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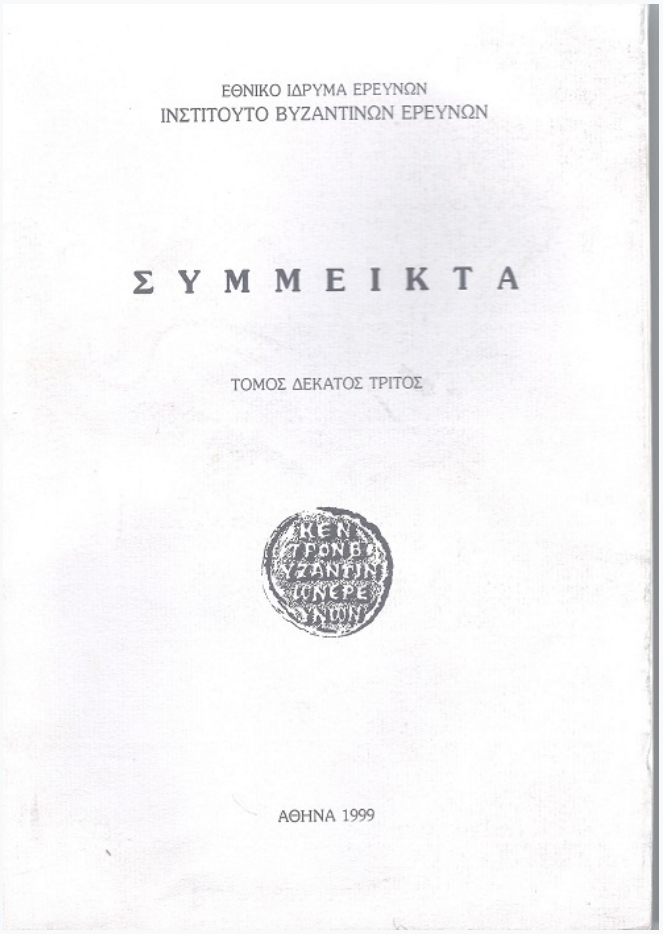

The ‘‘Common Chrysobulls’’ of Cities and the Notion of Property in Late Byzantium

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THE "COMMON CHRYSOBULLS" OF CITIES AND THE NOTION OF PROPERTY IN LATE BYZANTIUM

Scholars working on late Byzantine documents from the archives of the Athonite monasteries have noticed the recurring references to certain chrysobulls granted in common to the ἔποικοι (residents) of some cities of the empire. The most prominent, and most commonly occuring case is that of Thessalonica[1] but Berrhoia and Rhentina, a small fortified town in Chalkidike, are also mentioned[2]. The chrysobulls are always evoked in these texts in connection with the issue of landholding. They seem to be guaranteeing a particular status to certain pieces of immovable property owned by the ἔποικοι of the above mentioned cities. Since 1965, when Paul Lemerle first noted the importance of the topic[3], no specific work has appeared on it, although all of the documents he had then mentioned have been published by now[4].

1. *Actes de Chilandar, Viz. Vrem.* 17, 1911, and 19, 1915, Priloženie 1, No. 17$_{56}$, p. 149, No. 25$_{41}$, p. 191, 51$_{33-34}$, 72$_{25-26}$, 146$_{26-27}$; *Actes de Xénophon*, ed. D. PAPACHRYSSANTHOU, Paris 1986, No. 17$_{56}$, p. 149, No. 25$_{41}$, p. 191; P. LEMERLE, Un praktikon inédit des archives de Karakala, in *Χαριστήριον εἰς Α. Κ. Ὀρλάνδον* I, Athens 1965, 285$_{44}$; ΑΡΚΑΔΙΟς ΒΑΤΟΠΕΔΙΝΟς, Ἁγιορειτικὰ ἀνάλεκτα, *Γρηγόριος ὁ Παλαμᾶς* 3, 1919, 218.

2. For Berrhoia, see Γ. ΘΕΟΧΑΡΙΔΗς, *Μία διαθήκη καὶ μία δίκη βυζαντινή. Ἀνέκδοτα βατοπεδινὰ ἔγγραφα*, Thessalonike 1962, 13.72-74. For Rhentina, *Actes d'Esphigménou*, ed. J. LEFORT, Paris 1973, No. 17$_{5}$, p. 125 and No. 18$_{15-16}$, p. 129.

3. LEMERLE, *op.cit.*, 288.

4. ZDR. PLJAKOV, Le statut de la ville byzantine balkanique aux XIIIe-XIVe siècles, *Études Balkaniques*, 1985/3, 73-96, who deals extensively, although not always successfully, with the issue of city privileges, seems to dismiss rather summarily the question of concern to us here: "On pourrait admettre qu'il s'agissait en l'occurence, de certains privilèges financiers et administratifs" (*ibid.*, 80).

In order to proceed to a further examination of the issue it is necessary to complement the Athonite documents by certain well-known texts concerning the granting of communal privileges to certain late Byzantine cities: these documents are the chrysobulls of Andronikos II on behalf of Monembasia (1284), Kroai (Croia-Kruja) (1288) and Ioannina (1319) and the ὁρκωμοτικὸς ὁρισμός issued by Michael Gabrielopoulos (1342) on behalf of the inhabitants of Phanarion in Thessaly[5]. All of these charters deal with a large variety of privileges and various kinds of concessions. Of interest to us here are only the clauses dealing with the status of the immovable possessions of the urban dwellers. Although all our cases are parallel, they are not identical. One should, therefore, try to distinguish between the earlier and later cases. In order to do so, it is necessary to establish a chronology.

