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## **Remarks on an Early-Medieval „Show Trial”: Tassilo III’s Dethronement**

### **ABSTRACT**

The creation of a unified empire by Charlemagne required quite a number of victims, one of whom was Tassilo III, the last duke of the Agilolfing dynasty reigning in Bavaria for two centuries. The history of his fall may awake the legal historians’ interest because the Frank monarch dethroned him not by means of a bloody military defeat but by a legal trial (now called show trial<sup>1</sup>) in 788. Before the trial Charlemagne isolated Tassilo both in foreign and home affairs by means of carefully measured diplomatic steps. Finally, putting him under his jurisdiction in 787, he made him his vassal. The main charges brought against Tassilo were *infidelitas*, i.e., unfaithfulness to the liege lord and *harisliz*, i.e., desertion – though the latter was claimed to had been carried out a quarter of a century before the legal trial. The given work aims to enlighten the legal background of this rather opaque case by contouring the historical context. First we consider Tassilo’s reign and the historical background of the trial, then we investigate the Franko-Bavarian conflict and the *iuramenta fidelitatis* of Tassilo. In the end, after highlighting the question of *infidelitas* and of *harisliz* we analyse the show trial itself.

**Keywords:** show trial, early medieval legal history, Bavarian Dukedom, Tassilo III, Charlemagne, *infidelitas*, *harisliz*

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<sup>1</sup> Erler 1978, 27 ff.; Schieffer 1997, 167 ff.; Airlie 1999, 93 ff.



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## **Uwagi o wczesnośredniowiecznym „procesie pokazowym”: detronizacji Tassilo III**

### **STRESZCZENIE**

Tworzenie przez Karola Wielkiego jednolitego imperium pociągnęło za sobą wiele ofiar. Jedną z nich był Tassilo III, ostatni książę z dynastii Agilolfing, panującej w Bawarii przez dwa stulecia. Historia jego upadku może budzić zainteresowanie historyków prawa, ponieważ frankijska monarchia zdetronizowała go nie wskutek krwawej klęski militarnej, lecz procesu prawnego (nazywanego teraz pokazowym) w 788 roku. W okresie poprzedzającym proces Karol Wielki za pomocą starannie podejmowanych kroków dyplomatycznych izolował Tassilo, zarówno w sferze stosunków międzynarodowych, jak i spraw wewnętrznych. W 787 roku Tassilo III stał się wasalem Karola Wielkiego. Głównymi zarzutami stawianymi księciu były infidelitas, czyli zdrada suwerena oraz harisliz, czyli jego porzucenie – choć później podnoszono, że zdarzenia te miały miejsce ćwierć wieku przed procesem. Celem artykułu jest naświetlenie tła prawnego tego dość nieprzejrzystego przypadku przez nakreślenie jego historycznego kontekstu. Artykuł przedstawia panowanie Tassilo i tło historyczne procesu oraz zawiera analizę zarówno konfliktu frankijsko-bawarskiego fidelitatis iuramenta Tassilo, jak i samego procesu – ze szczególnym uwzględnieniem kwestii infidelitas i harisliz.

**Słowa kluczowe:** proces pokazowy, historia wczesnośredniowiecznego prawa, księstwo Bawarii, Tassilo III, Karol Wielki, infidelitas, harisliz



The creation of a unified empire by Charlemagne required quite a number of victims, one of whom was Tassilo III, the last duke of the Agilolfing dynasty reigning in Bavaria for two centuries. The history of his fall may awake the legal historians' interest because the Frank monarch dethroned him not by means of a bloody military defeat but by a legal trial (now called show trial<sup>2</sup>) in 788. Before the trial Charlemagne isolated Tassilo both in foreign and home affairs by means of carefully measured diplomatic steps. Finally, putting him under his jurisdiction in 787, he made him his vassal. The main charges brought against Tassilo were *infidelitas*, i.e., unfaithfulness to the liege lord and *harisliz*, i.e., desertion – though the latter was claimed to had been carried out a quarter of a century before the legal trial. The given work aims to enlighten the legal background of this rather opaque case by contouring the historical context.

The difficulties in reconstructing the history of the dethronement of the last Bavarian Duke and the fall of the Bavarian Dukedom originate from the character of the sources: we can get information about the events of the period only from Frank descriptive sources, and these texts reproduce the events that reflect the dethronement in 788, from the viewpoint of its legitimation.<sup>3</sup> We can make a reconstruction of these events mainly on the ground of two sources: the *Annales regni Francorum* and the *Annales qui dicuntur Einhardi*. Nonetheless others can also help in completing, correcting or contrasting the plot of the trial. Neither the notes of the *Annales regni Francorum*, nor those of the *Annales qui dicuntur Einhardi* originate from the year of the event under analysis, but from later times. The *Annales regni Francorum* were written in two phases: the first lasted from 787 to 795, when the notes of the events of the period between 741 and 795 were added, while during the second phase, which took place after 795, notes were made year by year. For part one (until 795) the author used chronicles that have been partially lost by now.<sup>4</sup>

The *Annales qui dicuntur Einhardi* were written approximately between 814 and 817 (as a reedition of the *Annales regni Francorum*), and during this working process the author made stylistic corrections, on the one hand, and substantial changes in the evaluation of the events and their emphasis, on

<sup>2</sup> Erler 1978, 27 ff.; Schieffer 1997, 167 ff.; Airlie 1999, 93 ff.

<sup>3</sup> Classen 1983, 235; Krawinkel 1937, 47 ff.; Becher 1993, 21–87; Becher 2005, 39.

<sup>4</sup> Löwe 1953, 245 ff.; Kolmer 1958, 38 ff.

the other. Since this source (the *Annales qui dicuntur Einhardi*) came to being two decades later than the *Annales regni Francorum*, it can only be used secondarily.<sup>5</sup> However, we must take the narrations of the *Annales regni Francorum* only *cum grano salis*, since the passages concerning the Bavarian conditions before 788 were defined by the events of 788, i.e., the facts were stylized and manipulated so that they would justify the judgement in the trial against Tassilo.<sup>6</sup> It seems extremely probable to accept the idea that the quite detailed narration concerning Bavaria and Tassilo is a reedition of a chronologically divided royal Frank document, with an almost official language, written in the course of the legal trial, containing the reasoning of the charge and judgement, and on the whole its justification. Consequently, the source presents the events from the highly subjective point of view of Charlemagne, i.e., the winner of the case.<sup>7</sup> First we consider Tassilo's reign and the historical background of the trial, then we investigate the Frank–Bavarian conflict and the *iuramenta fidelitatis* of Tassilo. In the end, after highlighting the question of *infidelitas* and of *harisliz* we shall analyse the show trial itself.

# 1

## TASSILO'S DUKEDOM

Tassilo was born in 741 as son of the Bavarian Duke Odilo, who belonged to the Alemann branch of the Agilolfing dynasty – the family's male line died out around 736 – and his wife, Hiltrud of Frank origin, Carl Martell's daughter, Carlomann's and Pippin's sister. After her father's death Hiltrud, ignoring her brothers' opposition and urged by her step-mother Swanahilt, a relative of the Bavarian Royal Family – whom Carl Martell brought with him from his 725 Bavarian military campaign and made his second wife – married Odilo.<sup>8</sup> In Odilo's lifetime after the war that had broken out between the brothers-in-law in 743 (ending with Bavarian defeat) in 745 Pippin put Virgil, who later turned out to be Tassilo's greatest supporter,

<sup>5</sup> Löwe 1953, 253; ROB-SANTER 2005, 108.

<sup>6</sup> Classen 1983, 235; Kolmer 1980, 293; Rosenstock 1928, 1 ff.; Kolmer 2005, 17.

<sup>7</sup> Classen 1983, 235 f., Kolmer 1980, 294; Kolmer 2005, 9 ff.

<sup>8</sup> Reindel 1967, 124; Erkens 2005, 22.

into the episcopal chair of Salzburg.<sup>9</sup> In 748, the year of Odilo’s death, the Carantanian Slavs asked for Frank and Bavarian help against the Avars – just like in 741/42 when the Carantanian Duke Boruth repelled the Avar attack also with Bavarian assistance,<sup>10</sup> and thus the opportunity of an eastern mission was opened up for the Bishopric of Salzburg.<sup>11</sup> In 749, Hiltrud’s half-brother, Grifo attempted to seize power in Bavaria, and a number of nobles (including Lautfid and Count Suitger) also joined him. Pippin defeated the rebels and made the eight-year-old Tassilo –who was under the guardianship of his sister – Duke of Bavaria.<sup>12</sup> In 754 Hiltrud died, so Tassilo was placed directly under the guardianship of his uncle.<sup>13</sup>

Pippin released Tassilo from his guardianship in 757, at the Imperial Assembly held in Compiègne, although the sources of official Frank historiography do not refer to it.<sup>14</sup> At the same time they – the *Annales regni Francorum*, the *Annales qui dicuntur Einhardi* and other chronicles – emphasize Tassilo’s vassal *commendatio*, i.e., they report that Tassilo with the Bavarian nobility in the Saint Denis Monastery, swear over the relics of Dionysius, Rusticus and Eleutherius allegiance not only to Pippin but also to his sons Charlemagne and Carlomann. In addition, he ceremoniously swore an oath over the tombs of Saint Martin and Germanus that he would remain faithful to the Frank monarch and his successors for the rest of his life.<sup>15</sup>

<sup>9</sup> Wolfram 1968, 159.

<sup>10</sup> *Conversio* 4. Cf. Szádeczky-Kardoss 1998, 266 ff.

<sup>11</sup> Löwe 1937, 17 f.; Becher 2005, 41.

<sup>12</sup> *Annales regni Francorum* a. 748; *Annales qui dicuntur Einhardi* a. 748; *Annales Mettenses priores* a. 749.

<sup>13</sup> Wolfram 1968, 160.

<sup>14</sup> KLEBEL 1955, 193 ff.; KIENAST 1990, 80 ff.

