

Forgeries and Translations of Ottoman Christian *Vakf* Documents

Osmanlı Hıristiyan Vakıf Belgerinde Tercüme ve Sahtecilik

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Abstract

The Ottoman zimmi donations for the benefit of their religious institutions are a thorny issue in Islamic/ottoman jurisprudence. Ottoman muftis following the founders of the Hanafi madhab employed istihsan to address the problem of validity of zimmi vakfs and their inalienability. Molla Khusrev allowed Christian foundations to operate and favored the lenient opinion of Abu Hanifa vis-à-vis Christian vakfs. He however did not manage to solve the problem of inalienability until Ebussuud Efendi categorized church vakfs as family vakfs (vakf khurri). The forgeries of the confiscation firman of Selim II found in Athonite monasteries are written in Ottoman and Greek and date from the 17th and 18th centuries. Despite the accommodation ottoman law provided to monastic institutions, the exploitation of their properties and the need to remain unchallenged actors in their local communities lie behind the forgeries' creation. The degree of success when presented in the ottoman judicial system though varies according to the case.

Keywords: Church vakfs, Molla Khusrev, Ebussuud, firman, forgeries.

Öz

Osmanlı zimmîlerinin kendi dini kurumları için yaptıkları bağışlar, Osmanlı-İslam hukukunun çetrefil bir konusudur. Hanefî mezhebinin kurucularını takip eden Osmanlı uleması zimmî vakıfların geçerliliği ve dokunulmazlığı sorununu çözmek için istihsan kavramını kullandılar. Molla Hüseyin, Hıristiyan vakıfların varlıklarını sürdürmesine müsamaha gösterirken Ebu Hanife'nin aynı konu hakkındaki görüşünü benimsedi. Ancak, kilise vakıflarının devredilemezliği konusu, meseleyi aile vakfî (Zürri vakıf) sınıfına sokan Ebussuud'a kadar çözülemedi. II. Selim'e ait müsadereler fermanın 17 ve 18. yüzyılda yazılmış Osmanlıca ve Yunanca sahteleri, Aynaroz Manastırı'nda bulunmaktadır. Osmanlı hukukunun Hıristiyan kurumlarına sağladığı düzenlemeye rağmen, bu türden sahte belge üretiminin gerisinde, manastırların kendi mülklerini sorunsuz işletme ve yörelerindeki halkın gözünde tartışılmaz aktörler olarak var olma isteği yer almaktaydı. Sahtecilik olayı Osmanlı yargı sistemine taşındığında ise başarı derecesi duruma göre değişmektedir.

Anahtar sözcükler: Kilise vakıfları, Molla Hüseyin, Ebussuud, ferman, sahte belge.

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Introduction

The Ottoman Empire in its imperial chancery has been the focus of research for more than a century now. The impressive and highly sophisticated bureaucratic system the ottomans developed surpassed by all measures any former Islamic polity. Many scholars discussed the influence former empires had on the development of ottoman bureaucracy. The Persian and Byzantine Empires provided ready models for the ottomans to develop a unique system of recording. Central chancery collected and stored, imperial decrees, general and specific *kanunnames*, land registers and tax assessments, budgets and personal communication between the center and periphery. The grievances of every ottoman subject, Muslim and non-Muslim alike was carefully copied and referred to. Locally the kadi's *sicil* became another form of recording imperial administrative orders alongside court decisions and notary registration.

This impressive bulk of material has been the subject of historians who concentrate on center-periphery relations. The Ottomans produced millions of *defters* of all kinds, however the decision to preserve the material produced in the past is equally of immense importance. This is what differentiates the ottomans from the other Muslim states. Although *fiqh* and its judicial procedure placed importance on the orality of witnesses to establish truth, the ottomans from very early on would supplement the oral disposition with documents. Copies of *defters* (*surets*) would be sought after to be presented in the kadi courts or to generate the issuance of a *firman*. Clerks asked to verify documentation presented by petitioners to the *Divan*, would resort to the extensive archives of the chancery and would add as *derkenar* whether the claims made were correct. After the *Tanzimat* reforms, ottoman bureaucracy will become even more sophisticated, quoting in the *telhis* original documents sometimes as old as the 16th century.

However, one of the questions historians have not addressed so far is the method they used to authenticate presented documents. Unfortunately attempts to tamper into the system, if revealed are not mentioned in the strictly formalized entries of imperial chancery. Historians who have worked on peripheral archives have come across more than once forgeries, yet they have not discussed the purpose of creating a forgery and the methods of having it accepted. These questions are the focus of this paper in an effort to understand which types of documents would function as the Trojan horse of ottoman imperial chancery.