The earliest documentary reference to the special status of the lands of the Thessalonians date from the 1320's, but do not give us any clues as to the date when the first chrysobull was granted. It is however extremely likely that this first chrysobull was the same as the one granted by the emperor John III Batatzes at the request of certain prominent citizens of Thessalonica on the eve of the conquest of the city, in 1246[6]. This likelihood becomes a certainty if we consider that, in all the other cases known to us, the granting of privileges coincided with, or followed closely upon the passing of a city under imperial control after the interruption of Latin rule or the rule of the despots of Epiros[7]. Since almost all the references to the chrysobulls of Thessalonica are in the plural[8], one concludes that John III's successors issued their own chrysobulls confirming and possibly extending the provisions of the original one. This process is well attested in the chrysobulls of Kroai and Monembasia[9]. On the other hand, it is impossible to state with certainty

5. The references are respectively Fr. Miklosich-Jos. Müller, *Acta et Diplomata Graeca Medii Aevi*, Vienna 1860-1890 (MM) V, 154-155; A. Soloviev-V. Mošin, *Grčke povelje Srpskih vladara*, Beograd 1936, 316-317; MM V, 77-84; the charter for Phanarion has now been reedited with substantial corrections by Δ. Ζ. Σοφιανός, Τὸ ὁρκωμοτικὸν γράμμα (Ἰούν. 1342) τοῦ Μιχαὴλ Γαβριηλοπούλου πρὸς τοὺς Φαναριῶτες τῆς Καρδίτσας, *Πρακτικά Α΄ Συνεδρίου για την Καρδίτσα και την περιοχή της*, Karditsa 1996, 29-47. Subsequent footnotes will refer to these editions.

6. Akropolites, ed. Heisenberg, 2nd ed., Stuttgart 1978, p. 80.4-6.

7. To the cases that we are discussing here, one should add the chrysobull issued by John III on behalf of the city of Melnik (Akropolites, p. 77).

8. The standard formula is "διὰ τῶν κοινῶς προσόντων χρυσοβούλλων τοῖς ἐποίκοις τῆς θεοσώστου πόλεως". The two exceptions are *Xénophon*, 149, 191, where the above formula is in the singular. Possibly the authors of the texts had in mind the latest chrysobull only and ignored or were indifferent to the earlier ones.

9. In the case of Kroai (lines 69-71) Andronikos mentions the "privilegia felicis memoriae imperatoris Ioannis Ducis et Teodori Lascari eius filii acque (...) imperatoris nostri patris". A previous

whether Thessalonica or, for that matter, any one of the other cities had any similar privileges prior to their reconquest. Akropolites speaks of "ancient rights", but then referring to real or imaginary precedents is common practice in Byzantium. It is possible that Batatzes' chrysobull contained provisions dealing with various aspects of the life of the city, some of which may have been repeating earlier lost documents, such as the charter of privileges granted to Thessalonica by Baldwin of Flanders in 1204[10]. But as far as the question of landed property is concerned, I believe that we are dealing with the introduction of new notions, peculiar to late Byzantium.

The first common chrysobull for Berrhoia can be dated with some precision. In the chrysobull that was issued in 1324 on behalf of Theodore Sarantenos, there is a reference to some κτήματα of his, both γονικά (here the expression probably denotes just the provenance, i.e. that Sarantenos had inherited them) and from dowry[11]. These lands had been "free" through the common chrysobulls since eighty years, that is more or less since 1244, which is approximately the date of the conquest of the city by the Nicaean armies[12]. A similar date must be set for the first chrysobull of Kroai, granted, as we have seen, by John III.

The first chrysobull was granted to Monembasia by Michael VIII[13], in all probability soon after 1259. The chrysobull of Ioannina, whose text survives, bears

chrysobull of Michael VIII is also mentioned in the case of Monembasia (καὶ χρυσοβούλλου ἐπὶ τοῖσδε τυγχάνουσι παρὰ τοῦ ἀοιδίμου βασιλέως τοῦ αὐθέντου καὶ πατρὸς τῆς βασιλείας μου).

10. NIKETAS CHONIATES, ed. VAN DIETEN, CFHB, 599: ὁ Βαλδουῖνος τοίνυν... τοῖς Θεσσαλονικεῦσι προσέσχε καὶ γράμμα σφίσιν ἐνεχείρισε, πᾶσι τοῖς ἐθίμοις τῇ πόλει τὸ ἔμπεδον χαριζόμενον; VILLEHARDOUIN, ed. LONGNON, Paris 1981, 116: *et ils lui rendirent la ville* [...] *par telle convention qu'il les tiendrait selon les us et coutumes où les empereurs grecs les avaient tenus.* According to the evidence of both authors, the essence of that charter was the respect for the customary rights of the city. These rights may probably have been of a judicial nature, consisting in maintaining Byzantine law and judicial autonomy. For evidence of judicial autonomy in Latin-occupied Thessalonica, at least in civil cases, see CHOMATIANOS, ed. Pitra in *Analecta sacra et classica* VII, Paris-Rome 1891, 454

11. ΘΕΟΧΑΡΙΔΗς, *op.cit.*, p. 1370-74.

12. The interpretation of the text in this point is problematic. It is true that it would be more normal to translate the passage: κτήματα [...] κατεχόμενα παρ' αὐτοῦ τε καὶ τοῦ πενθεροῦ αὐτοῦ, τοῦ Σουλτάνου ἐκείνου, ἐπὶ χρόνοις ἤδη ὀγδοήκοντα, ἐλεύθερα ταῦτα εὑρισκόμενα διὰ τῶν κοινῶς προσόντων χρυσοβούλλων, as: "the lands that he and his father-in-law, the deceased Soultanos, have been owning since eighty years and which are free through the common chrysobulls". This interpretation is however to be excluded, at least if one accepts the theory of E. ΖΑΧΑΡΙΑΔΟΥ, Οἱ Χριστιανοὶ ἀπόγονοι τοῦ 'Izzεδδὶν Καϊκαοὺς Β΄ στὴ Βέρροια, *Μακεδονικὰ* 6, 1964-65, 62-74, who makes of Sarantenos' father-in-law a member of the Seljuk dynasty, that is, one who could not have been in Berrhoia in 1244.