<sup>15</sup> *Annales regni Francorum* a. 757. *Et rex Pippinus tenuit placitum suum in Compendio cum Francis; ibique Tassilo venit, dux Baioariorum, in vasatico se commendans per manus, sacramenta iuravit multa et innumerabilia, reliquias sanctorum manus imponens, et fidelitatem promisit regi Pippino et supradictis filiis eius, domno Carolo et Carlomanno, sicut vassus recta mente et firma devotione per iustitiam, sicut vassus dominos suos esse deberet. Sic confirmavit supradictus Tassilo supra corpus sancti Dionysii, Rustici et Eleutherii necnon et sancti Germani et sancti Martini, ut omnibus diebus vitae eius sic conservaret, sicut sacramentis promiserat; sic et eius homines maiores natu, qui erant cum eo, firmaverunt, sicut dictum est, in locis superius nominatis et in aliis multis.; Annales qui dicuntur Einhardi a. 757. In Compendio ... ubi tunc populi sui generalem conventum habuit. Illuc et Tassilo dux Baioariorum cum primoribus gentis suae venit et more Francico in manus regis in vassaticum manibus suis semetipsum commendavit fidelitatemque tam ipso regi Pippino quam filiis eius Karlo et Carlomanno iureiurando supra corpus sancti Dionysii promisit et non solum ibi, sed etiam super corpus sancti Martini et sancti Germani simili modo sacramento fidem se praedictis dominis suis diebus vitae suae servaturum est pollicitus. Similiter et omnes primores ac maiores natu Baioarii, qui cum eo in praesentiam regis pervenerant, fidem se regi et filiis eius servaturos in praedictis venerabilis locis promiserunt.; Annales Lobieneses a. 756. (!) Thassilo quoque dux Baiuvariorum iuravit fidelitatem domno*

These accounts, however, should be trusted only with strong reservations.<sup>16</sup> If the Bavarian Duke accompanied by his nobility had really taken a vassal oath of allegiance before his uncle Pippin, the relations of the Bavarian Dukedom with the Frank Empire would have been placed on a completely new basis of public law, i.e., on strong dependence, and the self-conscious Bavarian nobility would have been subordinated to the Franks. Moreover, Tassilo could not have retained his authority before his subjects.<sup>17</sup> It cannot be ignored that the form of vassal commendation mentioned by the Frank *Annales* became a custom only in the third quarter of the 9<sup>th</sup> century.<sup>18</sup> The Bavarian law of order imposed the obligation of allegiance before the Frank (from 751 Caroling) king on the duke, and the oath of allegiance towards Pippin and his sons taken by Tassilo meant nothing else but the confirmation of the right of inheritance acknowledged also by the Pope. The fact that in those times the *duces* defeated by the Franks would have been obliged to take an oath of allegiance, give hostage and admit the Frank *dicio* makes the vassal subordination of Tassilo improbable, and so nothing would have motivated Pippin to bring Tassilo, with whom he had a really good relation, into such a humiliating situation.<sup>19</sup> It is worth considering the *Annales Mettenses priores* that came to existence after Charlemagne had been crowned emperor, more specifically its account of the 757 events: they only mention the oath of allegiance sworn by Tassilo and his nobility but not the vassal *commendatio*.<sup>20</sup> It is extremely probable that after Bavaria was completely annexed in 794, the later Frank propaganda, rather tendentiously, did not feel it necessary to repeat the version partially forged before.

Tassilo had to express somehow in his oath the relations between the Bavarian duke and the Frank king which was loose both personally and

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*Pippino in Compendio palatio.; Chronicon Vedastinum a. 757. Quo anno placitum agens in Compendio villa publica, Tassilonem regno Francorum sacramentis conciliat, spondentem se fidelem esse ipsi regi contra (=cuncta) per tempora.*

<sup>16</sup> Becher 1993, 35 ff.

<sup>17</sup> Wolfram 1975, 72; Jahn 1991, 336.

<sup>18</sup> Krawinkiel 1937, 47 ff.

<sup>19</sup> Kolmer 1980, 297 ff.; Erkens 2005, 28.

<sup>20</sup> *Annales Mettenses priores a. 757. Eodem anno rex Pippinus tenuit placitum suum in Compendio villa publica, in qua etiam Tassilo dux Bavariorum fuit. Quem pro fidei firmitatis causa et eius homines maiores natu, qui erant cum eo, domnus Pippinus iurare sibi fecit supra sanctissima corpora sancti Dionisii, Rustici et Eleutherii necnon et sancti Germani et sancti Martini, spondentes se fideles esse Pippino rege et filiis eius omnibus diebus vitae suae.*

in terms of public law and was by no means of vassal kind and had already been maintained for decades.<sup>21</sup> We cannot declare with complete certainty that the Bavarian nobility would really have sworn an oath to Pippin together with Tassilo. However, it seems probable that the Frank tradition refers to it in order to testify to those who stood by Charlemagne's side during Tassilo's fall, and by doing that, broke the obligatory loyalty to their legal lord, the Bavarian Duke. Only another oath of allegiance, namely the one to the Frank king could be their excuse. So Frank historiography traced the conflict of Tassilo and Charlemagne back to matters of the past with a view to legitimate the Frank king's solely political motivation.<sup>22</sup>

It would be a mistake suggested just by these Frank sources to consider the Compiègne events to be the reason for the future conflict. The truly decisive turn in Frank-Bavarian relations was caused by the Frank policy of expansion and came only after Charlemagne's accession to the throne. The confrontation with the Bavarian Duke became important only in 781. During his whole reign, Pippin made efforts to maintain balanced relations with his sister Hiltrud and his cousin Tassilo, so in this light the Caroling-Agilolfing conflict cannot be considered as one that thematized European politics for decades. Without Pippin's help Tassilo could not have obtained his dignity as Bavarian Duke; and also he could not have controlled the tension provoked by Grifo. In case of serious tension the times of guardianship could not pass in peace for the young Duke. Finally, after Charlemagne's victory annihilating Langobard self-government, the independent Bavaria could not have remained in its full integrity. From 766 the Bavarian charters were dated exclusively in accordance with the years of Tassilo's reign, the Duke issued laws by himself and could practice his rights of clerical organization. Therefore, it can be stated that until 787 Tassilo reigned without direct Frank interference, managed his foreign and home affairs, which steps, of course, did not preclude the consideration of the Frank alliance.<sup>23</sup>

In order to throw light on Tassilo's role in the Aquitanian campaign and his rejection to take part in it, it is expedient to review the background of the events. After the 757 oath of allegiance, the official Frank sources remain silent for a while about the Frank-Bavarian affairs; they prefer dealing with

<sup>21</sup> Classen 1983, 235; Kolmer 1980, 298; Jahn 1991, 338.

<sup>22</sup> Jahn 1991, 339 ff.; Becher 1993, 40 ff.

<sup>23</sup> Jahn 1991, 341; Becher 1993, 42 ff.; Krawinkel 1937, 51.

Pippin's home politics and the Saxon conflicts. The emperor, however, was soon engaged in the Aquitanian conflict: Pippin wanted to force Waifar, the Aquitanian Duke, who had long been in alliance with the Bavarians, to renounce his rights over the Church benefices, and to extradite Frank refugees from his country, but Waifar did not want his principal sphere of authority to be violated so much, so he could not meet the demand, which unambiguously meant war. Without much ado, Pippin forced the Duke of Aquitania down to his knees, who then surrendered but wanted to lay Pippin's demands before the Aquitanian *placitum*, the Frank monarch seemed to be satisfied with these conditions at first sight.<sup>24</sup> The abandonment of the Church prerogatives would have certainly shaken the principal power that was effectively defended by Waifar with all means at his disposal, in its very basis. Accordingly, the Frank interpretation evaluated his method as fraudulence, his reign as tyranny. Only shortly before his death, in 768 could Pippin achieve that, the Aquitanian nobles got rid of the Duke by themselves.<sup>25</sup> When after his father's death he again started a war with Aquitania, his brother Carlomann rejected the promised support,<sup>26</sup> this unambiguously shows that Pippin's offensive policy counted as strongly dubious even among the Frank nobility.<sup>27</sup>

In May, 763 at the Frank Imperial Assembly held in Nevers near the Loire, adopted a decision on starting the fourth Aquitanian campaign. The Frank army overran Aquitania with much power, swept along its whole territory, destroyed and burnt numerous monasteries and settlements.<sup>28</sup> According to the official Frank sources at first, Tassilo took part in the military acts but later saying he was ill, returned to Bavaria. The alleged fact that his *harisliz* in those times did not cause any serious political reactions is also shown by the fact that Pippin's court historiographer, Nibelung did not regard it worth mentioning.<sup>29</sup> The Frank sources originating from after 788, in order to legitimate Tassilo's show trial, considered his reluctance

<sup>24</sup> *Continuationes Fredegarii* 41; *Annales Mettenses priores a. 760*; *Annales regni Francorum a. 760*. *Tunc Pippinus rex, cernens Waifarium ducem Aquitaniorum minime consentire iustitias ecclesiarum partibus, quae erant in Francia, consilium fecit cum Francis, ut iter ageret supradictas iustitias quaerendo Aquitania.*

<sup>25</sup> *Continuationes Fredegarii* 42 ff.

<sup>26</sup> Einhardus, *Vita Karoli magni* 5.

<sup>27</sup> Wolfram 1968, 162; Jahn 1991, 371.

<sup>28</sup> *Continuationes Fredegarii* 47.

<sup>29</sup> Jahn 1991, 372.



to participate in Pippin's cruel campaign to be the breaking of the 757 oath of allegiance. Moreover, they stressed that having forgotten the monarch's good deeds, led by evil thoughts the Duke returned to Bavaria with the intention to never face the king again.<sup>30</sup> The later, though a lot more objective in rendering the *Annales Mettenses priores* and the *Annales Maximiani* inform only about the fact that Tassilo left the army in secret, without the king's permission and returned to Bavaria. However, both of them remain silent about Pippin's good deeds and Tassilo's fraudulence.<sup>31</sup> Tassilo perhaps broke his oath towards the Frank monarch, yet, contrary to the later Frank rendering his act could by no means be evaluated as a deed punishable with the death sentence. Only later, particularly because of the events in 788, the Frank propaganda wanted to find—and if unable to find, then create—such evidence or provable facts against the Bavarian Duke by which they could legitimate his dethronement caused by political reasons.<sup>32</sup>

At an Imperial Assembly in Worms, 764 Pippin laid the case of Waifar and Tassilo—i.e., the dukes who refused to obey him—before the nobility. However, because of the severe weather conditions from December, 763 till March, 764 which made the provision of the army very difficult and exhausted all their supplies,<sup>33</sup> he was unable to start the planned campaign against Bavaria either in 764 or in 765.<sup>34</sup> It is possible that his consultants persuaded him out of a two-front war, which would have seriously weakened the Frank Empire, sorely tried as it was as a result of the Aquitanian campaign. In order to solve the conflict between Pippin and Tassilo, Pope Paul I also acted as a mediator, because in his evolving conflict with the Langobard monarch

<sup>30</sup> *Annales regni Francorum a. 763. Pippinus rex habuit placitum suum in Nivernis et quartum iter faciens in Aquitaniam. Ibiq̄ue Tassilo dux Baioariorum postposuit sacramenta et omnia, quae promiserat, et per malum ingenium se inde seduxit, omnia benefacta, quae Pippinus rex avunculus eius ei fecit, postposuit; per ingenia fraudulenta se subtrahendo Baioariam petiit et nusquam amplius faciem supradicti regis videre voluit.; Chronicon Vedastinum a. 763. Quo anno Pippinus quarto iter fecit in Aquitaniam, ibique Tassilo fatiem eiusdem regis fugiens, benefacta eius cum sacramentis postposuit.*

<sup>31</sup> *Annales Mettenses priores a. 763; Annales Maximiani Continuatio a. 764. (!) Hiemps magnus (sic!) erat, et Tassilo de Aquitania clam de hoste se subtraxit.*

<sup>32</sup> Kolmer 1980, 305; Becher 1993, 45–51.

