The presbytery, however, was claimed by both sides. This building, situated near the Şes Church, was nationalised in 1948, and used by the local school afterwards. In 1991, when Father D., a Greek Catholic priest, arrived from another Maramureş village with his family, he settled in the house. But the school took the case to Court, and the Court ruled in favour of the school. After the judgement, some people (i.e. Orthodox) wanted to eject the D. family by force; here is Father D.’s account:

“Here, before 1948, it was a confessional school, there was the main building, the yard, and the Greek Catholic school, I have the documents, I can show you. (...) Before I came here, people [Greek Catholics] entered by force, because they wanted to get their goods back, and they wanted the building to be the Greek Catholic presbytery. When I came, the trial had already started, and they [the school] won it, and they came here and told me: ‘Go away!’ And I almost decided to go, but finally I said: ‘I won’t leave this place, even dead, if you want me to go, you will have to kill me first.’ But finally I decided to go, they gave me this CAP house (communist collective). Finally we accepted that, but it was hard.”

In Ieud, as in Cluj, a juridical solution did not prevent violence. In this example, as in many others, an acceptable solution for both sides was found outside the court. The religious

situation I observed in Ieud during my fieldwork in 2000 was a relatively peaceful one. Both the Orthodox and the Greek Catholic priest and their congregations were putting their energy into building a new Orthodox Monastery and a Greek Catholic Church respectively. Even though, unlike in Bixad, the priests could not reach any agreement on joint funerals<sup>12</sup>, physical violence related to restitution issues has been avoided since 1991.

The Ieud presbytery case is the most violent action I have recorded in the Greek Catholic patrimony cases. In this case, it seems that the stakes were all entirely local. In Bixad and Cluj, even though national actions and decisions have affected the restitution process, solutions were always decisively shaped by local actors and configurations.

## **Conclusion**

Property restitution has been and remains a major issue in the former communist countries. After its re-legalisation in 1989, the Romanian Greek Catholic launched a campaign to reclaim its properties. This process is similar to other property restitution processes in Romania and in neighbouring countries, but it also has some specificity: the official owner (the Romanian state) was not the user (the Orthodox Church), and the number of believers within the Greek Catholic Church was not high enough to support the case for a systematic restitution of its properties.

In this paper I have drawn on three case studies to explore the juridical and non-juridical arguments pursued both by the Greek Catholics and the Orthodox in the course of the conflicts. By focusing on the arguments and on the critical activity presented by both sides at critical moments, I have emphasised the gap between legal decisions and their application in practice, and show that such decisions do not systematically prevent violence. I have also underlined the fact that violence is rarely an exclusive spontaneous phenomenon; this is especially clear in the Cluj Cathedral case, where local and national stakes intermingled.

Despite the failure to agree on a global frame to resolve the Greek Catholic patrimony problem, most conflicts were resolved peacefully. One explanation for this general calm is the building of new churches, both by the Greek Catholic and the Orthodox Churches. Another possible answer, which for me is still an hypothesis, has to do with the relative failure of the Greek Catholic renewal process in Romania. According to the recent census of 2002 (published in mid-2003), the number of Greek Catholics has actually fallen since 1992: from 223,327 to 195,481 (even though some believers quote figures as high as 800,000). The

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<sup>12</sup> Since Ieud's two cemeteries are mixed, funeral celebrations are organised according to the *Simultaneum* rule.

Orthodox Church has indeed used the demographic argument in order to justify holding on to its properties.

Compared to Western Ukraine<sup>13</sup>, where the Greek Catholic Church has regained its dominant position, the situation in Transylvania has proved unfavourable to the restitution campaign. I can hazard some guesses about why the Ukrainian Greek Catholic Church was much more successful than the Romanian one after 1990. First, in Ukraine, the decision to join the Greek Catholic was collective: if a priest would decide to become Greek Catholic, the whole village would follow him and there was therefore no restitution problem. In Romania, the decision to join the Greek Catholic Church appears to be much more individual. A second possible reason for the success of the Ukrainian Greek Catholic Church is the internal conflict within the Ukrainian Orthodox Church: one side acts as it depends on Kiev, while the other one claims that the only real patriarchate is in Moscow. This situation probably left more space to the renewal process of the Greek Catholic Church in Ukraine than in Romania, where the Orthodox Church is united and acts as a dominant Church.

When property-related problems gradually calm down, we can expect more attention to be paid to the definition of the liturgy, which has not been a priority so far. The Greek Catholic Church now has more energy to devote to stabilising its hierarchy and internal norms. Moreover, many young priests who have studied in Rome and favour a 'purified' Byzantine liturgy within the Church are now coming back to Romania. Will they impose such a rite on believers? The answer to this question is probably one of the most fascinating aspects of the entire renewal process of the Romanian Greek Catholic Church.

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<sup>13</sup> I would like to thank Vlad Naumescu for his comments and information about the Greek Catholic Church in Ukraine.

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