13. See above, n. 9.

the date 1319[14], that is soon after the Empire got control of Epiros. Finally, Michael Gabrielopoulos mentions a pre-existing imperial chrysobull for Phanarion which should be set around 1333, when imperial control was extended over part of Thessaly[15]. Andronikos III had granted a chrysobull to Rhentina "some time" before 1328, probably during the civil war[16]. It cannot be known whether this small town had received any privileges before.

It is now necessary to examine the nature of the status granted by the chrysobulls to the lands of the ἔποικοι. It is also essential to know whether the granted rights were attached to certain defined pieces of property or to a group of people. If the latter is the case, then one could conclude that the term ἔποικοι was employed to denote an institutionally distinct group, something that could be parallel to the Western *Burgensis*. Since the chrysobull for Thessalonica does not survive, one should try to reconstruct its provisions based on the references to it in later texts. In the (forged) chrysobull of 1306 on behalf of Manuel Angelos Patrikios[17], the status of the properties of the Thessalonians is mentioned as a parallel, in order to further explain the concessions made to the beneficiary. We do not know whether he was in some way an ἔποικος of this city and, in any case, this had nothing to do with the privileges he now received. Manuel had inherited from his father, among other things, a ζευγηλατεῖον –that is an integrated unit of agricultural production, consisting in various pieces of land, paroikoi, buildings, etc.– situated in the area of Strymon. With it he had inherited the δουλεία attached to it, that is, an obligation for service to the emperor, since the property originated from an imperial grant[18]. The new chrysobull granted two things to him: relief from the

14. MM V, 77-84.

15. SOPHIANOS, *op.cit.*, p. 4011. The same text also mentions chrysobulls granted to a group of Albanian soldiers, to the monastery of Lykousada and to various individuals, but this particular case concerns all the *topikoi*, therefore comes close to the "common chrysobulls", unless the singular here is meant to denote the sum of several individual chrysobulls. The date of this hypothetical charter is also indicated by the mention of the Eparch (Michael Senachereim Monomachos) who served as commander in Thessaly between 1333-1342

16. *Esphigménou*, No. 174-5, p. 125: πρό τινος δὲ καιροῦ.

17. *Chilandar*, 50-51. The date 1306 is probably wrong and, as the editor notes, the entire document may be a forgery. However, the technical clauses seem authentic and were probably copied from original documents, therefore its use for our purposes is, I believe, legitimate, although caution is necessary. I did not have access to the new edition of the documents of Hilandar, in the "Archives de l'Athos" series.

18. *Ibid.*, 50: διὰ χρυσοβούλλων καὶ ἑτέρων παλαιγενῶν δικαιωμάτων.

δουλεία and the quality of "parental" to his property (ἐκτὸς δουλείας, ἔτι τε καὶ κατὰ λόγον γονικότητος). The first term implied, as I believe, that the property would from that moment on be held free from any obligations, either fiscal or of service to the emperor. It is, I suppose, the equivalent of the term ἐλεύθερον, which is not used in this document but is, as we are going to see, the standard way to describe the status of the lands of the Thessalonians to which that of Patrikios' s lands is now assimilated. If this interpretation is correct, we can consider the second quality, that of γονικότης, as emanating from the first. The original opinion that this term had the litteral sense of "hereditary"[19] has been modified, since it has been demonstrated that in certain cases the term only implies the possibility to transmit a piece of property to one's direct heirs for one or, occasionally, for two or more generations. Such was the case with the ζευγηλατεῖον of Patrikios before the "chrysobull" that was supposedly issued for him. But, as our document makes clear, *in this case* the term is used to denote the unlimited right of transmission[20]. Since fiscal liability may also be seen as an obligation towards the state, it appears that another consequence of "freedom" is immunity from taxation and, necessary in order to guarantee it, protection against the intervention of officials and tax-collectors who might in any way infringe on the beneficiary's rights. This is probably the meaning of the terms ἀνενοχλήτως, ἀδιασείστως, ἀναφαιρέτως, ἀναποσπάστως, provisions that were also valid for the Thessalonians, who "were not subject to any sort of attack or disturbance and turbulance by anyone on account of [their parental possessions]"[21].

Four other cases where the chrysobulls of Thessalonica are mentioned[22] present us with a recurring pattern: certain large monasteries, in these cases Hilandar and Xenophontos, have got into possession, through purchases or donations, of various immovable goods, all of them situated in the area of the city of Thessalonica. Our documents are imperial chrysobulls and *praktika* of officials enumerating the possessions of the monasteries, including the goods in question. In three cases,

19. See the discussion of early views in G. OSTROGORSKY, *Pour l'histoire de la féodalité byzantine*; Brussels 1954, 132ff. Unlike earlier authors, e.g. F. DÖLGER, Ostrogorsky believed that in the case of a *pronoia*, γονικότης did not allow for sale, donation etc., but only for hereditary transmission.

20. To make this more clear, the chrysobull cites a list of allowed modes of transmission, like sale, dowry, donation to holy shrines etc.(*ibid.*, lines 25-27).

21. *Ibid.*, lines 34-36. Note the slightly different use of "gonikon", as a descriptive rather than technical term. Maybe this is due to the forger.

22. *Chilandar*, 72, 146; *Xénophon*, 149, 191. The dates are, respectively, 1316, 1321, 1322 and 1338.

in order to justify the possession of these properties by the monastery, the documents describe them as "free" (ἐλεύθερα) by virtue of the common chrysobulls of Thessalonica. Surprisingly, the fourth document uses the term γονική in exactly the same sense. Significantly enough, this is the only document that does not come from the imperial chancery but from the domestic of the themes Constantine Makrenos, obviously in his capacity as a tax official. Therefore, it can perhaps be considered as technically inaccurate[23]. This shows however how closely linked the two qualities became in the minds of contemporaries, at least in the case of the properties of the Thessalonians. It is clear that these notions implied here an unlimited right of transmission, since the owners of the goods could sell or donate them to the monasteries. It is also very probable that they included immunity from taxation, since the documents do not mention any fiscal burden in connection with these goods, even be it in order for a new exemption to be granted. The important thing is that the "freedom" conferred by the chrysobulls remained attached to the properties even when they passed to the hands of non-Thessalonians, like the Athonite monasteries.