<sup>33</sup> *Annales Iuvavenses maiores a. 763; Annales Iuvavenses minores a. 763.*

<sup>34</sup> *Annales regni Francorum a. 764; Annales qui dicuntur Einhardi a. 764. Propter dua bella, Aquitanicum iam olim susceptum et Baioaricum propter Tassilonis ducis defectionem suscipiendum.; Wolfram 1968, 163; Oelsner 1975, 383.*

he needed an ally from beyond the Alps, and a Frank–Bavarian collision would not have suited his plans.<sup>35</sup>

Pippin's death in 768 precipitated the Caroling power into deep crisis, the *bellum Aquitanicum* ending in Charlemagne's victory showed the disagreement between Charlemagne and Carlomann. The crisis is also reflected in the charters of the period, as in order to strengthen the Frank monarch's legitimacy the chancellery started using the formula "*gratia Dei*".<sup>36</sup> Tassilo intended to turn the weakening of the Frank Royal Power to his Dukedom's advantage. The Bavarian-Langobard alliance had been presumably established long before this by the marriage of Tassilo and Liutpirg, the daughter of Desiderius. During his travel to Italy in 768/69 Tassilo made closer friends with the Langobards<sup>37</sup> and tried to find a way to the Pope as a possible ally. The Italian orientation was motivated among others by the fact that before his death Pippin had managed to conquer Aquitania and integrate it into his empire and also to have Waifar, Tassilo's past ally killed.<sup>38</sup> When in 769 Charlemagne wanted to liquidate the Aquitanian opposition once and for ever, his brother Carlomann left the Frank army.<sup>39</sup>

By 770 the widow mother queen, Bertrada, Charlemagne's and Carlomann's mother created a rather unstable alliance system that would still consolidate the affairs for a while:<sup>40</sup> she tried to settle the discord between Pope Stephen III and the Langobard King, Desiderius. Furthermore, through the marriage between Desiderius' daughter and Charlemagne she made an effort to stabilize the Frank-Langobard relations as well. This marriage surely did not win the Pope's approval, nevertheless, in 771 he had to agree with Desiderius, which at the same time weakened the Frank influence in Rome.<sup>41</sup> During the gradually culminating discord between the brothers,

<sup>35</sup> Jahn 1991, 373 f.; Löwe 1937, 47; Classen 1983, 236; Reindel 1967, 221; Becher 1993, 49 ff.

<sup>36</sup> Erkens 2005, 37; Erkens 1998, 24 ff.; Wolfram 1967, 215 ff.

<sup>37</sup> Jarnut 1982, 119.

<sup>38</sup> Jahn 1991, 392.

<sup>39</sup> *Annales regni Francorum a. 769. Domnus Carolus gloriosus rex iter peragens partibus Aquitaniae, eo quod Hunaldus voluit rebellare totam Wasconiam etiam et Aquitaniam, et cum paucis Francis auxiliante Domino dissipata iniqua consilia supradicti Hunaldi. Et in ipso itinere iungens se supradictus magnus rex cum germano suo Carlomanno in loco, qui dicitur Duasdives. Inde Carlomannus se revertendo Franciam iter arripiens, domnus Carolus benignissimus rex ivit ad Aequolesinam civitatem...; Annales qui dicuntur Einhardi a. 769; Annales Mettenses priores a. 769; Einhardus, Vita Karoli magni 5.*

<sup>40</sup> Freund 2005, 73.

<sup>41</sup> Wolfram 1987, 101 ff.; Löwe 1937, 50; Jarnut 119, f.

in December, 771 Carlomann suddenly died. His widow Gerberga, together with their children and some followers fled to Desiderius, since Charlemagne had seized power over the whole Frank territory.<sup>42</sup> Soon after this, Pope Stephen III also died and these two deaths opened the way for Charlemagne: after occupying his brother's territories he made peace with Carlomann's followers, among them with Fulrad, the Abbot of Saint Denis.<sup>43</sup> It was around this time that Charlemagne broke up his marriage with Desiderius' daughter and sent her back to her father, which provoked both personal and political discord.<sup>44</sup> Soon after this he married Hildegard, great-granddaughter of the Alemann Duke Gottfried, Odilo's great-grandcousin, i.e., Tassilo's relative. Hildegard's mother, Imma was Count Gerold's wife, who also belonged to the Agilolfing clan, more precisely to its Middle-Rhein Alemann branch.<sup>45</sup> Hildegard was the only Agilolfing lady who could be taken into account from the point of view of a marriage that was politically of utmost importance. Therefore, we can hardly suppose that this wedding was arranged without Tassilo's knowledge and will. (It is worth mentioning that after Tassilo's dethronement Charlemagne ordered Hildegard's brother, Gerold to be his representative, *praefectus* in Bavaria.<sup>46</sup>) The marriage was a pledge of a Caroling-Agilolfing alliance (the *amicitia* settled in 771/72, prepared by Sturm, the Abbot of Fulda) which also contained public law obligations.<sup>47</sup> The *amicitia* intended for many years, survived even the fall of Tassilo's father-in-law, Desiderius, and within its confines the Frank troops took part in the 778 Aquitanian campaign. However, as soon as it fulfilled its task desired by Charlemagne, it disintegrated.<sup>48</sup>

The Bavarian delegation appeared before Pope Adrian I, who had come to the throne in 772. Threatened by Desiderius' demands of power, the Pope

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<sup>42</sup> *Annales regni Francorum a. 771. Et eodem anno Carlomannus rex defunctus est in villa, quae dicitur Salmontiacus, prid. Non. Decembr. Domnus rex Carolus venit ad Corbonacum villam, ibique venientes Wilcharius archiepiscopus et Folfadus capellanus cum aliis episcopis ac sacerdotibus, Warinus et Adalhardus comites cum aliis primatibus, qui fuerunt Carlomanni; uxor vero Carlomanni cum aliquibus paucis Francis partibus Italiae perrexerunt.*; *Annales Mettenses priores a. 771*; Abel-Simson 1969, I. 98 ff.; Reindel 1967, 173.

<sup>43</sup> Abel-Simson 1969, 100.

<sup>44</sup> Abel-Simson 1969, 94 ff.; Schmid 1983, 287.

<sup>45</sup> Mitterauer 1963, 8 ff.

<sup>46</sup> Jahn 1991, 466.

<sup>47</sup> *Vita Sturmii 22. Illis quoque temporibus, suscepta legatione inter Karolum regem Francorum et Tassilonem Noricae provinciae ducem per plures annos inter ipsos amicitiam statuit.*

<sup>48</sup> *Annales regni Francorum a. 772; Annales Mettenses priores a. 772*; Abel-Simson 1969, I. 12 ff. Jahn 1991, 468.

wanted the Bavarian delegation to act as mediators of his interests towards Charlemagne. Putting the future alliance into a sacral form, at Pentecost of 772 the Pope baptized and appointed the successor to the Bavarian throne, Theodo,<sup>49</sup> and thus as the highest moral authority he approved the latter's future demands for the Bavarian Dukedom, which had been made for many centuries (and were accepted also by the Merowings), and elevated him to a king-like status.<sup>50</sup> The king-like status is also proved by the *epitheta* "electissimus",<sup>51</sup> "eminentissimus",<sup>52</sup> "nobilissimus",<sup>53</sup> "religiosissimus",<sup>54</sup> "gloriosus",<sup>55</sup> "gloriosissimus"<sup>56</sup> and "inlustrissimus"<sup>57</sup> in some contemporary sources.<sup>58</sup> Tassilo could obtain Theodo's baptism only through the alliance previously concluded with Charlemagne, but in return he had to distance himself from his father-in-law, Desiderius: because of the *amicitia* binding the Bavarian Duke with the Frank monarch and the *conpaternitas* binding him to the Pope, he had to observe the destruction of the Langobard state with folded arms.<sup>59</sup> Having settled his foreign affairs, Tassilo gained opportunity to focus attention on his own military aims, namely on the rebelling Carantianians, whom he defeated that year. The idea of the Carantianian mission was also supported by Bishop Virgil, who entrusted the *episcopus chori*, Modestinus with the practical realization of the task, with conversion and consecration.<sup>60</sup> The victory over the Carantianians was of great advantage to Tassilo's authority and entered him into the list of the most important Christian rulers of the Middle Ages, which is also demonstrated by a letter

<sup>49</sup> *Annales Admuntenses a. 772 ...Theodo filius eius Romae baptizatus est.*

<sup>50</sup> Erkens 2005, 33 f.; Freund 2005, 75; Becher 2005, 41.

<sup>51</sup> *Traditio Frisingensis* Nr. 7.

<sup>52</sup> *Traditio Frisingensis* Nr. 39.

<sup>53</sup> *Traditio Frisingensis* Nr. 100. 106.

<sup>54</sup> *Traditio Frisingensis* Nr. 102.

<sup>55</sup> *Traditio Frisingensis* Nr. 31. 121b

<sup>56</sup> *Traditio Frisingensis* Nr. 32. 55. 75.

<sup>57</sup> *Traditio Frisingensis* Nr. 13. 19. 20. 24a. 24b. 28. 33. 38. 39. 41. 44. 46. 47. 48. 49. 50. 52. 56. 59. 60. 61. 62. 63. 64. 65. 66. 70. 74. 84. 86. 90. 95. 96. 97. 98. 118.

<sup>58</sup> Wolfram 1967, 162 ff.; Erkens 2005, 30.

<sup>59</sup> Reindel 1967, 131; Wolfram 1968, 166; Jahn 1991, 470 f.; Freund 2005, 77; Becher 2005, 41.

<sup>60</sup> *Annales Admuntenses a. 772; Conversio* 5; Löwe 1937, 51 f.; Reindel 1967, 171; Wolfram 1968, 165; Wolfram 1987, 143 ff.

of the period that mentions him as Constantine I (a common trope of the medieval ideal of a king).<sup>61</sup>

In the first phase of the campaign against the Langobards Charlemagne attempted to occupy the capital, Pavia in vain. The *Annales Mettenses priores* accuse Desiderius of the same charge that it brings later, in 788, against Tassilo: he had ungratefully forgotten about the king’s good deeds whose benevolence made him able to accede to the throne.<sup>62</sup> After occupying Pavia, Desiderius and his family came under Charlemagne’s power, but his son and co-regent Adelchis managed to escape to Constantinople. The Langobard nobility surrendered to the Frank king, who returned home leaving the occupying troops behind.<sup>63</sup> In 774 Charlemagne signed a pact with Pope Adrian, which later in 781 might have contributed to the Pope’s siding with Charlemagne against Tassilo.<sup>64</sup> After these events the Frank sources do not mention any changes in the Frank-Bavarian affairs. The *amicitia* signed in 772 lasted at least until 778 or even 781. The idea to liquidate the independent Bavarian Dukedom might have come to Charlemagne’s mind; however, the 776 Langobard, and the 776–780 Saxon rebellions and fights with the Arabs occupied all his power.<sup>65</sup>

In 778 Charlemagne was seriously defeated by the Arabs,<sup>66</sup> and the rebelling Saxons intruded even into Frank territories. These two facts significantly diminished the monarch’s reputation as a commander, which he wanted to restore later by defeating the Saxons.<sup>67</sup> In 781 Charlemagne went to Rome, according to the sources in order to pray at the apostles’ tombs. However, it seems more probable that the aim of his journey was first and foremost

<sup>61</sup> *Epistolae variorum* Nr. 1, 497. *Tribuat Dominus victoriam Dassiloni et omni populo eius, sicut dedit regi Constantino filio Helenae...* Cf. Ewig 1955, 22 ff.; Dopsch 1997, 107 f.; Erkens 2005, 34.

<sup>62</sup> *Annales regni Francorum* a. 773; a. 774; *Annales Mettenses priores* a. 773.

