

The Zappa Issue in the Liberal Newspapers *Voința Națională* and *Lupta* (1892)

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THE FACT that Romania became an independent state did not bring only benefits, but also challenges in terms of its foreign affairs. One troubled episode was that of 1892, when the diplomatic relations with Greece were suspended, given the divergences caused by the fact that Evangelios and Constantine Zappa's heirs demanded their inheritance.¹ The affair received considerable attention in the central newspapers of the time.

Around 1830, Evangelios Zappa, a Greek from Epirus, came to Walachia and settled in the district of Ialomița, where he leased several domains and in a few years amassed a rather impressive fortune. After a lifetime spent in the business world, in 1865, Evangelios died at his mansion in Broșteni, not before writing his will, granting the usufruct² of his entire fortune to his cousin Constantine Zappa.³ The latter could get hold of the inheritance on certain conditions, the most important of them being a donation to the Olympia Commission in Athens, in order to organize literary, scientific and industrial exhibitions every four years, in order to commemorate the Olympic Games. According to the same will, the bare ownership⁴ belonged to the Olympia Commission which, after Constantine's death, would become the universal legatee.⁵ Constantine Zappa died in December 1891, and from that moment on, Evangelios's will—drawn up in 1860—became a subject of discussions. For more than half a year—January-October 1892—the diplomatic correspondence between the Romanian foreign minister (Al. Lahovary), the Greek plenipotentiary minister in Bucharest (M. Pappariopoulos) and the Greek foreign minister (D. Dragoumis) sought a way to solve the Zappa issue. On the one hand, the Romanian government stated that it is compulsory to solve the matter in a Romanian court

* This work was supported by the EUROPEAN SOCIAL FUND IN ROMANIA, under the responsibility of the Managing Authority for the Sectoral Operational Programme for Human Resources Development 2007-2013 [grant POSDRU/88/1.5/S/47646].

of law, as the real estate was on the Romanian territory, and, on the other hand, the government in Athens, supporting the idea that the Olympia Commission is attached to the Greek government, asked for a diplomatic solution or even an arbitration of the Great Powers, thus invoking the provisions of the Congress of Paris. As the Romanian authorities firmly refused any of the two options, the foreign minister of Greece recalled its plenipotentiary to Athens, on 8/20 October 1892.

In this paper, we shall analyze the Liberals' position in the press regarding the Zappa issue, which totally contradicts that of the ruling Conservatives. To this end, we chose as a starting point the official newspaper of the National Liberal Party, *Voința Națională*, and that of the Democratic-Radical Party, *Lupta*, run by George Panu. The Democratic-Radicals—dissident Liberals, actually—set themselves apart from the NLP in 1888, as they did not agree with I.C. Brătianu's policies⁶; they came out in the political world after the peasant revolt of 1888. They made public their ideas concerning the agrarian issue (giving land to the peasants, another law of the agrarian agreements), ideas restated within the Zappa issue. Getting closer to the circle of power, G. Panu managed to get elected in the Parliament, with the help of the Junimea members, in February 1892.⁷ He remained close to the Conservatives, and in March 1897 his party joined them.⁸ The sympathies for some of them did not stop the Democratic-Radicals to heavily criticize the attitude of the government, after it suspended the diplomatic relations with Greece.

We have focused mainly on the year 1892 when, mostly starting with the month of September, there appeared more and more newspaper articles dealing with the Zappa issue. In the case of the Conservatives, starting with January 1893, the issue is only seldom discussed, and eventually forgotten.

The articles we are concerned with generally follow two directions: the compulsory need to apply article 7 of the Constitution, meaning a parallelism with the Bedmar issue, another famous case of the time, to which a solution was found just a few days before the suspension of the diplomatic relations with Greece.

The Liberals began to contest the government's decisions concerning the moment when E. Zappa's natural heirs were proven legitimate, and the Romanian State no longer claimed the succession was vacant. If, at the beginning, *Voința Națională* and, most of all, *Lupta* had praised the government's decision to let justice take its course, they then started to criticize it because article 7 of the Constitution, in its paragraph 5, stated that "only Romanians and those naturalized Romanian may acquire real estate in Romania."⁹

Even though the Liberals believed that the decision was a "legal spoliation"¹⁰ of the state, their discontent was in this case unfounded. Indeed, in his will, E. Zappa had left all his fortune to a foreign legal person, but the natural heirs were free to contest the will. The government in Bucharest had claimed the succession as vacant, on the grounds of the provisions stated within the will, where there is only mention of the Olympia Commission. Thus, in agreement with the provisions of the Civil Code, we may consider as correct the decision to withdraw the legal claim when

Zappa's natural heirs were proven legitimate. The attitude of the Romanian authorities was just also because the Zappa issue was still judged by the Bucharest Court of Law, the sole competent to decide whether E. Zappa's relatives had or did not have a right to succession. Thus, only the court of law could invoke article 7 of the Constitution, and not the government of Romania.