The inverse seems to happen in the case of the *praktikon* written in 1342 on behalf of John Margarites[24]. In his case, various goods that belonged to the apostate John Kantakouzenos and his supporters were grouped together to form a fixed income (ποσότης) that was then given to the Thessalonian[25] Margarites and was granted the same status as the goods of the other ἔποικοι. It seems to me, however, that we cannot talk about an automatic inclusion of the properties that a citizen would acquire at an indefinite moment in time to the provisions of the common chrysobulls. In this case we have to do with a special favor granted by the administration to a loyal servant; it is the –implied– personal chrysobull of 1342 and not the common chrysobulls that Margarites would invoke if the need arose. The common chrysobulls are here mentioned again only for the sake of parallel. The provisions for Margarites' *posotes* are the same as in the above cases: it is to be "free and without 'douleia', above any tax or burden, without any disturbance or turbulance, and cannot be diminished, removed, augmented or mutilated". It is also to be held κατὰ λόγον γονικότητος. There is a strange difference here: on one hand the official who granted the *praktikon* explains the above term as : "in brief, he can

23. Although occasionally identified by contemporaries, like in this case, ἐλευθερία and γονικότης are not equivalent: the latter, even when it conveys the sense of unlimited rights of transmission, does not by itself imply freedom from other obligations and certainly not fiscal freedom.

24. LEMERLE, *op.cit.*

25. *Ibid.*, line 44: ὡς καὶ οἱ λοιποὶ ἔποικοι τῆς θεοσώστου...

do and enact anything that he wishes and is able to, without being prevented"[26]. But the only right of transmission that the document states by name is that of bequeathing the property to his true descendants and other heirs. Is it an ommission in a document that is not, after all, imperial, or is it a sign that as the lands under the administration's control shrink dramatically, ἐλευθερία and γονικότης lose their full meaning? However, a slightly later (1344) chrysobull on behalf of the widow of Alexios Palaiologos Soultanos[27] presents us with a case where a "posotes" is granted with full rights of transmission. This was part of a larger "oikonomia" that was held by her late husband, probably in return for imperial service, and then passed to his son, obviously together with its "douleia". A peculiarity of this document is that, although the detailed enumeration leaves no doubt as to Soultanina's rights, equated to those of the Thessalonians, there is no mention of either ἐλευθερία or γονικότης. Could it be, again, that by that time their meaning had been adulterated and therefore they were avoided?

The provisions of the chrysobulls of Berrhoia concerning the status of the citizens' goods seem similar to those of Thessalonica. Our information comes from the chrysobull of 1324 by which the emperor confirmed the foundation and endowment of a monastery in Berrhoia by Theodore Sarantenos[28], a resident of the city. Among the other goods that Sarantenos wished to attach to the monastery were certain possessions (κτήματα) that he held "from inheritance and dowry" (ἀπὸ γονικότητος καὶ προικός). These properties had been in the possession of Sarantenos and, before him, of his father-in-law, Athanasios Soultanos[29] and were free through the common chrysobulls[30]. The author of the chrysobull does not know in detail what these properties consist of: "whether they be water-mills or land or whatever else". Our information is completed by the testament of Sarantenos[31], which was drawn two years after the chrysobull and repeated the list of properties with which he had endowed his monastery. The property in question is a ζευγηλατεῖον which had been given to him as dowry by his father-in-law fourty-six years earlier. There is again a reference to the "more than eighty years of exploitation" of the property by his father-in-law and himself, which, again, should be taken with a

26. *Ibid.*, l. 48: (καὶ) ἁπλῶς πράττειν τε (καὶ) ποιεῖν πάντα τὰ κατὰ δόξαν (καὶ) δύναμιν ἀκωλύτ(ως).

27. ΑΡΚΆΔΙΟς ΒΑΤΟΠΕΔΙΝΌς, Ἁγιορειτικὰ ἀνάλεκτα ἐκ τοῦ ἀρχείου τῆς μονῆς Βατοπεδίου, *Γρηγόριος ὁ Παλαμᾶς* 3, 1919, 217-218.

28. ΘΕΟΧΑΡΊΔΗς, *op.cit.*, 11-14; on Theodore and his family see *ibid.*, 51ff.

29. For the interpretation of the phrase "for eighty years", see above, n. 11.

30. *Ibid.*, lines 70-76.

31. *Ibid.*, document 2, pp. 17-28.

grain of salt[32]. We also learn that part of the income from this zeugelateion was given by Sarantenos to his own daughter as dowry[33]. The *zeugelateion* is described in the 1324 chrysobull as "free". It is clear that the term included the unlimited right of transmission since the property was twice given as dowry. An interesting point here lies in the fact that a piece of property belonging to Athanasios Soultanos, an outsider who had settled in Berrhoia, was still covered by the provisions protecting the land of the citizens. As in the case of the properties of Thessalonians acquired by monasteries, we see that the status conferred by the common chrysobulls was attached to the property itself and not to the owners. This is also shown by the clause in the 1324 chrysobull confirming the possession by the monastery of any items of property that Sarantenos might acquire in the future through purchase and attach to his *zeugelateion*, items that would also be free through the common chrysobulls[34]. Both Sarantenos and Soultanos were members of the aristocracy, who, at some point, were installed in Berrhoia with members of their families and were granted properties by the emperor[35]. At some point they bought lands from the older residents of the city that were covered by the common chrysobulls.