Mount Athos monasteries and the Ottoman conquest

The Athonite monasteries in their many centuries of uninterrupted existence from the 10th century onwards are in possession of extensive archival material in many languages. Fires and corsair attacks have taken their toll on the archival material that is estimated to come up to almost a million lost documents, apart from the collection of books (Chrysochoidis, 2011, p. 59). As the monasteries already from the beginning of their existence were important agricultural units, the monastic archives apart from patristic and hagiological works contain byzantine imperial decrees, patriarchal *sigillions* (orders) and registers of production and its taxation during the Byzantine Period. After the ottoman conquest, monasteries in Mount Athos continued to be a cultural and economic center for the greater region of Macedonia and beyond.

Extensive collections of ottoman documents, firmans, hüccets, icmal and vakıf defters, vesikas, temessüks attest to the vivid economic life of monastic properties. Apart from documents in Ottoman, correspondence in Greek with the Patriarch, local bishops and important Greeks working in the ottoman chancery as the dragomans or Phanariot rulers of Wallachia and Moldavia are also found in the archives. Serbian, Russian and Romanian monasteries on Athos are in possession of documents in various Slavonic languages (Fotić, 2000, pp. 7-19). Finally, the monasteries became the sanctuary of important lay individuals who after their death left behind their own documents (Kotzageorgis, 2004, pp.307-323). The title deeds and endowments of Mara Branković the wife of Murad II is the most celebrated example. Over the course of five centuries of ottoman presence in Macedonia, even less humble individuals donated their property to the monasteries out of piety, contributing thus, along with the purchases of monasteries to the extensive rural and urban possessions the Athonite monasteries possessed not only in Macedonia but also in Wallachia, Moldavia and Russia.

There was a generally accepted view that the contact between the Athonite monasteries and the Ottomans started off in the time of Orhan Gazi (Smyrnakis, 1903, p.109). However, Oikonomides proved that the Ottomans established direct control over the Holy Mountain during the reign of Murat I in 1383 (Oikonomides, 1976, p. 2). The Athonite monasteries and their properties endured the first conquest of Thessaloniki in 1389 and of Chalkidiki in 1387. Despite references in anonymous short chronicles in Greek, that Bayezid I confiscated all monastic properties and distributed them as *timars* (Kolovos, 2000, 1a, p. 134), no record of this first *tahrir* has survived. The Ottoman dominium would come to an end after the battle of Ankara, in 1403, when part of Macedonia together with Mount Athos returned to the hands of the Byzantines (Zachariadou, 1983, p. 270)¹. The short-lived byzantine presence was replaced by the ottoman rule. The Ottomans returned and established their authority upon the monasteries in 1423/4 (Oikonomides, 1976, pp. 3-4). The oldest existing ottoman document in the monastic archives found in Lavra Monastery and dated 808/1405 attest to the degree of professionalism monasteries had vis-à-vis state officials (Demetriades, 1997, p. 43). With regard to monastic properties and their fate, although Anagnostes who recorded the conquest of Thessaloniki in 1430, stated that Murad II confiscated all the monastic possessions and their income (Zachariadou 1969:1-12), it seems that the monks found a way to retain control of most of their assets. Recent research suggested that a certain degree of negotiation between the monks of Mount Athos and Murat II took place only a few days after the conquest of Thessaloniki. On the 5 of April 1430, Murat II issued a decree allowing the monks of Vatopedi monastery to collect half the revenue from the villages of Kosinitsa and to have the usufruct of their *vakfs* and freehold properties (Kolovos, 2013, p. 275).

Islamic/Ottoman Jurisprudential opinion on church vakfs

The status of monastic *vakfs* in ottoman jurisprudential law is very ambiguous. After the conquest of Constantinople the celebrated *ulema* Molla Khusrev attempted to clarify whether *zimmi* vakfs are lawful according to the prescripts of ottoman law. In his book, *Durer ve Gurer* Molla Khusrev discusses non-Muslim testaments and endowments. He follows the recommendations of Abu Hanifa and his disciples Abu Yusuf and Mohammed Shaibani to categorize non-Muslim testaments into four categories based on whether their purpose was a product of sin (*ma`siyet*) or pleasing to God (*kurbet*)

¹ Zachariadou discusses the treaty between Süleyman and the Byzantines in 1403.