What we can reproach to the Conservatives regarding the application of the article is their reference to the provision stating that "the rights acquired so far shall be respected."¹¹ In order to support the decision not to invoke paragraph 5, the people from *Timpul* wrote that the government would have shown "legal ignorance" if "they had invoked article 7 for a testamentary devolution since 1865."¹² Indeed, we are talking here about a lack of information, at least, and even a proof of ignorance of the people from *Timpul*, as, in his will, E. Zappa clearly stated that only after Constantine's death would the Olympia Commission become universal legatee.¹³ Thus, Evangelios Zappa succession had to be finalized in 1892. It was not ended in 1865. The same direction is followed by *L'Indépendance Roumaine*, when they stated that "the issue regarding the validity of the bare ownership legatee was brought to discussion only after the death of the usufructuary."¹⁴

Beyond the need to invoke article 7, the Liberals of *Voința Națională* were infuriated with the draft bill that the Conservatives had presented in Parliament, signed even by the attorneys of Zappa's relatives, also members of the Conservative Party, according to the information given by the same newspaper. The draft bill proposed to interpret article 7, paragraph 5, in the sense that "the foreign successor, in the case when an inheritance also comprises real estate, has the right to receive a monetary equivalent." Asserting that this project would give the constitutional provision "a meaning it does not have . . . , thus eluding the law," the Liberals believed that it revealed the hidden intentions of the governors and of the attorneys hired by Zappa's heirs, mostly taking into account that "the government insists that the project must be debated by the Chambers."¹⁵ Moreover, the initiative does not make much sense given the fact that the Romanian state had asked for reassurance from Zappa's heirs that, in case they won, they would sell the assets Zappa had in Romania.¹⁶ It would have been very difficult for the state to buy it back, but it was not compulsory for the transaction to be public; an auction was also possible, and wealthy Romanians could also have bought it. The alternative of buying back the real estate from foreigners was not approved, not even by the attorneys. There were many questions regarding the very procedure, such as: who was the seller in this case? Who could have actually sold it, the state or the foreign heir? In any situation, naming the owner would have meant that the case was solved, but in the second case—the foreign owner—there should have also been a law stipulating that it was compulsory to sell the real estate. There was also the alternative—the most plausible one—that the Court should order the auction and the payment to the heir. This solution of offering a monetary equivalent had already been applied by certain courts,¹⁷ and the draft bills proposed by the Conservatives would have implied a legal approval of this practice. But the

editorial offices of the two newspapers also had different opinions this case. *Lupta* doesn't mention a thing about this legislative project, but, in the article of October 18 entitled "Legal spoliation," it stated that compensating the foreign heirs is an alternative that the government should take into account. On the opposing side, the solution is firmly disapproved by *Voința Națională*, as we have already shown.

The bill proposed by the Conservatives continued the attempt to make explicit the sense in which article 7 was interpreted, which had started since the review sessions of 1879. The controversy always created discontent in case of a foreign heir. Several jurists of the time, among whom Nicolae Basilescu—professor at the Bucharest Faculty of Law—believed that a special law to make explicit the application of article 7 was compulsory, given the fact that "the Constitution establishes the principle, and the ordinary law applies it."¹⁸ On the other hand, as the provision was negative, prohibitive, it did not only determine the principle to be followed, but the application cases, too. Nevertheless, the controversy deserved, indeed, a separate explanation in a distinct law.

Even the projects to review this article led to big controversies and to the resignation of a government.¹⁹ Several interpretations were presented, but all of them were rejected,²⁰ and the negotiations got to a dead end. The rejection of all these projects, as well as of B. Boerescu's plan to modify article 7, made jurists such as the aforementioned N. Basilescu or George Flaișlen²¹ assert that, from the constitutional provision—interpreted in the context of adopting and comparing it with the previous law in the field—resulted that foreigners were unable to acquire real estate not only by buying it, but also by any other means stipulated in the Civil Code, especially by ab intestate or testamentary succession.²² This interpretation is also supported by the principle according to which the Constitution and the Civil Code, as general laws, cannot automatically abrogate a special law such as the Law of 19 August 1864 regarding the foreigners.²³

The preliminary works to modify article 7 also explain the position of the Liberals of *Voința Națională* regarding the Zappa issue, as well as that of the Liberals from *Lupta*, the latter admitting both its despoiling character, and the interpretation received.