The text of the chrysobull for Kroai survives only in Latin translation. In the preamble, Andronikos II summarily repeats the provisions of the chrysobulls of earlier emperors: The "habitatores" of the city should enjoy the goods that they possessed or were going to possess in the future ("habitis vel habendis"), "libere",

32. The editor of the text (*op.cit.*, 14) believes that the chrysobull of Andronikos II which Sarantenos is evoking in lines 65-68 as confirming his rights to the zeugelateion is different from the chrysobull of 1324. I would rather think that they are the same. The sense of τὴν νομὴν (...) τὴν τῶν ὀγδοήκοντα καὶ ἐπέκεινα χρόνων ταύτην, ὁ κραταιὸς καὶ ἅγιός μου αὐθέντης καὶ βασιλεὺς διὰ τοῦ ἐλέους αὐτοῦ εὐηργέτησέ μοι is that the emperor *confirmed* his rights, not that he granted them. As the preceding imperial document makes clear, those rights emanated from the common chrysobull of Berrhoia, which was indeed more than eighty years old at the time.

33. *Ibid.*, 24, lines 130-131.

34. *Ibid.*, document 1, lines 75-76. This clause makes sense only if we presume that any properties Sarantenos might buy would be situated in the area of Berrhoia. These properties either were included in the common chrysobulls and therefore were free, or they were state properties conditionally granted (therefore not free), in which case Sarantenos would not have been able to buy them anyway, since the right of transmission was connected to freedom.

35. For Soultanos see ΖΑΧΑΡΙΑΔΟΥ, *op.cit.*, 69-70. In the case of Sarantenos, who held the office of *Skouterios*, we know that he had by imperial grant at least one other zeugelateion (ΘΕΟΧΑΡΙΔΗς, doc. 2, lines 79-80). The imperial chrysobull mentions the possessions granted to him by the emperor (doc.1, line 23). The origin of his other landed goods is not mentioned. His dead brother had also been in imperial service and also had a zeugelateion from dowry in the same area (doc. 2, lines 172-176).

"sine ullo impedimento" and "sine ulla molestia"[36]. The first term is clearly a rendition of ἐλευθέρως, whereas the other two are probably rendering ἀνενοχλήτως and ἀδιασείστως. In the main text he repeats the above provisions, adding "rata et firma" and "sine ullo detrimento" (ἀναφαιρέτως?) and also gives a list of the various categories of items covered, including houses and *paroikoi*[37]. It is made clear that the lands are immune from taxation and various provisions are added against infringement by officials, as well as various other privileges beyond the scope of our topic. The main point of interest is that the chrysobull does not name the lands over which its provisions extend. On the contrary, it seems to attach its privileges to the citizens, since it includes lands that they might possess in the future. On the other hand, it may be that the emperor left the detailed listing of the lands to the care of some inferior official, perhaps a recensor.

The chrysobull that Andronikos II granted to Monembasia in 1284 restates a provision of a lost earlier chrysobull of Michael VIII, by which all the parental possessions (τὰ προσόντα γονικόθεν αὐτοῖς) of the citizens would not be subject "to taxation or any other burden"[38]. In his restating of the clause, Andronikos adds the expressions "completely unshaken and free", specifying that he refers to their parental properties and *hypostatika*, which they possessed until that day with the same ἐλευθερία[39]. There is no further description of the properties covered, but it seems that they must have included all that the citizens owned when the city was ceded to the empire in 1259. As for the term "free", it is not specified; the emphasis, however, seems to be on fiscal freedom[40].

The chrysobull granted by Andronikos II to Ioannina in 1319 departs from the norms seen above in some interesting ways. First, it should be noted that the administrative and judiciary privileges granted by the chrysobull in general to the city are much more extensive than usual, since the circumstances of the acquisition of the area and the necessities of maintaining control over it required the cooperation of those citizens who were of some importance. The first clause concerning the lands of the citizens states that all their "villages and fields outside

36. Kroai chrysobull, lines 70-74.

37. *Ibid.*, lines 80-84.

38. Monembasia chrysobull, 155: ἀνώτερα κεκτῆσθαι τέλους καὶ βάρους ὁποιουδήτινος.

39. *Ibid.*: διαιρεῖσθαι μὲν τά τε γονικὰ καὶ ὑποστατικὰ αὐτῶν ἀδιάσειστα πάντη καὶ ἐλεύθερα καὶ παντὸς βάρους καὶ τέλους ἀνώτερα, ἅπερ εὑρίσκονται κεκτημένοι μετὰ τῆς τοιαύτης ἐλευθερίας μέχρι τῆς σήμερον.

40. ἐξκουσσεία, ἐλευθερία, ἀνενοχλησία seem to be equivalent in this document.

the city, wherever they may be situated"[41] will not be subject to the exactions of local officials[42] but will be completely tax-exempt, "according to their custom". A little further, those "villages and fields" that they already had, together with those that were ceded to them by the *pinkernes* Syrgiannes as the area was passing under Byzantine rule, are enumerated separately and named one by one. Those possessions are going to be completely tax-exempt, as the *pinkernes* had already promised; no official will interfere with them and they are not going to be included in any future census[43]. It is interesting that among the quasi-synonym adverbs defining the properties' status (ἀνενοχλήτως, ἀδιασείστως, ἀναφαιρέτως, ἀναποσπάστως), the term ἐλεύθερον-ἐλευθέρως is completely absent. But more importantly, although earlier in the same text the citizens were described with the usual term, ἔποικοι, now the group to which the privileges are granted are described as καστρηνοί. It is added that parts of the propreties defined cannot be sold to anyone, "local lord or stratiotes", but only to other "kastrenoi". Is "kastrenos" here a synonym of "epoikos", or does it describe a special class among the inhabitants of the city? The fact that Syrgiannes had made grants of villages to these people inclines one to accept the latter, i.e. that these were a separate group of citizens of importance, perhaps organized in some sort of corporate body. This social reality, different from what we encounter in other imperial cities, was in place when the Byzantines took control of Ioannina; unfortunately we do not know anything about the internal structure of Epirote cities under the late years of the "despotate". It is equally impossible to know exactly the nature of the properties of the "kastrenoi" in the villages and the means of their exploitation. The clause of the chrysobull regulating sales seems to imply that these were not communal properties[44] but consisted of many individual possessions.