(Kermeli, 2013, pp. 440-442). When it comes to whether a non-Muslim could donate his house to be made a synagogue, church or temple, he argues that from the point of purpose, this donation is a *kurbet* for the non-Muslims and a *ma'siyet* for the Muslims. The question then is whether the Hanafi jurisprudence accepted such donation as valid. To answer this question Molla Khusrev employs first the opinion of the two Imams (Abu Yusuf and Shaibani) who argued that such a donation is invalid since its product constitutes a sin for the Muslims. Molla Khusrev though seems to favor the opinion of the founder of the school, Abu Hanifa who accepted the validity of the donation. The argumentation Abu Hanifa employed was that Muslims have been ordered to respect the religion of the people of the Book. Since such a donation is in accordance with their religion, therefore it can be valid (Kermeli, 2013, p. 441).²

Accepting Christian donations as valid would undoubtedly become instrumental in the future survival of Christian religious institutions. Keeping in mind the prerogatives of Mehmet II vis-à-vis the reconstruction of the new capital and the repopulation of newly conquered lands as discussed by Inalcik, we understand the jurist's efforts to accommodate a social need to legal practice (Inalcik, 2012, pp. 9-11).

However, Molla Khusrev pointed out another problem with regard to *zimmi* endowment, that of its inalienability. He added that although the donation is valid, according to Abu Hanifa, even valid *vakfs* are subject to Islamic inheritance law (Kermeli, 2013, p. 442). Therefore, the death of the donor automatically transfers the *vakf* property into a heritable commodity. Although, in Molla Khusrev's legal reasoning monastic and church *vakfs* could be inherited by the heirs of their donors, he for the first time recognizes Christian religious endowments as equal to Muslim *vakfs*. He then proceeds with the opinion of the two Imams who, as Molla Khusrev argues, on the one hand they consider church *vakfs* as invalid, on the other hand, though; they support the inalienability of *vakfs* in general (Kermeli, 2013, p. 442).

Molla Khusrev's legal reasoning with regard to *zimmi* religious endowments might not have definitely solved the problem of their inalienability, albeit, it has prepared the ground for acceptance of these institutions as been equivalent to Muslim *vakfs*. It would be another celebrated scholar, Ebussuud Efendi, who would finally tie up the loose ends of Molla Khusrev's jurisprudential opinions.

Ebussuud Efendi the *şeyhülislam* serving two Sultans, Süleyman the Lawgiver and Selim II attained all important postings an Ottoman *ulema* could have. He served as *müderris*, *kadı*, *kadıasker*, *ordu kadısı* before becoming the most valuable interpreter of law (Imber, 1997, pp. 16-20). The question of the monastic *vakfs*' position in Ottoman law came up as Ebussuud tried to rationalize and implement his suggestions on the legal status of state land (*miri*). Since the promulgation of the *Buda kanunnamesi*, Ebussuud endeavored to categorize all land as *miri* and prevent the cultivators from treating it as freehold property (Imber, 1997, pp. 115-120). The confiscation of monastic properties in 1568-1569 (Fotić, 1994, pp. 33-54; Kermeli, 1997, pp. 141-156; Alexander, 1997, pp. 162-168) provided the opportunity not only to rationalize the use of state land but also to settle the legal framework with regard to *zimmi vakfs*.

2 The way Molla Khusrev organizes his thoughts is indicative of how legal change was obtained at the age of *taqlid*. The *ulema* do not employ independent *ijtihad*. He organizes though his train of thought in such a manner that the opinion he favors becomes apparent. This is the reason why on this specific matter, the two Imams' opinion is preceding that of the founder of the Hanafi school.

According to Ebussuud monastic *vakfs* were confiscated on the basis of two principles. 1/ State land was made into church *vakfs*. This is illegal as the donated property is not the freehold (*mülk*) of the donors. 2/ Freehold properties of monasteries, i.e. buildings, gardens, orchards, animals were donated in the name of monasteries, in defiance of hanafi law explicitly stating that such donation could be valid only if the recipient group is specified (Kermeli, 1997, pp. 150-151). Ebussuud's *fetva* initiating the confiscation was included in the imperial order dated 22 Rebiülahir 976/14 October 1568 (Fotić 1994, p. 37) and became the law of the land. Ebussuud based his reasoning on his redefinition of all land as state land and on Molla Khusrev's treatment of *zimmi* donation. The same *fetva* is repeated in a second *firman* representing the negotiation between the monasteries of Mount Athos and the central ottoman administration (Kermeli, 2008, p. 194). One of the thorny issues in the affair of confiscation and re-possession was the inheritability of donated property. As we discussed before Molla Khusrev did not provide a definite answer, since accepting church endowments, as *vakfs* based on Abu Hanifa's opinion would also mean that they were subject to inheritance. On the other hand the Two Imams' support on the inalienability of *vakfs* could have come handy, if they had not considered church *vakfs* as invalid. Ebussuud solved the problem by categorizing church *vakfs* as family *vakfs* (*vakf khurri*) instead of *vakf khayri* like Muslim religious endowments (Kermeli, 1997, p. 151). Thus, a/ the problem of church *vakfs* being a product of sin (*ma`siyet*) for the Muslims was circumvented and b/ since a monastery was considered as a family, deceased monks' properties could remain within the monastic community and claims of physical heirs were denied (Kermeli, 1997, p. 151).