<sup>63</sup> *Annales regni Francorum* a. 774. *Et revertente domno Carolo rege a Roma, et iterum ad Papiam pervenit, ipsam civitatem coepit et Desiderium regem cum uxore et filia vel cum omni thesauro eius palatii. Ibi que venientes omnes Langobardi de cunctis civitatibus Italiae, subdiderunt se in dominio domni gloriosi Caroli regis et Francorum. Adalgisius filius Desiderii regis fuga lapsus mare introiit et Constantinopolim perrexit. Tunc gloriosus domnus Carolus rex, ipsa Italia sub iugata et ordinata, custodia Francorum in Papiam civitate dimittens cum uxore et reliquis Francis Deo adiuvante cum magno triumpho Franciam reversus est.; *Annales Mettenses priores* a. 774.*

<sup>64</sup> Abel-Simson 1969, I. 160.

<sup>65</sup> *Annales regni Francorum* a. 776; *Annales Mettenses priores* a. 776; *Annales qui dicuntur Einhardi* a. 776.

<sup>66</sup> *Annales regni Francorum* a. 778; *Annales qui dicuntur Einhardi* a. 778.

<sup>67</sup> Paulus Diaconus, *Historia Langobardorum* 1, 20. *Atque iam ex illo tempore ita omnis Herolorum virtus concidit, ut ultra super se regem omnimodo non haberent.*

to strike an alliance with Pope Adrian in order to increase his authority.<sup>68</sup> Meanwhile the Pope, at Duke Arichis' advice tried to find a common defence with the Frank king against the Neapolitans and Constantinopolitans, who were attacking his territories in Beneventum. Pope Adrian wanted to get the territories occupied by the Langobards back from Charlemagne, and Charlemagne held out the prospects of giving back the territories in Sabinum.<sup>69</sup> In return, the Pope baptized the king's son, who received a name with a definite programme-giving content: Pippin.<sup>70</sup> Charlemagne appointed his sons, Pippin and Louis, Kings of Italy and Aquitania and the Pope anointed them.<sup>71</sup> With this act the Carolings finally got their already legalized place among the European dynasties, a few years after the anointing of Theodo, the successor to the Bavarian throne. The King and the Pope started dealing with each other's affairs as their own, as it was noted by the Pope in his letter written in May or June, 781.<sup>72</sup>

Charlemagne made Pope Adrian entirely side with him also against the Bavarian Duke, and his decision seems to have been made easier by the fact that Duke Arichis as husband of Adalperga, daughter of Desiderius, was also Tassilo's brother-in-law. At the same time, the head of the Church saw an opportunity to end the conditions prevailing in Bavaria; namely, that due to the lack of a metropolitan area, the Duke chaired the local synods and decided questions concerning dioceses. With these measures the Pope withdrew his moral support from Tassilo, the only Duke to exercise independent ruler's rights on the territory of the past Frank Empire of the Meroving age—and thus the Pope sided with the Frank power for good.<sup>73</sup> On the occasion of the same visit to Rome, the king betrothed Hrodrud, his daughter with the Constantinopolitan Emperor, Constantine VI (Eirene's son), who

<sup>68</sup> *Annales regni Francorum a. 780. Tunc sumpto consilio, ut iter perageret orationis causa partibus Romae, una cum uxore sua domna Hildegarde regina.; Annales qui dicuntur Einhardi a. 780; Annales Mettenses priores a. 780; Abel-Simson 1969, l. 376. ff.*

<sup>69</sup> Jahn 1991, 522.

<sup>70</sup> Freund 2005, 78.

<sup>71</sup> *Annales regni Francorum a. 781. Et supradictum iter peragens celebravit pascha in Roma. Et ibi baptizatus est domnus Pippinus, filius supradicti domni Caroli magni regis, ab Adriano papa, qui et ipse eum de sacro fonte suscepit; et duo filii supradicti domni Caroli regis uncti sunt in regem a supradicto pontifice, hi sunt domnus Pippinus et domnus Hludowicus reges, domnus Pippinus rex in Italiam et domnus Hludowicus rex in Aquitaniam.; Annales qui dicuntur Einhardi a. 781; Annales Mettenses priores a. 781; Freund 2005. 83.*

<sup>72</sup> *Codex Carolinus 595. 67. ...quia causa vestra nostra sit et nostra vestra.*

<sup>73</sup> Jahn 1991, 523 f.

was still under guardianship because of his age. This step counted as a definite sign of alliance in the politics of the period. Thus Charlemagne assured himself from this side too, so that in case of a Bavarian conflict, (most probably already planned by him at that time) Constantinople would not support his enemies.<sup>74</sup>

## 2

### THE IURAMENTA FIDELITATIS

Simultaneously with this, realizing the impending danger, Tassilo sent a delegation – whose members included Alim, the Bishop of Säben, Counts Megilo and Machelm and Abbot Atto – to Rome. However, Charlemagne impeded them on their way to the Pope and let only Bishop Alim and Abbot Atto go on.<sup>75</sup> At the same time, it cannot be excluded that Tassilo fell victim to an error with respect to Atto's intention, who as far back as 772 during his visit to Rome had made good friends with Pope Adrian, and it is very likely that even in 786 he primarily wanted to urge his promotion as a bishop. In a few years he did receive the Bishopric of Freising.<sup>76</sup> In order to settle the overhanging Frank-Bavarian conflict, the Pope sent two bishops to Bavaria, so that he could reconcile the two cousins, whereas Charlemagne's deputies had to remind Tassilo of his oath of allegiance sworn to Pippin and Charlemagne.<sup>77</sup> The Bavarian Duke, in order to strengthen the peace made with the Frank king, after receiving hostages from Charlemagne as a means of guaranteeing his safety, went to Worms, where they mutually proved their intentions with expensive gifts. According to the *Annales Petaviani* and the *Annales Mosellani*, the meeting passed in perfect order and peace.<sup>78</sup> The *Annales regni Francorum* state, however, that Tassilo was forced to go to meet

<sup>74</sup> *Annales Mosellani a.* 781; Abel-Simson 1969, I. 383 ff.

<sup>75</sup> Abel-Simson 1969, I. 383 f.

<sup>76</sup> Jahn 1991, 525.

<sup>77</sup> Abel-Simson 1969, I. 394 ff.

<sup>78</sup> *Annales Petaviani a.* 781. *Sine hoste fuit hoc annus, nisi tantum Vurmacia civitate venerunt Franci ad placitum; et ibi fuit Taxilo, dux de Bawaria, magnaue munera praesentavit domno regi, et per suum comigatum rediit ad patriam.*; *Annales Mosellani a.* 781. *Et reversus est rex in Francia et colloquium cum Dasilone, et magnum Francorum conventum id est magis campum apud Wormosiam habuit civitatem.*



Charlemagne in Worms where he promised obedience and loyalty to the king and his sons. In addition, he gave twelve hostages, whom Bishop Sindperht caused to be detained in Frank custody in Quierzy.<sup>79</sup> The *Annales Mettenses priores* again provide a totally different version: Tassilo was not forced to approve his oath of allegiance in Worms but with the help of Bishop Sindperht he gave back the hostages he had received.<sup>80</sup> After this, Tassilo once again attempted to get in contact with Rome. Under Count Machelm's guidance he sent a delegation to Italy but they died of the devastating fever in Rome.<sup>81</sup>

In 781 there came a decisive change in Frank-Bavarian relations: within the frame of his attempts to subordinate the territory of the former Meroving Empire, Charlemagne tried to curtail the independence developed by Tassilo. Through the alliance with the Pope and the Basileus he isolated Bavaria, and through the oath of allegiance enforced in Worms he somewhat tried to integrate it into the sphere of Frank power. However, the terminology<sup>82</sup> (*comigatus*) describing Tassilo's release presupposes Frank claim for power,<sup>83</sup> even if he did not demand from the Duke, contrary to the statement of the *Annales qui dicuntur Einhardi*<sup>84</sup> total subordination.<sup>85</sup> The changes outside Bavaria may also have contributed to the fact that in 782 an Avar delegacy appeared at the assembly held at the source of the river Lippe, but we have no information about their aim except for the general "*pacis causa*".<sup>86</sup>

During the 780's Tassilo's system of alliance based on personal relations was shaken by several deaths: on the one hand, important churchmen, that is Arbeo, the Bishop of Freising, Virgil, the Bishop of Salzburg, and Oportunus, Abbot of Mondsee, on the other hand, queens, Hildegard and Bertrada, whose persons constituted guarantee of the status quo, passed away.<sup>87</sup> The disintegration of this system enabled Charlemagne to isolate

<sup>79</sup> *Annales regni Francorum a. 781*; Löwe 1937, 61 f.

<sup>80</sup> *Annales Mettenses priores a. 781*.

<sup>81</sup> Wolfram 1968, 168; Abel-Simson 1969, I. 397.

<sup>82</sup> *Annales Petaviani a. 781*.

<sup>83</sup> Abel-Simson 1969, I. 397.

<sup>84</sup> *Annales qui dicuntur Einhardi a. 781*.

<sup>85</sup> Jahn 1991, 527; Becher 1993, 51–58.

<sup>86</sup> *Annales regni Francorum a. 782. ...similiter et Avari illuc convenerunt, missi a cagano et iugurro; Annales qui dicuntur Einhardi a. 782*; Szádeczky-Kardoss 1998, 269.

<sup>87</sup> Freund 2005, 84; Becher 2005, 42.



Tassilo both in home and foreign affairs. Arn, whom a few years later Tassilo had entrusted with leading the delegation to Rome, became the head of the Salzburg diocese.<sup>88</sup> The Bishopric in Freising was taken by Atto, who, similarly to Arn, can be considered one of the winners of the Frank takeover that took place in 788, *de iure* in 794. Furthermore, concerning both of them we cannot exclude the hypothesis that they could have been among the accusers in the lawsuit against Tassilo conducted in Ingelheim.<sup>89</sup>

In 784 a military collision took place in the area of Bolzano between the Bavarian troops and Count Hrodperht who had been sent there by the Frank monarch, and in the same year the Saxons and some of the Friesians revolted against Charlemagne. Hrodperht looted, destroyed and burnt down the border fortress of Bolzano.<sup>90</sup> This Frank provocation motivated Tassilo to form an alliance with his eastern neighbours, the Avars and after that he started an attack on Hrodperht, who belonged to the Frank unit. With this step the illusionary good relations between Charlemagne and Tassilo ended, and with Queen Hildegard's death the influence keeping the Frank monarch back from taking measures against his Bavarian brother-in-law also ceased to exist. The drama ending in Tassilo's dethronement was irresistibly coming to its culmination.<sup>91</sup>

Before the conflict broke out, the Frank monarch had gone to Rome both to settle the Italian affairs and to negotiate with the delegates of the Basileus.<sup>92</sup> However, he was surely planning to subordinate and liquidate the still independent Bavarian and Beneventian Dukedoms, the latter lying at the point of interaction of Bavarian, Frank and Constantinopolitan authorities.<sup>93</sup> While Charlemagne was staying in Rome, Romoald, son and co-regent of Arichis, the Beneventian Duke, approached him and gave presents to the king to keep him from occupying the Dukedom. Besides, Romoald declared that Arichis seemed to be ready to meet the Frank demands. However, neither the king nor the Pope regarded their promises as authentic and Charlemagne entered Beneventum with the Pope's approval, who had significant interests in expanding his authority in South Italy and so was even inclined

<sup>88</sup> Freund 2005, 81.

<sup>89</sup> Abel-Simson 1969, I. 449 ff.; Jahn 1991, 528.