Sometime before September 1328, probably during the last phase of the civil war, Andronikos III granted a chrysobull to the inhabitants of the "kastron" of Rhentina, in Chalkidike. In this charter, the "free" lands around the castle were defined. Our information about this chrysobull is indirect, since it happened that the

41. MM V, p. 82: εἰς τὰ ἐκτὸς χωρία καὶ κτήματα αὐτῶν, κἂν ὅπου ἄρα καὶ εἰς οἷον τόπον εὑρίσκονται ταῦτα.

42. On the importance of these exactions, particularly the "mitaton", see K. P. MATSCHKE, Notes on the Economic Establishment and Social Order of the Late Byzantine Kephalai, *BF* 19, 1993, 139-143.

43. MM V, p. 83.

44. By "communal properties" I mean properties belonging to a group as a whole and not the sum of individual properties. In earlier periods, the village commune could have such properties, consisting mostly of pastureland, forests, etc.

inhabitants (ἔποικοι) mischievously asked the emperor to include in it some land that was not free but had been previously ceded to the monastery of Esphigmenou[45]. The wording is perplexing: the emperor granted (εὐηργετήθη, ἐδόθη) to the citizens (ἔποικοι, Ῥεντινιῶται) some "free" land around the castle. Does ἐλευθέρα here denote public land that had not been ceded to anyone or is this a complicated way of saying that the emperor just defined the lands that already belonged to the Rhentiniotes and were free (in the sense described above)? If the first is the case – which seems more likely– then the question arises of whether these lands were ceded communally or to various individuals. It is interesting that although in 1330 the disputed lands had been cultivated by certain Rhentiniotes for two years, the imperial document insists on referring only to the citizens as a commune.

For the sake of comparison, we should perhaps mention a document substantially different from the ones cited above. It is a letter (ὁρκωμοτικὸν γράμμα) by which the quasi-independent ruler of Western Thessaly Michael Gabrielopoulos confirms and extends certain privileges of the inhabitants of Phanarion, in 1342[47]. There is no question of "freedom" here: not only are the properties of the citizens burdened with certain taxes, but the Phanariotai –or at least some of them– are also obliged to provide military service, δουλείαν στρατιωτικήν[47]. It is stated that the citizens will be granted individual "letters" defining their properties, to which will be granted the status of τελεία γονικότης, although it is implied that this will only cover transmission to their children[48]. Unfortunately we cannot tell how the provisions of the charter would compare to those of the (implied) chrysobull(s) of Andronikos III or the charters of the eparch Michael Monomachos. Probably *eleutheria* was not an issue then either, since the obligations of the Phanariots to provide armed service existed already in 1342. Obviously, the status granted to the Phanariots is much less privileged than that of the Thessalonians or the other cases we saw earlier. As for the group to which the charter is adressed, it does not seem to be an organized body, but just the sum of the inhabitants of Phanaron who were important enough to hold properties[49]. That

45. See references in note 2 above. Actually the second of Andronikos' two acts, the prostagma of 1330 is uncertain about the truthfulness of the claims of Esphigmenou: *Esphigménou* 1825, p. 129. See also the decision of the Judges General, *ibid.*, 19, pp. 133-4.

46. Σοφιανός, *op.cit.*, pp. 40-42.

47. *Ibid.*, l. 21

48. *Ibid.*, l. 26: αὐτός τε καὶ οἱ αὐτῶν (sic) παῖδες.

49. The heterogeneity of this group can be seen in the prooemium of the document: μείζονές τε καὶ μικροί, κοσμικοὶ καὶ κληρικοί, χρυσοβουλλάτοι καὶ ἐξκουσσάτοι.

these are called "archons" should not surprise us; it is possible that the social polarization in this predominantly agricultural region was much more marked than in those cities that had an important middle class.

If we sum up all of the above, we can have a picture of how the pattern of the common chrysobulls evolves. The first ones, granted to certain major Balkan cities as they passed under Nicaean control, guaranteed to their inhabitants that they could enjoy their landed possessions, free from any obligations, fiscal or other, towards their new overlord and that they could maintain the right to freely dispose of them in any way they liked. These properties must have been defined in the first recensions made after the conquest. This pattern may have been differentiated for remote acquisitions, such as Kroai or Monembasia. In the case of Monembasia, for example, the state renounced from the beginning any fiscal claims from that area, preferring to secure its strategic interests; there would be no need for the appointment of "apographeis" and the execution of a census in the area. We see that the privileges addressed to those areas are more general in nature, but in principle they are still guaranteeing the freedom of the citizens' possessions in general. The case of Ioannina marks a departure from this pattern, since a special group, the καστρηνοί, are not only guaranteed the freedom of their holdings but are also given new possessions, covered by the same status. We cannot know the details of the grant to Rhentina, but we notice that already "freedom" is used in a different sense, denoting the status of the land *before* it is ceded to the citizens.

As for Phanarion, we see that there the administration is only guaranteeing the temporary rights of the citizens to their holdings and refuses to grant them freedom of possession, although it is possible that it is just continuing a status that existed in the area before it passed under imperial control. In all of the latter cases, the lands in question are enumerated and named. It is to be noted that in none of the above cases do the documents imply the existence of a legally defined "city area" around the fortified urban agglomerations, although in earlier periods byzantine jurisprudence made that distinction.