The compulsory recourse to this constitutions provision was supported, in the eyes of the Liberals, by the precedent of the Bedmar issue, which they considered similar to the Zappa case, starting from the fact that it also involved a succession, with foreign citizens as heirs.

Nevertheless, regardless of how much *Voința Națională* or *Lupta* tried to show that the two cases were "perfectly identical," their synthesis shows the fact that the reality might have been different.

The Bedmar succession was opened in 1891, at the Suceava Court of Law, after the death of Carolina Montufar, marquise of Bedmar, the second wife of the marquis of Bedmar. He had been previously married to Lucia Palladi,²⁴ the daughter of a Moldavian boyar, who had received as dowry the estates of Baia, Tămpești and

Horodniceni, in the department of Suceava. After the death of Lucia, of marquis of Bedmar, and also of their child, in 1884 Carolina Montufar became sole heir, also of the Moldavian estates (it is interesting to see if the marquise actually became the full owner, as the decision also clashed with article 7 of the Constitution). The marquis of Bedmar and Carolina had no direct successors, and that is why the latter, in her will, named as heirs some close friends, Matilda Acuna Lemotheux and Emanoil and Luiza Lemotheux, Matilda's children. Thus, after the death of the marquise, Matilda Lemotheux was to receive the usufruct of the fortune, and the two children—minors—bare ownership.²⁵

In May 1891, the Suceava Court of Law recognized the usufruct right as it appeared in the will, but rejected the bare ownership request, motivating that the minors were foreign citizens and they were not related to the deceased. The Court of Appeal of Iași maintained the decision of the Suceava Court of Law. In June 1892, the Romanian state, through the Ministry of Estates led by P.P. Carp, requested that the succession be declared vacant and sued Matilda Lemotheux, dissatisfied that she had received the usufruct right. On the basis of article 706 C.C.,²⁶ the Court approved the first request and declared the succession vacant, giving the bare ownership to the Romanian state. But, in September 1892, the state gave up on the succession and withdrew the legal actions against Matilda Lemotheux.

The fact that the state gave up on the Bedmar succession made the Liberals attack the Conservative government, suspecting it of hidden interests in favor of the political clientele. Moreover, the way in which the governors acted in the Bedmar issue is seen as a precedent and a “prejudice” of the Zappa case, and also among the factors which determined the Greeks to cease the diplomatic relations with Romania.

The differences between the two situations are obvious, and the summaries of the two successions also show the quality of the defendants—if, in the Bedmar case, we only talk of natural persons, in the Zappa case there is also a foreign legal person, the Olympia Commission, whose quality is not acknowledged by the Romanian state. Also, if in the Zappa case we are talking about a full ownership right, in the Bedmar issue the usufructuary was still alive, thus the situation can be compared only to that of 1865, when C. Zappa became usufructuary and executor of the will, with the difference that, when Carolina Montufar died, the provisions of the Civil Code were applied.

Moreover, the Romanian state did not request for the Bedmar succession to be declared vacant from the beginning—even though the heirs were foreign citizens—, waiting for the four month prescription comprised in article 706 of the Civil Code to pass. The curious thing is the manner in which the State gave up on it. The minister of Estates, P. P. Carp, in the Ministerial Order to the attorney of the Suceava-Neamț district, did not offer any explanation for his decision.²⁷ Later on, he reopened the subject and motivated by saying that “we cannot talk about the right of the state to the inheritance, once we find out that there are heirs.”²⁸ Contrarily to what the Ministry of Estates said, neither the will, nor the documents through

which the heirs claimed their rights proved any filiation between them and the marquis of Bedmar. This sudden renouncement irritated the Liberals, all the more so as the procedures stipulated by the law in such cases had not been respected²⁹. Their fear was understandable, given that many elements common to the two successions implied the possibility of a similar end for Zappa.

As regards invoking the Bedmar issue as reason to cease the diplomatic relations, in the correspondence with the Greek authorities there is not even an allusion to this situation.

As concerns the reference made to article 7 of the Constitution in the two situations, the Zappa issue implies the use of both the Civil Law—internal—and of the international practice in such cases. Even though it is a constitutional provision, the controversial article does not solve the matter on its own, as the opposition claimed. Not even the allegedly “perfect identity” between the two successions could give an answer in the Zappa case, even if, from the Liberals’ discourse, one can deduce the path that they considered victorious, which is claiming the fortune on the grounds of article 7, thus excluding any rights of the testamentary heirs. We cannot deny the importance of this issue at the end of the 19th century, but we also cannot ignore the fact that it was a good reason for the opposition to blame the Conservatives for governmental inefficiency in many other regards. The repeated return to the Zappa issue, as well as to the Bedmar case, often with the two parts repeating the same arguments, demonstrates not only the interest in solving the two matters, but also the attempt to manipulate the public opinion, most of the time by only partially presenting the facts.