<sup>90</sup> *Annales regni Francorum a. 784*; Abel-Simson 1969, I. 477 f.; Becher 2005, 42.

<sup>91</sup> Löwe 1937, 63; Classen 1983, 239; Jahn 1991, 531.

<sup>92</sup> *Annales regni Francorum a. 786*

<sup>93</sup> Cf. Bertolini 1967, 609–671.

to sacrifice his former ally, Tassilo to the Frank monarch. In order to avoid an armed collision, Arichis, besides numerous gifts gave hostages including his sons, Romoald and Grimoald, and swore an oath of allegiance to Charlemagne, and in return the Frank king did not destroy the Dukedom with his army.<sup>94</sup> Accordingly, Beneventum remained a Dukedom but only as part of the Frank Empire. Charlemagne, however, interfered more with its affairs, as in March, 787 he gave immunity to the Bishopric of Beneventum. In this way, he withdrew it from the Duke's power, significantly violating his cardinal rights. Moreover, he donated a number of Beneventian towns to the Pope, as if tearing them apart from the Dukedom. The negotiations with the Constantinopolitan delegates ended in failure; what is more, Charlemagne broke the engagement between his daughter and the Basileus, and by this he sowed the seeds of a further conflict.<sup>95</sup>

To prevent the outburst of a nearing discord, Tassilo sent Arn, the Bishop of Salzburg and Hunrih, the Abbot of Mondsee to Rome with the order to ask the Pope to be his mediator.<sup>96</sup> Beyond doubt, Tassilo wanted to continue the independent Bavarian policy, using the wording of the *Annales qui dicuntur Einhardi*, peace and mutual understanding,<sup>97</sup> but for Charlemagne the existence of a last dukedom independent in home and foreign affairs on the territory of the Frank Empire became more and more inconvenient. Pope Adrian allegedly tried to mediate on Tassilo's behalf efficiently, and Charlemagne would also have been inclined to sign an agreement immediately. However, Tassilo's delegates presumed that they lacked the authority to accept the conditions suggested by Charlemagne.<sup>98</sup> As a reaction, the Pope threatened Tassilo and his followers with excommunication if the Bavarian Duke were to refuse to keep his oath to Pippin and Charlemagne and warned him that in order to avoid bloodshed, he should fully obey the king, his sons and the Frank people.<sup>99</sup> If he were not to do so, then he, the Bavarian Duke should take responsibility for all devastations done by the *bellum iustum* lead by the Franks i.e., the Pope threatened Tassilo with

<sup>94</sup> *Annales regni Francorum a. 787*; Abel-Simson1969, I. 557 ff.; Wolfram 1968, 169.

<sup>95</sup> Jahn 1991, 535; Abel-Simson1969, I. 567 ff.

<sup>96</sup> *Annales Maximiani Continuatio a. 787*; *Chronicon Vedastinum a. 787*; Abel-Simson1969, I. 572 ff.; Löwe 1937, 64 ff.; Wolfram 1968, 169; Wolfram 1999, 21; Freund 2005, 86.

<sup>97</sup> *Annales qui dicuntur Einhardi a. 787*

<sup>98</sup> *Annalium Tilianorum pars altera a. 787*

<sup>99</sup> Freund 2005, 86 f.

Frank intervention.<sup>100</sup> The papal pressure decisively contributed to the Bavarian Duke's fall.

From Rome Charlemagne went to Worms, where he gave an account of the negotiations with Tassilo at the synod of clerical and non-clerical leaders, and through the envoys he called upon the Bavarian Duke to appear before him. Tassilo, however, just like his brother-in-law, Arichis, rejected it; instead he gave hostages and gifts to the Frank monarch.<sup>101</sup> Charlemagne decided to end this discord having lasted for years between him and Tassilo by force, and marched with his army against Bavaria. He pitched camp at Lechfeld above Augsburg and placed another Frank troop at the Danube at Pforring. Meanwhile, Pippin went against Bolzano. Bavaria was blockaded by superior Frank military forces from all sides against which any opposition would have been in vain.<sup>102</sup> According to the *Annales regni Francorum*, the Bavarian nobility approved of Charlemagne's measures,<sup>103</sup> but it seems extremely probable that it was opportunism rather than the natural sense of rights that prevailed on them.<sup>104</sup> According to the *Annales regni Francorum* Tassilo had to appear in Charlemagne's camp in Augsburg, and on 3<sup>rd</sup> October, 787 in addition to confessing his alleged sins he was obliged to swear an oath of allegiance to the Frank monarch, owing to which Charlemagne became Bavaria's liege lord. He had to give twelve hostages and

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<sup>100</sup> *Annales regni Francorum a. 787. Ibi que venientes missi Tassiloni ducis, hii sunt Arnus episcopus et Hunricus abba, et petierunt apostolicum, ut pacem terminaret inter domnum Carolum regem et Tassilonem ducem. Unde et domnus apostolicus multum se interponens, postolando iamdicto domno rege. Ez ipse domnus rex respondit apostolico, hoc se voluisse et per multa tempora quaesisse, et minime invenire potuit; et proferebat statim fieri. Et voluit supradictus domnus rex in praesentia domni apostolici cum ipsis missis pacem firmare; et rennuentibus supradictis missis, quia non ausi fuissent de eorum parte ullam firmitatem facere. Apostolicus vero cum cognovisset de instabilitate vel mendatia eorum, statim supra ducem eorum vel suis consentaneis anathema posuit, si ipse sacramenta, quae promiserat domno Pippino regi et domno Carolo itemque regi, non adimpleret. Et obtestans supradictos missos, ut contestarent Tassilonem, ut non aliter fecisset, nisi in omnibus oboediens fuisset domno regi Carolo et filiis eius ac genti Francorum, ut ne forte sanguinis effusio provenisset vel lesio terrae illius; et si ipse dux obdurato corde verbis supradicti apostolici minime oboedire voluisset, tunc domnus Carolus rex et suus exercitus absoluti fuissent ab omni periculo peccati, et quicquid in ipsa terra factum eveniebat in incendiis aut in homicidiis vel in quaecumque malitia, ut hoc super Tassilonem et eius consentaneis evenisset et domnus rex Carolus ac Franci innoxii ab omni culpa exinde permansissent. Haec verba expleta, missi Tassiloni absoluti sunt. Et tunc in invicem sibi domnus apostolicus atque domnus gloriosus rex Carolus valedicentes, benedictione adsumpta oratione peracta Franciam iamdictus praecelsus rex reversus est. Cf. Jahn 1991, 537.*

<sup>101</sup> Einhardus, *Vita Karoli magni* 10; Abel-Simson 1969, I. 595 ff.; Bund 1979, 388 ff.

<sup>102</sup> *Annales Laurissenses a. 787*; Einhardus, *Vita Karoli magni* 11.

<sup>103</sup> *Annales regni Francorum a. 787*

<sup>104</sup> Jahn 1991, 538.

his son and co-regent, Theodo as the thirteenth, although he could keep his Dukedom as a *beneficium*.<sup>105</sup>

The Dukedom's *redditio* was allegedly carried out in such a way that Tassilo handed to Charlemagne a stick ending in a human figure and a spear as symbols of full vassal subordination to the Frank reign.<sup>106</sup> The oaths taken by Tassilo to Charlemagne may be summarized as follows: he more or less probably swore an oath of allegiance in 757, and certainly in 781; then in 787 he subjected himself as a vassal to Charlemagne. The authors of the sources traced back to and explained the 757 oath on the basis of the 787 vassal oath, or to be more precise, they consciously misinterpreted it.<sup>107</sup> Let us review what the substance of the oaths of allegiance could be. The essence of the oath of allegiance was without doubt *fidelitas*, although it is fairly difficult to reconstruct the content of this notion. It can mean relations between two people that bind them to assist each other with *Rat und Tat*, facilitate one another's advantage, and prevent any harm to them.<sup>108</sup>

One cannot, however, formulate a static definition as the content of the oaths depended on the person and position of the subjects concerned.<sup>109</sup> In the 8<sup>th</sup> century different kinds of allegiance oaths may appear in the sources: after 786 or 792 (the dating is disputable) the subject's oaths became customary again because at that time the participants of a conspiracy tried to excuse themselves by claiming that they had not taken an allegiance oath to Charlemagne.<sup>110</sup> It gave reason for obliging every subject older than twelve to take an oath.<sup>111</sup> The texts of the oath are not known. In the *Legationis Edictum* of 789, in the *sacramentum fidelitatis* to be taken to the king and his sons, the juror promises to remain faithful for the rest of his life but the details

<sup>105</sup> *Annales regni Francorum a. 787. Tunc praespiciens se Tassilo ex omni parte esse circumdatum et videns, quod omnes Baioarii plus essent fideles domno rege Caolo quam ei et cognovissent iustitiam iamdicti domni regis et magis voluissent iustitiam consentire quam contrarii esse, undique constrictus Tassilo venit per semetipsum, tradens se manibus in manibus domni regis Caroli in vassaticum et reddens ducatum sibi commissum a domno Pippino rege, et recredit se in omnibus peccasse et male egisse. Tunc denuo renovans sacramenta et dedit obsides electos XII et tertium decimum filium suum Theodonem.* Cf. *Annales luvavenses minores, maximi a. 787; Annales Maximiani Continuatio a. 787; Abel-Simson 1969, l. 600; Wolfram 1968, 171; Kolmer 1980, 296 ff.; Jahn 1991, 538; Szádeczky-Kardoss 1998, 274; Becher 2005, 42.*

<sup>106</sup> Wolfram 1968, 170 f.; Gauert 1962, 214 ff.

<sup>107</sup> Classen 1983, 245.

<sup>108</sup> Ehrenberg 1877, 111 f.

<sup>109</sup> Kolmer 1980, 299; Becher 1993, 78 ff.

<sup>110</sup> *Capitulare Missorum a. 792 vel 786. Nr. 25. 1.*

<sup>111</sup> *Capitulare Missorum a. 792 vel 786. Nr. 25. 4; Kolmer 1980, 300.*

are not expressed: “*quia fidelis sum et ero diebus vitae meae sine fraude et malo ingenio*”.<sup>112</sup> A *capitulare* originating from 802 contains some enumeration that was binding on the jurors of the *sacramentum fidelitatis*;<sup>113</sup> however, the difference between the subject and (vassal) allegiance oaths cannot be defined more precisely.<sup>114</sup> The sources inform about a number of oaths that can be interpreted as that of allegiance. Thus, for example, the *Annales Mettenses priores* relate when describing the events of 755 that the Langobard King Aistulf broke the *fides* promised to Pippin when he broke into Rome contrary to law and his oath, so as a conciliation he had to yield a part of his treasure to the Frank monarch, and while giving hostages he had to repeat his oath to remain faithful to the Frank power forever (*semper esse fidelem*) and promise that he would pay tax annually.<sup>115</sup> The *Annales regni Francorum* concerning 775 also give an account of the Langobards breaking their oath, whereas regarding 777 they inform us of similar events concerning the Saxons.<sup>116</sup> The wordings of the different *Annales* are very similar, so one can conclude that after the settlement of the armed conflicts with the given tribe or state those who had subjected themselves to the Frank monarch promised sometimes taxes, often hostages, but in each case, *fidelitas*.<sup>117</sup>

The texts of Tassilo’s oaths are not known to us. They can be inferred most easily from the cases of their breaches: including the rejection of paying taxes and *contumacia*, the attempt of getting out of Frank power (*dicione abstrahere*) either by revolts or by military acts. At the same time, the breaking of the prohibition of arbitrary military actions also meant a breach of *promissiones*, *sacramenta* and *fidelitas*, since nobody was allowed to start an attack without the Frank king’s permission. On the grounds of the above, it may be stated in all probability that the juror (taking the oath of allegiance) was usually obliged to acknowledge the Frank chief power, and he had to abstain from everything that would cause its breaking. Nevertheless, it

<sup>112</sup> *Duplex Legationis Edictum a. 789. ...quia fidelis sum et ero diebus vitae meae sine fraude et malo ingenio*

<sup>113</sup> *Capitulare Missorum Generale a. 802. Nr. 33. 2. ff.*

<sup>114</sup> Kolmer 1980, 300; Becher 1993, 87.