The most important deduction from the content of the "common chrysobulls" concerns the new sense that the notion of ἐλευθερία acquired in late Byzantium. The fiscal aspect of the term has already been noted[50]. These documents allow us to see that fiscal freedom is an emanation from a broader concept. We know that

50. A. P. KAZHDAN, The Concept of Freedom (eleutheria) and Slavery (douleia) in Byzantium, *La notion de liberté au Moyen Age: Islam, Byzance, Occident*, Paris 1985, 215-226. L. MAVROMMATIS, La notion de liberté à Byzance à l'époque des Paléologues, *ibid.*, 253-260, deals exclusively with liberty in the political sense.

the opposite term, δουλεία, slavery, denotes public service, not only military, but civilian as well. Occasionally it denotes the charge, and sometimes the burden attached to the properties that reward this service[51]. Inversely, ἐλευθερία denotes that a property item is not connected in any way with such service. It is not difficult to understand why late Byzantine charters begin to emphasize and guarantee a status that would normally fall under the legal category of full property (or at least full property with the addition of fiscal immunity). This has certainly to do with the circumstances of the reconquest of the empire's European provinces and it is not by chance that the new terminology chronologically coincides with it. The properties of the inhabitants of the cities would only represent a small portion of the fertile lands of those provinces[52]. Most of these lands were exploited in one way or another by the magnates, lay or ecclesiastical, of the despotate of the Angeloi-Doukai and the Bulgarian kingdom[53]. After the Byzantine reconquest, those among them who cooperated with the new regime were allowed to maintain their properties[54], but a large part of those lands must have been confiscated by the crown and redistributed among its magnates and soldiers, under various conditions (indeed, most of the great landowning aristocrats that lived in the provincial cities in the Palaiologan period settled there after the reconquest). This resulted in a situation where most of the important landed properties in the European part of the Empire derived from the crown, however privileged the terms of concession may have

51. For *douleia* as public service see *Actes d'Iviron* III, ed. J. LEFORT, N. OIKONOMIDES, D. PAPACHRYSSANTHOU, V. KRAVARI, Paris 1994, No. 76$^{46-47, 50}$, p. 240, *Xénophon*, No. 3^{14}, p. 82, *Actes de Docheiariou*, ed. N. OIKONOMIDES, Paris 1984, No. 1^{16}, p. 53, No. 27^{3}, p. 188, but in the same text, ll. 23, 33 *douleia* is the obligation attached to the land. The connection between an obligation of public service and fiscal obligation is made clear by No. 60 of the same volume, p. 311, ll. 60, 78, where the βασμουλικὴ δουλεία (marine service) performed by an individual corresponds to an amount to be deduced from his taxes. See also the comments of the editor, *ibid.*, p. 306.

52. It would still be hard to believe that all or most of the empire's European cities enjoyed privileges of fiscal immunity similar to Thessalonica, Berrhoia, or the other cases examined above, since this would have been extremely detrimental to the fiscal soundness of the state. One cannot argue ex silentio, but it is noticeable that no similar privileges are mentioned in connection with cities like Serrhai, Zichna, Christoupolis, etc., although these areas are amply covered by our documentation.

53. For examples of the changes in property that followed the passing of an area under a different control in the tormented first decades of the thirteenth century, see CHOMATIANOS, 79-80, 216f., 236, 264, 410, 434.

54. Such was the case of the Maliasenoi in Thessaly, as seen in their collection of documents pertaining to the Makrynitissa monastery, in MM IV, 330-430. The monasteries of Mt Athos are other obvious examples.

been. With the exception of the most important aristocrats and monastic institutions, the state refused to completely relinquish control over those properties, and even in cases where the concession was not linked to specific terms of service, the state maintained the prerogative of restricting the rights of transmission. Even properties ceded to the great aristocrats were not definitely alienated, since civil disorders, treasons and falls from grace resulted in confiscations and redistributions. In this fluid environment, the legal notion of full ownership[55] became largely obsolete, since it could scarcely be evoked or proven in cases of dispute. It was replaced by the notion of freedom, which amounted to much the same thing, but with the essential difference that freedom emanated from an imperial document which could be presented to court and carried much more weight than an abstract notion. The chancery of Andronikos II stated the new reality eloquently in its preamble to a chrysobull: "Knowing well the right of the emperor and that it is not possible for anyone in this life, not even for a monastery, to have secure possession of their belongings unless imperial edicts confirm it"[56].

In social terms, the common chrysobulls were a guarantee of security to the middle-to-upper class of the cities[57], those who were important and rich enough to possess lands outside the city but were not yet in a position to enter imperial service and profit from the grants of property that accompanied it. In the case of Thessalonica we have the names of those who plotted to hand the city over and who negotiated with John III about the privileges to be granted[58]. They are described as one step lower than the aristocracy of office, and, in some cases, we can trace their carreer after the reconquest. They are all members of the urban patriciate, and at least one of them may have been a merchant, since he went to Melnik under the pretext of trade[59]. We do not know how well the common

55. It should be made clear that we are talking about large exploitations. In lower levels, like that of the peasantry, the notion of full property never disappeared. Peasants continued to sell, donate, bequeathe or otherwise dispose of the land they owned without any reference to *eleutheria*. Most urban properties would also fall under the same category.

56. MM V, 254: τὸ τῆς βασιλείας καλῶς ἐπιγνωκυῖα δικαίωμα, καὶ ὡς οὐκ ἔστιν ἐν βεβαίῳ τὴν τῶν προσόντων ἀποφέρεσθαι κτῆσιν, οὔτε μὴν καθ' ἕνα τῶν ἐν βίῳ, οὔτε μοναστῶν καταγώγιον, εἰ μὴ τὸ κῦρος ἐπιθείη τούτοις βασιλικὰ διατάγματα.

57. PLJAKOV, *op.cit.*, 86, claims that the privileges "avaient très certainement un caractère de classe prononcé" and that they served the interests of the aristocrats. Apart from a misinterpreted passage of Kantakouzenos, there is no other evidence for that.

58. AKROPOLITES, p. 79.

59. *Ibid.*, p. 80: πραγματείας μὲν προφάσεως χάριν.

chrysobulls worked in securing the citizens' properties against infringement by the state. The fact that they can still be evoked a century later means that they may have been quite successful. Yet, they offered no guarantee against outsiders, such as imperial officials or monasteries who sought to buy off these lands. Sarantenos and Soultanos in Berrhoia, or the monasteries of Hilandar and Xenophon in Thessalonica, must not have been isolated cases. It is indicative that the "kastrenoi" of Ioannina, a unique case where an organized bourgeoisie appears in our documentation, expect such encroachments upon their "free" property and seek to prevent them by having a special clause inserted in their chrysobull, specifically naming the "local lords and stratiotai". Epiros, however, with its many years of independent development and its influences from the West cannot be considered as representative of evolutions in the rest of the Empire.