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Notes

1. The quality of a person to have the right to succeed another person on the basis of a law or a will (<http://www.e-juridic.ro/dictionar-juridic/vocatie-succesoral/4536.html>).
2. Real right of a person to own and use the property of another, as well as the possibility to enjoy it in the same conditions as the owner, without changing its substance (<http://www.e-juric.ro/dictionar-juridic/drept-de-uzufruct/1620.html>).
3. Diplomatic Archives of the Foreign Ministry, coll. *Arhiva Istorică*, file 259, p. 86–92.
4. Ownership right temporarily restricted, as the possession and use of the property belong to another person, beneficiary of a usufruct, use or habitation right (http://www.euroa-vocatura.ro/dictionar/3020/nuda_proprietate).
5. Beneficiary of a will provision with a right to inherit the whole fortune (see “universal legatee,” <http://www.e-juridic.ro/dictionar-juridic/legat-universal/2496.html>).
6. *Istoria românilor*, vol. VII, tome II, coord. by Gheorghe Platon, Bucharest, 2003, p. 162.
7. *Ibid.*
8. *Ibid.*

9. *Monitorul Oficial*, no. 232 of October 13(25), 1879, p. 1.
10. *Lupta*, second edition, year IX, no. 1836 of October 18, 1892, p. 1.
11. *Monitorul Oficial*, no. 232 of October 13(25), 1879, p. 1.
12. *Lupta*, second edition, year IX, no. 1832 of October 13, 1892, p. 2.
13. See Evanghelie Zappa's will in Diplomatic Archives of the Foreign Ministry, coll. *Arhiva Istorică*, file 259, p. 187.
14. *Lupta*, second edition, year IX, no. 1832 of October 13, 1892, p. 2.
15. *oimța Națională*, year IX, no. 2272 of May 21 (June 2), 1892, p. 1.
16. *Lupta*, second edition, year IX, no. 1830 of October 10, 1892, p. 2.
17. Steriu issue, Ilfov Court of Law, section I, sentence no. 264 of May 16, 1892, Court of Appeal of Craiova *apud* N. Basilescu, *Contribuțiuni la înțelegerea art. 7, alin. 5 of Constituțiune*, Bucharest, 1902, p. 128.
18. N. Basilescu, *Contribuțiuni la înțelegerea art. 7, alin. 5 din Constituțiune*, Bucharest, 1902, p. 106.
19. After the debates regarding the review, the president of the Chamber of Deputies, C. A. Rosetti and Prime Minister I. C. Brătianu resigned. Brătianu received once again the task of forming the government and appointed Basile Boerescu as his foreign minister, the latter starting official visits to the capitals of the Great Powers in order to explain the new meaning that Romanians wanted to give to article 7 of the Constitution. *Ibid.*, p. 92.
20. There were three amendments proposed in the review commission: according to the first, also signed by G. Mârzescu, "the foreigners, even though who were born and raised in our country, if they are not naturalized, they do not have the right to own real estate through documents among the living, testamentary provisions or acquisitive prescription. This prohibition does not apply to the foreigners who, according to previous laws, had the right to real estate." The second amendment, signed by P. P. Carp, a member of the review commission, proposed—"as regards the civil rights of the foreigners"—that the Law of 19 August 1865 be maintained. Thus, the Christian foreigners could no longer buy real estate unless it was in agreement with the law. Finally, the third amendment stipulated that "only those who are full Romanian citizens may acquire real estate in Romania" (*apud* N. Basilescu, *Contribuțiuni la înțelegerea art. 7, alin. 5 din Constituțiune.*, p. 90.). Overall, the propositions brought to discussion were measures meant to fully prevent foreigners from holding real estate in Romania. Their rejection led to opinions—such as that of N. Basilescu—according to which in 1879 the framers had not taken into consideration a drastic limitation of the ways in which one could acquire real estate.
21. For the foreigners' right to own real estate, see G. Flaișen, *Despre dreptul străinilor de a dobândi imobile rurale în România*, Bucharest, 1886. *Idem*, "Iarăși art. 7 of Constituțiune," in *Curierul judiciar*, no. 71, Bucharest, 1901.
22. N. Basilescu, *Contribuțiuni la înțelegerea art. 7, alin. 5 of Constituțiune*, Bucharest, 1902, p. 103.
23. *Ibid.*, p. 96.
24. Cătălina Opaschi, "Lucia Palladi, marchiza de Bedmar. Destinul unei moldovence la sfârșitul secolului al XIX-lea," communication presented on May 13, 2007 during the fifth International Colloquium of Genealogy, Iași under the aegis of the Romanian Institute of Genealogy and Heraldry "Sever Zotta"; forthcoming in "Arhiva Genealogică," XIX, 2007.