Ebussuud's definition legitimized the existence and normalized the function of church *vakfs* within Islamic/ottoman jurisprudence. To avoid irregularities in the future, he set up the procedure of donation. Monasteries would buy back their freehold properties from the Fisc and then dedicate them to the poor monks and the indigent. The registration should be done in the *kadi* court, the properties would be handed over to their *mütevelli* (*vakf* administrator) and the *vakfiyyes* (endowment deeds) would follow the rules of hanafi law (Kermeli, 1997, pp. 151-153). This procedure has generated a number of endowment deeds and cadastral registration as monasteries after the process was completed, registered their freehold and the *miri* land they possessed by *tapu* (deed of usufruct).

The firman of 13 Şaban 976 (31 January 1569) and its forgeries and translations

The legal solution of Ebussuud, a result of negotiation between the monks and the Porte was steadfastly inscribed in the *firman* of 13 Şaban 976. It is thus, only understandable that such an important document like the *firman* of 13 Şaban 976 and its copies would be found in all monasteries of Mount Athos (Kermeli, 1997, p. 149). This is a very important order as the demand of the monks to possess deceased or departed monks' assets *ab diviso* and *in common* is addressed and the *fetva* of Ebussuud recognizing the remaining monks of a monastery as heirs is included verbatim. There are two Greek translations of the text³. Lemerle and Wittek published in 1947 the first Greek translation (Lemerle-Wittek, 1947, pp. 442-472). From the language it seems that the translation was done sometime in the 17th century. Lemerle-Wittek considered the earliest date would be the first third of the 17th century (Lemerle-Wittek, 1947, p. 443). However Alexander argued that the Lemerle-Wittek translation resembles an uncertified ottoman *firman* from the Xeropotamou monastery in Athos of about the middle of the 18th century (Alexander, 1997, p. 163). According to the author both the Xeropotamou

3 The second Greek translation is a 19th century faithful translation of the original text (Papazoglou, 1987, pp. 61-67).

ottoman text and the Lemerle-Witteck translation originate from the same source (Alexander, 1997, p. 163). Whereas one would have expected the three documents to be identical, an analysis of the two documents reveals that they are related but –not identical- forgeries of the original ottoman *firman* of 13 Şaban 976. The discrepancy between the original *firman* and the forgeries is a reflection of the needs and priorities of the monastic communities of Mount Athos.

The first indication that both forgeries were done from the 17th century onwards is the use of the term *metoh* in the Lemerle-Witteck forgery and *metokkyalar*⁴ in the Xeropotamou one, to denote the agricultural area in the possession of the monasteries. These are terms dating from the 17th and 18th centuries and came to replace earlier terms used in sixteenth-century documents like *mezraa* and *çiftlik* (Kotzageorgis, 2002, 76). Furthermore, the term in the original *firman* ‘*ehl-i Islam ve gayrı*’ forbidding interference from outsiders, translates in the forgeries as ‘*ne müsliman ne re`aya*’ (see appendix, the comparison of the texts). Simply the equation of the term *re`aya* to only Christian peasants instead of its sixteenth century usage denoting all peasants, is a late 18th century development found in abundance in Christian sources.

Apart from the neologisms, the forgeries and translations present structural differences to the original. One of the major omissions is the verbatim quotation of Ebussuud’s *fetva* discussing the legal reasoning of the order of confiscation. The importance of this omission is apparent as the two forgeries refrain from stressing two issues; a/ that the endowments are valid *vakfs* only if they are made for the benefit of poor monks and travelers and b/ that no *miri* land could continue to be held as freehold property after Ebussuud’s rulings. It is precisely these ‘false practices’ -in Ebussuud’s words- that generated the prohibition and surprisingly it is these principles that are circumvented. In both forgeries church *vakfs* are presented as made for the benefit of the monasteries that are recognized as legal entities in clear defiance of Islamic/ottoman law. The Xeropotamou text states “*..gerek kışlaklar gerek gayr şey her ne ise cümlesi manastırların ola*” and the Lemerle-Witteck one “*..fields, mezra, summer and winter pastures, all [of them] will belong to the monasteries*” (see appendix, the comparison of the texts).