The nature of our documentation does not allow us to trace the extent of the erosion of the citizens' properties. It is however more than likely that in the cases of the major cities, the fatal blow was dealt by the upheaval of the civil wars and foreign conquest, when many cities like Thessalonica remained for years isolated from their countryside. It is perhaps for that reason that we do not encounter any references to the common chrysobulls after the middle of the fourteenth century, the time when the decline of the Palaiologan empire began in earnest and proved irreversible.

ΔΗΜΗΤΡΙΟΣ ΚΥΡΙΤΣΗΣ, Τα "κοινά χρυσόβουλλα" των πόλεων και η έννοια της ιδιοκτησίας στο ύστερο Βυζάντιο

Το άρθρο αυτό εξετάζει τις διατάξεις ορισμένων χρυσοβούλλων, που είχαν παραχωρήσει οι αυτοκράτορες της ύστερης Βυζαντινής εποχής στους κατοίκους ορισμένων πόλεων. Οι διατάξεις αυτές, ιδιαίτερα όσες σχετίζονται με την ιδιοκτησία αγροτικών εκτάσεων, σώζονται στα χρυσόβουλλα για τη Μονεμβασία, τις Κρόες και τα Ιωάννινα και μπορούν εν μέρει να ανασυσταθούν με βάση όσα αναφέρονται σε αρχειακά έγγραφα για τα χρυσόβουλλα της Θεσσαλονίκης, της Βέρροιας και της Ρεντίνας.

Γνωρίζουμε ή μπορούμε βάσιμα να συμπεράνουμε ότι "κοινά" χρυσόβουλλα απολύθηκαν για πρώτη φορά για χάρη πόλεων που περιήλθαν εκ νέου στη βυζαντινή κυριαρχία μετά το 1240. Κατά καιρούς μεταγενέστεροι αυτοκράτορες επικύρωναν το περιεχόμενό τους με νέα χρυσόβουλλα.

Τα "κοινά χρυσόβουλλα" παρείχαν διαφόρων ειδών προνόμια. Οι διατάξεις, όμως, που εξετάζονται εδώ, σχετίζονται ειδικότερα με την έννοια της ιδιοκτησίας. Στις σημαντικότερες περιπτώσεις, οι αυτοκράτορες εγγυώνται ότι η ακίνητη περιουσία την οποία κατείχαν οι "έποικοι" των πόλεων εκτός των τειχών ήταν "ελεύθερη", δηλαδή ότι δεν βαρυνόταν με καμμία υποχρέωση έναντι του κράτους, είτε αυτή συνίστατο στην πληρωμή φόρου είτε στην παροχή υπηρεσιών, στρατιωτικών ή άλλων. Από το καθεστώς "ελευθερίας" απέρρεε και η απεριόριστη δυνατότητα μεταβίβασης της ιδιοκτησίας, έννοια που περιγράφεται με τον όρο "κατά λόγον γονικότητος", μολονότι ο όρος αυτός δεν έχει πάντοτε την ίδια σημασία σε όλα τα έγγραφα.

Παρατηρούμε ότι δεν πρόκειται για την απλή –και γνωστή από το παρελθόν– παραχώρηση απαλλαγών ούτε για την απλή αναγνώριση της ιδιοκτησίας των πολιτών, αλλά για την αναγνώριση από το κράτος ότι τα συγκεκριμένα περιουσιακά στοιχεία δεν έχουν παραχωρηθεί από το ίδιο έναντι υποχρεώσεων. Η έννοια της ιδιοκτησίας αποκλίνει από το παραδοσιακό "αντικειμενικό" νομικό πλαίσιο και εντάσσεται στο πλαίσιο μιας αμφίδρομης συμβατικής σχέσης με το κράτος, όπου η "ελευθερία" και το αντίθετό της, η "δουλεία", βαραίνουν περισσότερο. Η θεμελιώδους σημασίας δυνατότητα μεταβίβασης της περιουσίας καθορίζεται με βάση αυτές τις δύο έννοιες. Εικάζεται ότι αυτή η μεταβολή απηχεί την ασταθή κατάσταση που δημιουργήθηκε στις ευρωπαϊκές επαρχίες κατά τη διάρκεια της βαθμιαίας ανάκτησής τους από την αυτοκρατορία, όταν στο μεγαλύτερο μέρος τους οι εύφορες, καλλιεργήσιμες εκτάσεις περιήλθαν στην κυριότητα του κράτους, το οποίο τις εκχώρησε στη συνέχεια, υπό διαφόρους όρους, στην αριστοκρατία, τους λειτουργούς και το στρατό.

Τα "κοινά χρυσόβουλλα" αποσκοπούσαν στη διασφάλιση των περιουσιών των κατοίκων ορισμένων πόλεων από ενδεχόμενες απαιτήσεις του κράτους. Δεν εμπόδισαν όμως τη διείσδυση της αυτοκρατορικής αριστοκρατίας ή των μεγάλων μοναστηριών, που μέσω αγοράς ή δωρεών, άρχισαν να αποκτούν τα κτήματα αυτά. Στην ιδιαίτερη περίπτωση του κοινού χρυσοβούλλου των Ιωαννίνων οι οργανωμένοι "καστρηνοί" της πόλεως επιβάλλουν περιορισμούς με σκοπό να προστατεύσουν την περιουσία τους από έξωθεν διάβρωση. Οι αναφορές στα "κοινά χρυσόβουλλα" σταματούν στα μέσα του 14ου αι., όταν οι εν λόγω πόλεις είτε χάνουν την αγροτική ενδοχώρα τους είτε χάνοται οι ίδιες οριστικά για την αυτοκρατορία.