<sup>115</sup> *Annales Mettenses priores a. 755. ...sacramenta iterum renovans obsidesque tribuens promisit se partibus Francorum semper esse fidelem et annale tributum*

<sup>116</sup> *Annales regni Francorum a. 775. Hrodgaudus Langobardus fraudavit fidem suam et omnia sacramenta rumpens et voluit Italiam rebellare.; a. 777. ...vel fidelitatem supradicti domni Caroli regis et filiorum eius vel Francorum.*

<sup>117</sup> Kolmer 1980, 301. About the different aspects of *sacramenta* see Becher 1993, 94 ff.

cannot be concluded that as a main rule he would have been obliged to provide an army; furthermore, his autonomy in home and foreign policy was not affected either.<sup>118</sup> The rebellion against Frank dominance, i.e., the breaking of the allegiance oath brought about different sanctions, and eventually resulted in annexing the given state into the Frank Empire. Consequently, the obligation of *fidelitas* appeared among other things to be an important means of relations between the states. However, it is only one of the fields of its application; none the least significant was it for proving the subjects' loyalty and creating vassal relations within the country, yet a common element of all these was the promise of *semper fidelis esse*.<sup>119</sup>

### 3

## TASSILO'S DETHRONEMENT

The show trial against Tassilo took place in Ingelheim in 788: at the meeting of the Franks and *nationes* subordinated to them<sup>120</sup> according to the *Annales regni Francorum*,<sup>121</sup> and the rest of the Ba-varian *principes* according to the *Annales Mettenses priores*<sup>122</sup> Tassilo had to appear, too.<sup>123</sup> According to the *Annales Nazariani* after Tassilo appeared in Ingelheim, Charlemagne had Duchess Liutpirg, the children and the treasures taken away from Bavaria. Moreover, to make his humiliation complete, Tassilo had to appear before the king weaponless.<sup>124</sup> At the trial held in the presence of the Frank *optimates*, the Bavarians "loyal" to Charlemagne accused Tassilo of serious charges,<sup>125</sup> claiming that he had refused to keep his oath even after he had placed hostages, including his son, at the king's disposal. He carried out all these deeds on his wife's suggestion; similarly, the duchess, to revenge her father's

<sup>118</sup> Mitteis 1958, 48 f.; 57.

<sup>119</sup> Kolmer 1980, 302.

<sup>120</sup> *Chronicon Moissiacense a. 788*.

<sup>121</sup> *Annales regni Francorum a. 788*. Cf. Krawinkiel 1937, 48 f.

<sup>122</sup> *Annales Mettenses priores a. 788*.

<sup>123</sup> Abel-Simson 1969, I. 620 ff.; Löwe 1937, 63. ff.; Kolmer 1980, 311; Wolfram 1968, 173; Wolfram 1987, 187 ff.

<sup>124</sup> *Annales Nazariani a. 788*; Jahn 1991, 541.

<sup>125</sup> *Annales Mettenses priores a. 788*.

dethronement, urged her husband to enter into an alliance with the Avars.<sup>126</sup> This alliance was of utmost importance as the Avars lived outside the Christian world and the *ius gentium* of the period; consequently, whoever united with them, faced the whole Christian world.<sup>127</sup> Tassilo could not reject any of the charges, since getting in contact with other nations was part of his independent foreign policy, and he formed these relations at his discretion, which was of course interpreted by the Frank monarch as unfaithfulness.<sup>128</sup>

However, these charges would not have been enough for sentencing Tassilo to death and depriving him and his successors of the Dukedom, and for passing the Dukedom into Charlemagne’s hands. They had to adduce thus the Duke’s former alleged guilt, among others *harisliz*, i.e., the desertion from the (king’s) army done during the 757 Aquitanian campaign.<sup>129</sup> The legal background of the accusation, as shown by further analysis, was not fully established merely by the arbitrary leaving of the army, since *harisliz* as a *crimen* was punishable by death only from the 9<sup>th</sup> century onwards.<sup>130</sup> After pronouncing Tassilo guilty, Charlemagne’s “benevolence” and “emotions” made him prevent the execution of the death sentence. Tassilo had to request permission to spend the rest of his life in a monastery where he could repent of his sins and could thus at least ensure his salvation.<sup>131</sup> The Duke’s *tonsuratio* took place on 6<sup>th</sup> July, 788 and then he was exiled to Jumièges.

<sup>126</sup> Einhardus, *Vita Karoli magni* 11; *Annales Laureshamenses a. 788*; Szádeczky-Kardoss 1998, 274 f.; Pohl 1988, 314 f.; Wolfram 1968, 173.

<sup>127</sup> Löwe 1937, 67; Wolfram 1968, 172.

<sup>128</sup> Jahn 1991, 542.

<sup>129</sup> Kolmer 1980, 318 f.

<sup>130</sup> Kolmer 1980, 325; Jahn 1991, 542.

<sup>131</sup> *Annales regni Francorum a. 788. Tunc dominus rex Carolus congregans synodum ad iamdictam villam Ingilnheim, ibique veniens Tassilo ex iussione domni regis, sicut et ceteri vassi eius; et coeperunt fideles Baioarrii dicere, quod Tassilo fidem suam salvam non haberet, nisi postea fraudulens apparuit, postquam filium suum dedit cum aliis obsidibus et sacramenta, suadente uxore sua Liutbergane. Quod et Tassilo denegare non potuit, sed confessus est postea ad Avaros transmisisse, vassos supradicti domni regis ad se adortasse et in vitam eorum consiliasse; et homines suos, quando iurabant, iubebat, ut aliter in mente retinerent et sub dolo iurarent; et quid magis, confessus est se dixisse, etiamsi decem filios haberet, omnes voluisset perdere, antequam placita sic manerent vel stabile permetteret, sicut iuratum habuit; et etiam dixit, melius se mortuum esse quam ita vivere. Et de haec omnia conprobatus, Franci et Baioarrii, Langobardi et Saxones, vel ex omnibus provinciis, qui ad eundem synodum congregati fuerunt, reminiscentes priorum malorum eius, et quomodo domnum Pippinum regem in exercitu derelinquens et ibi, quod theodisca lingua harisliz dicitur, visi sunt iudicasse eundem Tassilonem ad mortem. Sed dum omnes una voce adclamarent capitale eum ferire sententiam, iamdictus dominus Carolus piissimus rex motus misericordia ab amore Dei, et quia consanguineus eius erat, contenuit ab ipsis Dei ac suis fidelibus, ut non moriretur. Et interrogatus a iamfato clementissimo domno rege praedictus Tassilo, quid agere voluisset; ille vero postolavit, ut licentiam haberet sibi tonsorandi*



Similarly, his sons, Theodo and Theodbert, his wife, Liutpirg and his daughters, Cotania and Hrotrud were presumably locked up in different monasteries, strictly separated from each other. This way, the Agilolfing dynasty was prevented from being maintained by marriages.<sup>132</sup> Charlemagne exiled all the nobles loyal to Tassilo, the captured dominion was left not to *duces* but to *comites*, and so he completed the system of *comitatus* in Bavaria too.<sup>133</sup>

The narration of the different *Annales* seems to be too harmonic and complete to reflect reality: Tassilo's defence is totally missing and his confession makes an implausibly remorseful impression as well.<sup>134</sup> Following Matthias Becher's train of thought, let us take a closer look at the different versions of some Annals about the plot of the trial. When reading the narration of the *Annales regni Francorum* on the process of the trial, it becomes remarkable that it is free from any gaps: the conduct of those present seems too composed, the charges are flooding as it were by themselves, the accusers are obscured, the king sinks into passivity, the only action he takes is to obtain mercy for the accused, and Tassilo moves to monastery voluntarily, on its own initiative and not on the king's order. This rightly arouses suspicion that the author did not want to document actual events but to enhance Charlemagne's nimbus: to stylize the king, who brought Bavaria under his power, into an ideal Christian ruler.<sup>135</sup> In contrast with the *Annales regni Francorum* conveying official Frank propaganda, a more realistic description can be read in the *Annales Laureshamenses* since here it is the conspiracy against the Franks and the alliance with the Avars entered into on the advice of the Duke's evil wife that make the Duke's former confidants to testify against their lord, which eventually leads to the death sentence delivered by the Franks and reduced only owing to Charlemagne's intervention. The events here seem more plausible, lifelike; the image depicted of the passive Frank ruler, however, is again favourable, this is presumably due to the personal sympathy of the author, Richbod, Bishop of Trier, who was on intimate

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*et in monasterio introeundi et pro tantis peccatis paenitentiam agendi et ut suam salvaret animam.*; Cf. *Annales Laureshamenses* a. 788.

<sup>132</sup> Abel-Simson 1969, I. 627 f.; Jahn 1991, 543; Kolmer 1980, 314.

<sup>133</sup> *Annales regni Francorum* a. 788. *Similiter et filius eius Theodo deiudicatus est et tonsoratus et in monasterio missus, et pauci Baiuarii, qui in adversitate domni regis Caroli perdurare voluerant, missi sunt in exilio.*; Einhardus, *Vita Karoli magni* 11. Cf. Jahn 1991, 543.

<sup>134</sup> Kolmer 1980, 313.

<sup>135</sup> Becher 1993, 64 ff.; Becher 2005, 43 f.



terms with Charlemagne.<sup>136</sup> The *Annales Nazariani* present a version completely different from with the *Annales regni Francorum*. This work cannot be called a consistently anti-Carolingian source though. It relates that Charlemagne has Tassilo's family carried off from Bavaria to Frank territory, has the Duke disarmed, and then, after his *tonsuratio*, has him locked up in a monastery as a convict. Here the king does not withdraw into the background, and does not hide behind the Bavarians or Franks who accuse the Duke but he himself hears the Duke's case and passes the judgment. And his judgment is to lock up the Duke in a monastery, and not a death sentence reduced only by benevolence to confinement.<sup>137</sup>

Both the legal establishment of his children's being locked up in monasteries and Bavaria's annexing into the Caroling Empire are extremely dubious, since after Tassilo's *tonsuratio* his sons should have taken over the Dukedom pursuant to the *Lex Baiuvariorum*, which assures the Agilolfing right of inheritance.<sup>138</sup> The demand made by Tassilo's children and wife for the Bavarian Dukedom was not disputed, but their personal status was altered so that *de iure* they were not entitled to realize their demand.<sup>139</sup> Charlemagne, of course, would have had the opportunity to sentence the rest of the family like Tassilo to death, but he must have been deterred from this drastic method, so he contented with the *Klostertod*. Locking Tassilo up in a monastery, however, created a rather dubious situation of public law in Bavaria, which is clearly shown by some units of the *Traditio Frisingensis* as well. It occurred that on 20<sup>th</sup> February, 789, in the presence of Bishops Atto and Oadahlart, a *traditio* was dated pursuant to Tassilo's reign,<sup>140</sup> whereas in another one they mention Charlemagne's conquest over Bavaria and Tassilo's turning cleric as an event that had happened two years before.<sup>141</sup>

The rearrangement of the Bavarian government may give the impression that Charlemagne might still have taken some rights of the Agilolfing dynasty into consideration, since he nominated his brother-in-law, Gerold

<sup>136</sup> Becher 1993, 66 f.; Becher 2005, 44 f.