Auspicious as these omissions might look, it is actually the additions to the text that shed some light on the purposes of forgeries in Ottoman or Greek. The forgeries are at pains to establish the monasteries and not the monks as the sole owners of monastic property for two reasons: a/ in order to deter the physical heirs of the monks from interfering in monastic property and b/ so that the cultivators of monastic lands hand over the whole produce to the prior of the monasteries (*gumenos*, *hegumenos* in Greek).

In the Xeropotamou forgery it reads:

vech-i meşruh üzre kendi tasarruflarında da`imen olub düşen mahsulatdan ruhbanlar ve müsafırlar ve hizmetkarlar besleneler ve hizmetkarlar mahsul cem`edüb baş ruhbanlarına teslim ve gumenoslarına götürdükdde kimesneden müdahale olunmıya

In the Lemerle-Witteck forgery:

They [the monasteries] should have them again, for their benefit and for their monks, for the travelers and for the servants who care for them. The stewards should collect the income and hand it over to the hands of the priors with a ledger.

4 Actually the term *metoh* denotes dependencies of monasteries outside Mount Athos. They could be full agricultural units like a *çiftlik* centered normally around a small church and barns, threshing grounds and lodgings for the cultivators.

The addition in the forgeries of the mode of production on monastic lands, illustrates the agony the priors had about possible embezzlement or simply a refusal of the cultivators to acknowledge the informal –in the eyes of ottoman law- (mostly verbal) cultivation contracts. Monasteries were the most important landowners during the last centuries of the byzantine rule and the ottoman period. The dependent peasants (*paroikoi*) of the byzantine period, -that cultivated the extensive landed properties of monasteries and handed over a part of the produce to the monastery- were replaced by sharecroppers in the ottoman era. The produce of monastic *çiftlik*s was vital for the survival of the numerous Athonite monasteries, left with few resources on the barren land of the Athos peninsula. The transportation of agricultural produce was done by sea and most monasteries were in possession of ships. They had acquired tax exemptions from byzantine, serbian and ottoman rulers to transfer their produce back to Mount Athos and trade it to important cities like Constantinople (Kermeli, 2002, pp. 216-217). Apart from the lands, the monasteries were the deposit of cash and precious stones of the local aristocracy. The upheaval of the last centuries before the ottoman conquest had made monasteries a safe heaven for affluent byzantine aristocracy who moved to live within the premises and protect their cash and other movable properties. Smyrlis mentions monasteries acting as banks where precious stones and gold were safely kept (Smyrlis, 2011, p. 56).

The economic prowess inherited by the byzantine period endorsed the negotiation of the monastic communities with the ottoman authorities soon after the ottoman conquest. Considering that monasteries remained the only producers who could continue to pay regularly taxes in newly conquered areas, it comes as no surprise that the Ottomans accommodated the function of these institutions. Like in the byzantine era, the monasteries of Mount Athos relied heavily upon their dependencies (*metoh*) outside Mount Athos in Chalkidiki for the supply of the monasteries in foodstuff and the trade of the surplus for cash. From the 16th century onwards the slow demographic recovery eased the pursuit of manpower. Yet still the monks alone could not cultivate the vast landed properties of the Athos monasteries. Thus, they were rented to the locals who would receive usually 1/3 or 1/2 of the produce and hand over the rest to the monastery after the taxes due to the ottoman state was deducted (Kotzageorgis, 2002, p. 191). Monasteries sought to pay the tax instead of the cultivators, as thus –according to the ottoman *kanun*- they retained their proprietary rights over the land. The agreement was beneficial to both sides. The monasteries had their lands cultivated instead of lying fallow and the cultivators acquired additional land -normally neighboring their own- paying fewer taxes due to the privileged taxation status of monasteries. As monasteries paid their taxes as a lump sum (*maktu*), monastic lands expanded through purchase or donation, decreasing thus the income of the Treasury. Ebussuud's intervention as stated in the *firman* of the confiscation was a result of these Treasury losses. Whatever though he envisaged by putting clear rules vis-à-vis monastic donations was defeated by simple economics.