25. *Voința Națională*, year IX, no. 2373 of September 26 (October 8), 1892, p. 2.
26. “The heir is given three months since the day the succession was opened to do the inventory. In order to deliberate whether to accept or reject the succession, they are given an additional 40 days, starting with the day the three months for the inventory expire or the day the inventory is closed, if it occurred before the here month term.” (Ch. Cristescu (publ.), *Codicele civil adnotat cu jurisprudența română urmat de un tabel indicativ pe articole de hotărârile pronunțate asupra vechilor legiuiri Caragea și Calimah și asupra Regulamentelor Organice ale Munteniei și Moldovei*, vol. I, Ed. Wiegand, Bucharest, 1894, p. 310).
27. “. . . We don’t need reasons for the state’s renouncement, but you will simply affirm that the state gives up on any claim regarding the fortune left from the said marquise” (ANIC, coll. Ministerul Agriculturii—succesiuni vacante, file 746 (“Succesiunea decedatei Marchisa de Bedmar”), p. 46).
28. *Ibid.*, f. 38.
29. The Ministry of Agriculture, Industry, Commerce and Estates had been created by the Law of 30 March 1883 which, in its article 2, passed the administration of the estates belonging to the state—created through the special Law of 4 March 1872—with all its attributions, in the subordination of this new ministry. As regards the attributions of the state prosecutors, the trial situations, as well as the transactions made with the state, they were regulated in art. 17, 20, respectively, as follows: Art. 17: “The attorneys attached to the central administration shall discuss any matter when asked to, they shall accept to be consulted regarding the direction of a trial, they shall give advice, when required, to the district public attorneys. In matters of great importance, if the administration or the respective minister requires it, all attorneys shall give their advice, especially gathered to this purpose. The majority of the votes decide. The same procedure shall be followed to close a trial or to take an oath.” Art. 20: “In order to be valid, the transactions that the estate administration will wish to make or that will arrive shall be approved by the majority of the attorneys attached to the administration, who shall give their reasons in writing; their opinion shall be reinforced by the Prince after obtaining the approval of the Council of Ministers and the homologation of the Tribunal or the Court, depending on the type of trial. The public attorneys will not acknowledge any right against the state, without a special warrant from the part of the administrators or the respective minister, given only after the approval of the Council of attorneys, according to art. 17. If, through the transaction, the state will have to be responsible for a minimum of 25.000 lei, 100 acres of land, then the transaction shall take place as mentioned above. If the value is higher than 25.000 lei or the land is bigger than 100 acres, then the attorneys’ approval, transformed into law project, will be discussed first of all by the Governing Bodies and then it will be sanctioned by the Prince” (*Voința Națională*, year IX, no. 2379 of October 3(15), 1892, p. 2).

Abstract

The Zappa Issue in the Liberal Newspapers *Voința Națională* and *Lupta* (1892)

Evangelios Zappa, a Greek from Epirus, came to Wallachia, where he died in 1865 after amassing an impressive fortune. In his will, he entrusted the usufruct of his fortune to his cousin, Constan-

tine Zappa, who was also the executor of Evangelios's will. At Constantine's death, the Olympia Commission in Athens was to become the sole heir. When the succession was opened, the fortune was claimed by Romania, Greece and, last but not least, by Evangelios's heirs.

In this study we analyze the articles published in the central Liberal newspapers *Voința Națională* and *Lupta* concerning the Zappa issue; we also pay attention to the opinions expressed in these newspapers regarding the legacy. The Liberals were against the government's decision not to claim Zappa's fortune, in case his natural heirs proved to be legitimate. Given its attitude, the Conservative Party was accused that it had caused prejudice to the state. This is why the Liberals proposed their own solution to the case: the application of article 7 of the Constitution, which prevented foreigners from owning real estate on the Romanian territory. Another reproach Liberals made to the Conservative Party was the government's uninspired action regarding the Zappa issue, and the fact that the national interests in this matter had been ignored.

Keywords

succession, Evangelios Zappa, will, liberals, Constitution, Bedmar, article 7