<sup>137</sup> Becher 1993, 67 ff.; Becher 2005, 46 ff.

<sup>138</sup> Erkens 2005, 24; *Lex Baiuvariorum* 3, 1. *Dux vero praeest in populo, ille semper de genere Agilolfingarum fuit et debet esse, quia sic regni antecessores nostri concesserunt eis; qui de genere illorum fideles regi erant et prudens ipsum constituebant ducem ad regendum populum illum.*

<sup>139</sup> Kolmer 1980, 314.

<sup>140</sup> *Traditio Frisingensis* Nr. 125.

<sup>141</sup> *Traditio Frisingensis* Nr. 127a; Jahn 1991, 546.

of Agilolfing origin *praefectus* of Bavaria.<sup>142</sup> After 788 some dioceses delivered numerous registers of tenures to the Frank monarch, the *Breviarius Urolfi* of Niederalteich and the *Notitia Arnonis* of Salzburg originate from these times.<sup>143</sup> These records list the grants donated by the Bavarian Duke and by other nobles and common people, and since the Bavarian Dukes still kept their rights over these lands even after the *traditiones*, the abbots and bishops expected Charlemagne to release these benefices from the Bavarian Dukedom. Charlemagne did meet their demands, granted the listed benefices completely to the Church, abolishing the previously existing ecclesiastical/ducal *condominium*, supposedly as a means of compensation for the resolute support of the Church during his action taken against Tassilo. By questioning the legitimacy of the *traditiones* carried out by Tassilo, he created juridical insecurity which he later eliminated by confirming the lists handed over to him. Simultaneously, he gained insight into the Bavarian possessions and it cannot be excluded that he used the same method with the Bavarian clerical and non-clerical tenants too, winning with it a number of thankful followers.<sup>144</sup>

After organizing the Bavarian possessions and suppressing the rebellion in Regensburg,<sup>145</sup> Charlemagne made an attempt to give the liquidation of the Agilolfing dominance a final and legal form: in 794 Tassilo was taken from his monastery to a Council in Frankfurt, where in the presence of clerical and non-clerical nobles, and the Pope's envoys he had to renounce his dukedom on his and his successors' behalf.<sup>146</sup> (The sources do not make any further mention of Tassilo, the only thing they inform us about is that the once Bavarian Duke died as an ordinary monk on 11<sup>th</sup> December of a year unknown to us.<sup>147</sup>) The question may arise, why the traces of the last event cannot be found either in the *Annales regni Francorum*, or in the *Annales qui dicuntur Einhardi*. The fact that after six years Charlemagne still needed for Tassilo to entirely give up all his own and his family's demands would have impugned the lawfulness of the sentence made in 788; namely, the dethrone-

<sup>142</sup> Einhardus, *Vita Karoli magni* 13; Becher 2005, 39; Jarnut 1991, 17 f.

<sup>143</sup> Lošek 1990, 80 ff.; Lošek 2005, 126 f.; Lošek 2006, 72 ff.

<sup>144</sup> *Annales luvavenses maximi a.* 793; Wolfram 1987, 190; Jahn 1991, 548 f.

<sup>145</sup> *Annales qui dicuntur Einhardi a.* 792; *Annales Mosellani a.* 792

<sup>146</sup> *Concilium Francofurtense a.* 794; Abel-Simson 1969, II. 63 ff.; Kolmer 1980, 326 f.; Wolfram 1987, 192; Jahn 1991, 550.

<sup>147</sup> *Necrologium Tegernseense* 156; *Necrologium Weltenburgense* 382.

ment of the whole Agilolfing dynasty. Consequently, the applicable passages of law ensuring the right of inheritance for the Agilolfings lost their validity as well.<sup>148</sup> In order to legitimate his method, probably between 788 and 794 Charlemagne entered a passage into the *Lex Baiuvariorum* ordering that should the duke, whom he nominated head of the dominion, be so reckless, defiant, arrogant and rebellious that he would disobey the king's order, then he should lose the grant of dukedom, be deprived of the hope of heavenly joy, and lose even his salvation.<sup>149</sup> The reference made to the loss of salvation is not likely to allude to the threat of the 787 papal excommunication,<sup>150</sup> but much rather to the final punishment of Tassilo locked up in the monastery. This interpretation is even more probable, because in the light of the trial of 788 the accumulation of insulting attributes that describe the duke (*contumax, elatus, superbus, levitate stimulatus, rebellis*) seems quite plausible.<sup>151</sup>

It is beyond any doubt that setting aside the dynasty of Agilolfings was not legally established. How legal Tassilo's conviction can be regarded, and how the charges brought against him can be grouped and evaluated is, however, worth analyzing. Opinions differ as to whether the sentence was based primarily on the allegedly committed *harisliz*,<sup>152</sup> meaning possibly *crimen maiestatis*, or whether *harisliz*, like the other charges brought against the Duke, belonged to the category of *infidelitas*, constituting together the reasons of the case.<sup>153</sup> In the early Middle Ages, the notion of *crimen maiestatis* occurs last in the *Etymologiae* of Isidorus Hispalensis, the last summarizer of the antique inheritance;<sup>154</sup> then it is out of use for a longer period of time, and only the *Annales regni Francorum* use it concerning the conspirators against the Pope after Charlemagne was crowned emperor.<sup>155</sup> This usage, however,

<sup>148</sup> *Lex Baiuvariorum* 3, 1; Kolmer 1980, 316.

<sup>149</sup> *Lex Baiuvariorum* 2, 8a *Si quis autem dux de provincia illa quem rex ordinaverit tam audax aut contumax aut levitate stimulatus seu protervus et elatus vel superbus atque rebellis fuerit, qui decretum regis contempserit, donatum dignitatis ipsius ducati careat, etiam insuper spe supernae contemplationis sciat se esse condemnatum et vim salutis amittat*

<sup>150</sup> Rosenstock 1928, 26 ff.

<sup>151</sup> Kolmer 1980, 317.

<sup>152</sup> Rosenstock 1928, 39.

<sup>153</sup> Dahn 1977, 55.

<sup>154</sup> Isidorus Hispalensis, *Etymologiae sive origines* 5, 26, 25. *Maiestatis reatus tenentur hi, qui regiam maiestatem laeserunt vel violaverunt, vel qui rem publicam prodiderunt vel cum hostibus consenserunt.*

<sup>155</sup> *Annales regni Francorum a. 801. Post paucos ... dies iussit eos, qui pontificem anno superiore deposuerunt, exhiberi; et habita de eis questione secundum legem Romanam ut maiestatis rei capitis dampnati sunt.*

seems to be related to the Caroling Renaissance that attempted to renew the antique tradition, especially in Italy.<sup>156</sup> The *Annales qui dicuntur Einhardi*, originating also from the period following the crowning, names Tassilo “*maiestatis reus*”<sup>157</sup> but it is this very important idiom that is missing from the relevant part of the *Annales regni Francorum* written earlier. Consequently, with much certainty it is the result of some later additions.<sup>158</sup> The 801 entry of the *Capitulare Italicum* also defines *harisliz* as *crimen maiestatis*, but this *capitulare* served for filling in the gaps between the Roman and Langobard law.<sup>159</sup> This way, it created a special *mixtum compositum*, a state of facts mixing the elements of the Roman *crimen maiestatis* and German *harisliz*, resulting in beheading and forfeiture of property.

The 810 *Capitulare Aquisgranense*<sup>160</sup> and the 811 *Capitulare Bononiense*<sup>161</sup> refer to *harisliz* as a state of fact but do not use *crimen (laesae) maiestatis* in this respect.<sup>162</sup> On the basis of all this one may agree that in 788 Tassilo was not convicted of high treason. The sources of the time do not support this hypothesis: German law does not contain the fact of *harisliz*. One may come across such notion first in 788, and only later does it occur more frequently in the texts, Roman law is used only after 800 and mainly in the area beyond the Alps. Moreover, if Tassilo had been sentenced to death as *reus maiestatis*, the 794 declaration of abdication would not have been necessary.<sup>163</sup> Although Bavarian people were bound by the provisions of the *Lex Baiuvariorum*,<sup>164</sup> the nobility was exempted from it, and no punishment was applicable to the duke either, except for the abovementioned passage<sup>165</sup> entered between 788 and 794. At the same time, Bavarian law, contrary to the Frank legal sources, did not contain any paragraphs sanctioning *infidelitas* and the breaking of

<sup>156</sup>Rosenstock 1928, 38 f.

<sup>157</sup>*Annales qui dicuntur Einhardi a. 788. Tassilo ut maiestatis reus capitali sententia damnatus est.*

<sup>158</sup>Rosenstock 1928, 39.

<sup>159</sup>*Capitulare Italicum a. 801. Nr. 98. 3. De desertoribus. Si quis adeo contumax aut superbus extiterit, ut dimisso exercitu absque iussione vel licentia regis domum revertatur, et quod nos teudisca lingua dicimus herisliz fecerit, ipse ut reus maiestatis vitae periculum incurrat et res eius in fisco nostro societur.*

<sup>160</sup>*Capitulare Missorum Aquisgranense l. a. 810. Nr. 64. 13.*

<sup>161</sup>*Capitulare Bononiense a. 811. Nr. 74. 4.*

<sup>162</sup>Kolmer 1980, 320.

<sup>163</sup>Kolmer 1980, 321.

<sup>164</sup>Cf. *Capitulare Aquitanicum a. 768. Nr. 18. 10. Ut homines eorum legis habeant, tam Romani quam et Salici, et si de alia provincia advenerit, secundum legem ipsius patriae vivat.*

<sup>165</sup>*Lex Baiuvariorum 2, 8a*

the oath, but calling the enemy into the territory of the country was considered a major sin; and it cannot be excluded that this fact was also taken as a basis for convicting the Bavarian Duke, who was already in vassal relations with the king.<sup>166</sup> The sources emphasize many times Tassilo’s breaking of the oath of allegiance, it being *infidelitas*.<sup>167</sup> This charge is supported by Tassilo’s foreign affairs, namely his negotiations with the Avars, which violated Frank interests.<sup>168</sup> (In later centuries all of these were deemed as breach of the oath of alliance and were punished by death and forfeiture of property.<sup>169</sup>) Although we cannot state that *harisliz* was deemed as *crimen maiestatis*, since every legal *testimonium* concerning it originates from the times after 801. The charge of *harisliz* had been created by Charlemagne and put on the stage as an act of *infidelitas*; therefore, the Imperial Assembly sentenced Tassilo to death as *fraudator fidei*.<sup>170</sup>

By the vassal *commendatio* taken on the Lechfeld, which helped Tassilo to make the Frank military action against Bavaria illegitimate, he was able, albeit at the expense of grave humiliation, to retain his Dukedom and by that to upset Charlemagne’s plans to fully integrate Bavaria. *Infidelitas* brought up as a charge in the trial in Ingelheim would not have stood by itself; therefore, Charlemagne was forced to produce another count of the indictment: and that was *harisliz* equal to treason. On the other hand, as we have seen, neither the *Annales regni Francorum* contain any earlier references to this state of facts (either concerning Tassilo or in any other context), nor the sources independent of the official version allude to this term or action in any form, not even in relation to the events of 788. For this reason, *harisliz*, i.e., desertion allegedly committed in 763, is nothing else but fiction; and it was an attempt to make legitimate the charge *infidelitas*, which called for *harisliz* and feudal subordination, which occurred only in 787. As prerequisites, Frank propaganda distorted the events of earlier decades, the memory and especially legal classification of which were anyway fading away among the increasingly less contemporaries. Looking at the events from another aspect, however,

<sup>166</sup> Kolmer 1980, 322 ff.