In the course of time, monasteries managed not only to expand their properties but also to devise new methods of exploitation. In the 18th century individual monks would take up the responsibility to maintain the buildings of *metohs*, to cultivate the lands and pay the taxation. The steward monk paid an agreed yearly sum to the monastery and he was allowed to retain for himself any surplus (Kotzageorgis, 2002, p. 192). The advantage for the monastery was that it would retain the possession of land -otherwise left uncultivated⁵- and the monk would benefit from the reduced tax assigned to

5 The Treasury had the right to reclaim *tapu* land whose cultivators left fallow for a number of years and/or failed to pay its taxation. See provisions on this matter in the 13 Şaban 976 *firman* (Kermeli, 1996, p. 152).

monasteries. This arrangement resembles in fact the *mukata`a* practices of an *iltizam* contract rather than the *musakat* and *muzara`a* contracts in the sense that the cultivator assumes more responsibilities vis-à-vis the owner of the land.

Keeping in mind the 18th century land exploitation practices of the monasteries, it seems obvious that the forgeries in Ottoman and Greek served as a deterrent to subcontractors and peasants. Thus, the Lemerle-Wittek forgery mentions that the stewards of the dependencies will have to give account in ledgers of their financial affairs. This must have been the reason that a forged Greek translation of an ottoman *firman* was kept in the archives of Koutloumousiou monastery.

Although the forgery in Greek is nevertheless explained in terms of land exploitation, a forgery in Ottoman is mystifying as it presupposes that the forgery is made with an aim to be used within the ottoman legal system. The ottoman forgery of Xeropotamou monastery edited by Alexander bears a seal “*ma`hu`abd-i hakiki`Abdi*”, suggesting its potential use in court. The monastery of Xeropotamou, according to Kolovos, had a specialized forgery department by the end of the 18th century (Kolovos, 2000, 3b, pp. 25-28, 88-92). Kolovos identified at least five forgeries related to legal disputes the monastery had with other monasteries. Four of the forgeries were in Ottoman Turkish⁶ and one was a forgery of a byzantine imperial order (*chrysoboulon*).

One of the first forgeries is a *firman* of Selim I, dated Masar (?) 922/ 5 February-3 May 1516 (Kolovos, 2000, 3b, p. 20). The forgery narrates a dream of Selim I while in campaign in Egypt. According to the dream in the forgery, forty young men came to the sultan's sleep to reveal to him that he owes his victory to their help. They added that some monks who worship the forty Christian Saints would come to ask him for a favor. The metaphysical text continues with Selim asking the *seyhülislam* to interpret the dream. It results, as expected, with the Sultan granting the monastery of Xeropotamou a *mu`afiyet* from taxation, setting the boundaries of all monastic possessions and surprisingly by accepting the donation of the kapuçıbaşı İbrahim Ağa of twenty shops. Having a Muslim donating immovable property for the benefit of a monastery is simply preposterous. Yet clues related to the ways the forgery could be presented in court are in the last paragraph, where it is stated that the original should not be taken to the court as this splendid scripture might be taken away from them. Instead only a copy should be exhibited (Kolovos, 2000, 3b, p. 20).

Absurd as it might look, the forgery had three copies. One was certified by the *kadi* of Thessaloniki a certain Ebulhayr Mehmed. The second copy of the forgery bears many mistakes, repeats the certification of Ebulhayr and bears a second one by an Ali Efendizade Ahmet Raşid *molla* of the Mahmud Pasha court (Darülhilafe)⁷. The third copy of the forgery bears the stamp of the *Meclis-i Hukuk-i Liva-i Selanik* and is dated 10 May 1294/1877 (Kolovos, 2000, 3b, p. 21). It seems thus that at least in the 19th century the monks managed to present these forgeries as ancient documents and perhaps use them in court.

6 The other three copies are a fake *vakifname* and two *hududnames* certified in the 19th century.

7 Obviously, if the certification is not a forgery too, it must have been done in the late 19th century. If the term *Darülhilafe* is to be trusted then it could also be after 1914 when all the *medreses* in Istanbul were united.

Conclusion

Forgeries of any official document were severely punished according to the ottoman laws (Heyd, 1973, p. 121). Ebussuud and other *muftis* produced numerous *fetvas* prescribing even the death penalty as part of *tazir* punishment. The forgery thus, of *vakf* documents entailed high risks but also in case of success a certain advantage over the legal adversary. Notwithstanding their practical usage, forgeries of an official order both in Greek and Ottoman reveal the never-ending ingenuity of the counterfeiters.

The importance of land and its exploitation for the Ottoman monasteries of Mount Athos justified the production of fake ottoman documents of church *vakfs* in Ottoman and in Greek. Greek translations were intended for inter-communal use to defend the interest of monasteries towards lay or clerical cultivators, whereas forgeries in Ottoman were produced for court usage. Counterfeit ateliers set up in monasteries manufactured an array of documents including fake byzantine imperial orders. The obvious questions to ask are twofold. How could a fake deceive trained court clerks and ottoman officials? How could the monks acquire the complicated legal knowledge to have a fake document accepted by the ottoman courts? If we are to rule out the obvious answer, i.e. bribery, the questions open up a new venue for research. More work will have to be done on ottoman methods of certifying documents and on the social networks assisting litigants in dispute solving. From the examples we used so far it seems that producing forgeries of documents supposedly old was a sure method of success. Nineteenth century ottoman clerks seemed to be unable to check the authenticity of these documents. In a legal system accommodating and gratifying any reference to old practices (*kadimden*), the chances to pass a fake -claiming longevity- as original are high. The chronological distance between the producer of the document and its certifier must have created qualms. Thus, forgeries come complete with fake certifications, challenging any clerk two centuries later. However, the problem of certification is not just an Early Modern drawback. Even twentieth century Muslim rulers and jurists warn against the ingenuity of forgers. In Imam Yahya Hamid ad-Din's words, a Yemeni ruler (1919-1948) (Messick, 1989, p. 34):

If we were to give up the utilization of such documents it would entail the loss of rights and properties whose (sole) records these old documents are, their writers unknown and unknowable. This ascertainment is entrusted to the jurisdiction of the judge. He is required to undertake a thorough examination to gain knowledge of the locally prominent writings and documents. With detailed inspection and enlightened thought he must distinguish among the writings, and know the valid ones from the false ones. For the practitioners of forgery are skilled in imitation and cleverness, in rendering for presentation documents and their copies in the guise of scripts of individuals who can be trusted. What is required is the examination of the script and (the finding) that it pertains to one of those individuals who can be relied on and trusted. This is what accords with the spirit of the shari'a, and what is called for to maintain order and protect civilization. This "choice" finds its greatest legal support in the thrust of the Sunna of Muhammad.

The same concerns must have been a priority for ottoman clerks. Loss of rights and properties deterred them from declaring 'old' documents as fakes. Similarly to the 20th century judge, they would have to check the script and authenticity. Yet again, it must have difficult to suspect monks known for their righteousness. Nevertheless, one cannot but admire the monks' high degree of specialization in

document forging and their legal knowledge with regard to its usage and it makes us wonder about the degree of assistance they might have enjoyed.

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Appendix

Comparison of the original 13 Şaban 976 (31 January 1569) *firman* to its Ottoman and Greek forgery

Eugenia Kermeli (Kermeli, 1997, pp. 155-157) 13 Şaban 976 Dionysiou monastery In Ottoman (original)	John Alexander (Alexander, 1997, pp. 1997-200) Xeropotamou monastery In Ottoman (forgery)	Lemerle-Wittek (Lemerle-Wittek, 1947, pp. 459-465) Koutloumousi monastery A Greek translation (forgery)
Oratio directiva	Oratio oblique	Oratio oblique
... Haliya Ayanoroz ceziresinde olan kenasin taht-i kazanızda olan ruhbanları dergah-ı muallama ruka sunup “zıkr olunan kadılıklarda olan çiftliklerimiz ve bağ ve bağçe ve tarlarımız ve değirmenler ve dükkanlar ve evler ve meyhane ve tavarlarımız ve Longoz ovasında olan kışlarımız ve keçilerimiz ve bi'l-cümle kadimü'l-eyyamdan cüzi ve külli şimdiye değin zabt edegeldüğümüz manastırlarımızın ve emlak ve tavarları miri canibinden satılıp	Ayanoroz sakın olan ruhban ta'ifesi südde-i sa'adetime arz-i hal sunub zıkr olunan kazalarda vaki'olan metokkyalar ve bağlar ve bağçeler ve tarlalar ve değirmenler ve dükkanlar ve evler ve Lonko nam mevzi`de vaki'olan manastırlarının ve anda sakın olan ruhbanlarının tasarrufunda olub miri tarafından bunların rizalarıyle	When my imperial order arrives you should know that the monks of Ayanoroz came here and gave a letter to my Porte for the mulks they have in the aforementioned kadiliks. That is for the metohs vineyards, orchards, fields, shops, mills, wineries, houses, for everything they have and used to have until now, and for their winter pastures in Longo, anything they had in their possession (zabt) until now, mulks and animals, as we said before, now they are sold by my Porte and with their will they borrowed money and bought them back
şol şartiyle satın aldık ki zıkr olunan emlak ve tarla ve bağlarımız ve değirmenler ve bostanlar ve çiftlikler ve tavarlar ber karar-ı sabık olub manastırlarımızda olan ruhbanlardan birisi mülkiyet üzre nesne tasarruf eylemeyüb külli ve cüz'î nesneye dahl ü taarruz eylemeyüb	Mezbur ruhbanlar mezkur mülkeleri kema fi'l-evvel manastırlarının ve kendilerinin tasarruflarında olmak şartiyle meblağ-i mezburi karz alub iştira ve tamamen eda etdikden sonar hilaf-i şer` ruhban ta'ifesinden bir kimesnenin hassi olmayub manastırlarının ve anlarda sakın olan ruhbanlarının `umumen kendi tasarruflarında olub ve mahsulatından ayende ve revende beslenüb	Thus, they bought everything, fields, vineyards, mills, shops, orchards, metohs, animals, everything the monasteries and the inhabiting monks use to have in their possession (zabt). Nobody should have the power to singularly possess any property, but they should belong to the monasteries and the inhabiting monks.