<sup>167</sup> *Annales regni Francorum a. 788. Tassilo fidem suam salvam non haberet ... postea fraudulens apparuit; Concilium Francofurtense a. 794. Nr. 28. 3. fraudator fidei*

<sup>168</sup> *Annales regni Francorum a. 788; Einhardus, Vita Karoli magni 11; Annales Laureshamenses a. 788; Szádeczky-Kardoss 1998, 274 f.; Pohl 1988, 314 f.; Wolfram 1968, 173.*

<sup>169</sup> Hagemann 1974, 44.

<sup>170</sup> Kolmer 1980, 325.

we can presume that the charge of *infidelitas* would have been enough to condemn Tassilo, this is what the very nature of show trial's suggests. By stressing *harisliz* Frank propaganda most probably wanted to lay special emphasis on the subordinate position of the nobility now subjected to the king, and on their obligation to wage war arising from that.<sup>171</sup>

In the end of our analysis it became clear, what kind of processes led to this final show trial. The Frank monarch's power politics was not necessarily in need of a military conflict for the sake of annexing Bavaria into his empire after he had finished with his enemies and competitors. It seemed enough to isolate the Dukedom with cunning diplomatic means, and win over a group of Bavarians to his side in the coming trial. During the proceedings Tassilo was not only charged with *harisliz*, but he was accused of serious unfaithfulness (*infidelitas*) breaking of the oath of allegiance in 757 and 781, in addition to the vassal oath in 787. Executing the death sentence would not have brought the desired result for Charlemagne since through Tassilo's execution he would not have been able to annex Bavaria *ipso iure*. At the same time, by locking up Tassilo and his family in monasteries, the Frank monarch had the opportunity to deal with the masterless Bavarian Dukedom as he wished. The unclarified state of the legal situation and Charlemagne's not completely legitimate dominance over Bavaria are clearly shown by the declaration taken from Tassilo at the 794 Council in Frankfurt, which sets forth that he renounces all demands in relation to Bavaria on his own and his family's behalf.

## BIBLIOGRAPHY

- Abel, Sigurd–Simson, Berhard: *Jahrbücher des fränkischen Reiches unter Karl dem Großen I–II.*, Berlin 1883. (Neudruck 1969.) .
- Airlie, Stuart: *Narratives of triumph and rituals of submission: Charlemagne's mastering of Bavaria*, in: *Transactions of the Royal Historical Society*, 6<sup>th</sup> series 9, 1999.
- Becher, Matthias: *Zum Geburtsjahr Tassilos III.*, in: *Zeitschrift für bayerische Landesgeschichte* 52, 1989.
- Becher, Matthias: *Eid und Herrschaft. Untersuchungen zum Herrescherethos Karls des Großen*, Sigmaringen 1993.

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<sup>171</sup> Becher 2005, 48 ff.

- Becher, Matthias: *Zwischen Macht und Recht. Der Sturz Tassilos III. von Bayern 788*, in: Kolmer, Lothar-Rohr, Christian (Hrsg.): *Tassilo III. von Bayern. Großmacht und Ohnmacht im 8. Jahrhundert*, Regensburg 2005.
- Bertolini, Ottorino: *Carlomagno e Benevento*, in: *Karl der Große. Lebenswerk und Nachleben I.*, Düsseldorf 1967.
- Bund, Konrad: *Thronsturz und Herrscherabsetzung im Frühmittelalter*, Bonn 1979.
- Classen, Peter: *Bayern und die politischen Mächte im Zeitalter Karls des Großen und Tassilos III.*, in: *Ausgewählte Aufsätze*, Sigmaringen 1983.
- Dahn, Felix: *Die Könige der Germanen IX/2. Die Baiern*, Hildesheim 1977.
- Dopsch, Heinz: *Rupert, Virgil und die Salzburger Slawenmission*, in: *1000 Jahre Ostarrîchi. Seine christliche Vorgeschichte. Mission und Glaube im Austausch zwischen Orient und Okzident*, Innsbruck-Wien 1997.
- Erkens, Franz-Rainer: *Der Herrscher als gotes drút. Zur Salralität des ungesalbten ostfränkischen Königs*, in: *Historisches Jahrbuch* 118, 1998.
- Erkens, Franz-Rainer: *Summus princeps und dux quem rex ordinavit. Tassilo III. im Spannungsfeld von fürstlichem Selbstverständnis und königlichem Auftrag*, in: Kolmer, Lothar-Rohr, Christian (Hrsg.): *Tassilo III. von Bayern. Großmacht und Ohnmacht im 8. Jahrhundert*, Regensburg 2005.
- Erler, Adalbert: *Herzog Tassilo vor dem Königsgericht in Ingelheim*, in: *Beiträge zur Ingelheimer Geschichte* 27, 1978.
- Ewig, Eugen: *Das Bild Constantins des Großen in den ersten Jahrhunderten des abendländischen Mittelalters*, in: *Historisches Jahrbuch* 75, 1955.
- Freund, Stephan: *Von Tassilo zu Karl dem Großen. Die Salzburger (Erz)Bischöfe und die Reichspolitik*, in: Kolmer, Lothar-Rohr, Christian (Hrsg.): *Tassilo III. von Bayern. Großmacht und Ohnmacht im 8. Jahrhundert*, Regensburg 2005.
- Gauert, Adolf: *Das Zepter Herzog Tassilos III.*, in: *Deutsches Archiv für Erforschung des Mittelalters* 18, 1962.
- Hagemann, Hans-Rudolf: *Vom Verbrechenskatalog des altdeutschen Strafrechts*, in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung* 91, 1974.
- Jahn, Joachim: *Ducatus Baiuvariorum. Das bairische Herzogtum der Agilolfinger*, Stuttgart 1991.
- Jarnut, Jörg: *Geschichte der Langobarden*, Stuttgart-Berlin-Köln-Mainz 1982.
- Jarnut, Jörg: *Genealogie und politische Bedeutung der agilolfingischen Herzöge*, in: *Mitteilungen des Instituts für österreichische Geschichtsforschung* 99, 1991.
- Kienast, W.: *Die fränkische Vasallität. Von den Hausmeiern bis zu Ludwig dem Kinde und Karl dem Einfältigen*, Frankfurt am Main 1990.



- Klebel, Ernst: *Bayern und der fränkische Adel im 8. und 9. Jahrhundert*, in: *Grundfragen der alemannischen Geschichte* 1, 1955.
- Kolmer, Lothar: *Zur Kommendation und Absetzung Tassilos III.*, in: *Zeitschrift für Bayerische Landesgeschichte* 43, 1980.
- Kolmer, Lothar: *Tassilo überschreiben*, in: Kolmer, Lothar–Rohr, Christian (Hrsg.): *Tassilo III. von Bayern. Großmacht und Ohnmacht im 8. Jahrhundert*, Regensburg 2005.
- Krawinkel, Hermann: *Untersuchungen zum fränkischen Benefizialrecht*, Weimar 1937.
- Lošek, Fritz: *Philologisches zur 'Conversio Bagoariorum et Carantanorum'*, in: SCHWARCZ, Anton–Wolfram, Herwig (Hrsg.): *Die Bayern und ihre Nachbarn I.*, Wien 1985.
- Lošek, Fritz: *Notitia Arnonis und Breves Notitiae*, in: *Quellen zur Salzburger Frühgeschichte*. Veröffentlichungen des Instituts für österreichische Geschichtsforschung 44., Wien–München 2006.
- Löwe, Heinz: *Die karolingische Reichsgründung und der Südosten*. Studien zum Werden des Deutschtums und seiner Auseinandersetzung mit Rom, Stuttgart 1937.
- Löwe, Heinz: *Die Reichsannalen*, in: *Deutschlands Geschichtsquellen im Mittelalter*. Vorzeit und Karolinger II., Weimar 1953.
- Mitteis, Heinrich: *Lehnrecht und Staatsgewalt*, Darmstadt 1958.
- Mitterauer, Michael: *Karolingische Markgrafen im Südosten*. Fränkische Reichsaristokratie und bayerischer Stammesadel im österreichischen Raum, Wien 1963.
- Oelsner, Ludwig: *Jahrbücher des fränkischen Reiches unter König Pippin*, Berlin 1975.
- Reindel, Kurt: *Das Zeitalter der Agilolfinger*, in: SPINDLER, Max (Hrsg.): *Handbuch der Bayerischen Geschichte I.*, München 1967.
- Rob-Santer, Carmen: *Die Darstellung des Feindes in der karolingischen Geschichtsschreibung*. *Historie zwischen Tradition und Innovation*, in: Kolmer, Lothar–Rohr, Christian (Hrsg.): *Tassilo III. von Bayern. Großmacht und Ohnmacht im 8. Jahrhundert*, Regensburg 2005.
- Rosenstock, Eugen: *Unser Volksname Deutsch und die Aufhebung des Herzogtums Bayern*, in: *Mitteilungen der schlesischen Gesellschaft für Volkskunde* 29, 1928.
- Schieffer, Rudolf: *Ein politischer Prozeß des 8. Jahrhunderts im Vexierspiel der Quellen*, in: *Das Frankfurter Konzil von 794*. Kristallisationspunkt karolingischer Kultur I., Mainz 1997.
- Schmid, Karl: *Zur Ablösung der Langobardenherrschaft durch die Franken*, in: *Gebetsgedanken und adliges Selbstverständnis im Mittelalter*, Sigmaringen 1983.



- Szádeczky-KardossSamu: *Az avar történelem forrásai 557-től 806-ig*, Budapest 1998.
- Wolfram, Herwig: *Intitulatio I. Lateinische Königs- und Fürstentitel bis zum Ende des 8. Jahrhunderts*, Graz–Wien–Köln 1967.
- Wolfram, Herwig: *Das Fürstentum Tassilos III., Herzogs der Bayern*, in: *Mitteilungen der Gesellschaft für Salzburger Landeskunde* 108, 1968.
- Wolfram, Herwig: *Grenze und Mission. Salzburg vom heiligen Rupert zum heiligen Virgil*, in: *Mitteilungen der Gesellschaft für Salzburger Landeskunde* 115, 1975.
- Wolfram, Herwig: *Die Geburt Mitteleuropas. Geschichte Österreichs vor seiner Entstehung 378–907*, Wien 1987.