Bu husus için fetva-i şerif verilub mazmun-i şerifinde zikr olunan rahibler evvelden malik oldukları veyahut mirî canibinden tapuya aldıkları evleri ve bağları ve bağçeleri ve değirmenleri ve mahzenleri ve koyunları ve sa'ir tavarları nefislerine ve evladlarına ve manastırlarında olan fukaraya gelüp giden misafirlere ve bunlara hizmet edenlere getürenlere ve evkafı görüb göz edüb hasıllarından tahsil edüb şer' ile vakfiyetine hükm olunduktan sonra asla kimesne dahil edüb şarların tagayyür edemez amma kendülerin mülkleri olmayub şimdi mirî canibinden tapu ile aldıkları yahud evvelden reayadan satın almak adına aldıkları mezra'alar ve çayırlar ve yaylaklar ve kışlaklar cümlesi arazi-i memleketdedir ehl-i İslam ve gayrıdan asla kimesnenin mülkü olmak yokdur re'aya icare tarikiyle tasarruf ederler asla ne bey'e kâdirlardir ve ne hibeye ve ne vakfa selatinden gayrı bir ferd vücuh-i mezbureye kâdir değildir

Bu husus için bu gün fetva verildve mukaddema ne kadar mülkeri var ise idi iştira ve miriden tapu edüb aldıklarının cümlesi vech-i meşruh üzre kendi tasarruflarında da'imen olub düşen mahsulatdan ruhbanlar ve müsafirler ve hizmetkarlar besleneler ve hizmetkarlar mahsul cem'edüb baş ruhbanlarına teslim ve gumenoslarına götürdükde kimesneden müdahale olunmıya ve kimse eşyalarından birisine karışmıya lakin ne kadar eşyası mukaddemen var ise idi ve iştira' olundı is eve miriden tapu olundı ise, yahud re'ayadan ya gayrı yerden iştira olundı ise, gerek tarlalar ve gerek mezra'alar ve gerek çayırlar gerek kışlaklar gerek gayr şey her ne ise cümlesi manastırların ola ve ne müsliman ne re'aya bu benim mülkümdür diyü müdahale etmiye ve bunlardan birisini şatmıya amma vech-i meşruh üzre ruhbanların vakfı ola

When they said that a fetva was given with regard to the issue saying that the monks will retain all the mulks they had prior [to the confiscation] and they bought them back now and they have tapu from the state, that is the houses, vineyards, orchards, mills, shops, buffalos, sheep and other animals, they had, as mentioned before. They [the monasteries] should have them again, for their benefit and for their monks, for the travelers and for the servants who care for them. The latter should collect the income and hand it over to the hands of the priors with a ledger. If they act thus, they should not be harassed in any account. However all the mulks the monasteries had either acquired in the past, or they bought them from elsewhere, from the reaya and they are found in their hands, or they got tapu from the State, fields, mezra, summer and winter pastures, all [of them] will belong to the monasteries and nobody will have the power to claim that "it was my mülk" neither a Turk nor a Roman. Nobody should have the right to resale them ever, but as we said before they should be the vakfs of the monks.
