URBAN JUSTICE IN EARLY MODERN TRANSYLVANIAN SAXON TOWNS: PRACTICES AND PROCEDURES IN BRAȘOV

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This paper analyzes data from a judicial record relating to the administration of justice in Brașov (Kronstadt) one of the most important towns of the Transylvanian Saxons in the second half of the sixteenth century. The records contain judgements delivered by the Town Council in disputes involving the town's inhabitants and the rural population of the surrounding district. Based on the entries, it can be traced what kinds of complaints people brought to court, what kind of proceedings they expected for their disputes, and what they hoped to achieve through litigation. It reveals how people of this period made use of the law. Examining the cases reveals that the town court remained attractive to the local community due to its role as a place of authentication. Individuals could request written evidence of the judgements delivered in their cases, which they could then use to prove the legitimacy of their transactions before other courts. Even though the procedure was gradually being standardised and signs of professionalisation were appearing among court members, a major part of the community still used older methods of resolving disputes. People primarily expected the court to act as a mediator in their disputes.

Key words: Uses of justice. Town courts. Sixteenth century. Saxon towns. Brașov (Kronstadt). Transylvania.
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The present study examines the hierarchy and characteristics of judicial practice in the town of Brașov (Kronstadt in German and Brassó in Hungarian) and surrounding villages, as recorded in court judgment records from the second half of the sixteenth century. Brașov is considered to be one of the most important cities of the southern Transylvanian Saxons during the given period, and the district administered by the municipality was part of a semi-independent state that emerged in the east of the country following the dissolution of the Kingdom of Hungary in 1526, (known as the Principality of Transylvania from 1570). The town's judicial practice, characterized by legal pluralism and a corporate nature, was integrated into the legal environment of the newly created state. Nevertheless, the rural population of the district maintained a collective legal status within the territory, enjoying the same rights as urban citizens in Brașov.

At the same time, the area also belonged to a larger administrative and judicial unit, the Transylvanian Saxon self-governments, known as the University of the Saxons (Latin: *Universitas Saxonum*, meaning "the totality of the Saxons"), a political association through which residents of the district enjoyed protection at the state level through forums. During the second half of the sixteenth century, significant changes were made to the institutional development of local judicial practices including the codification of customary law, a process that took approximately 40 years and facilitated more uniform court procedures. The Town Council increasingly offered effective and predictable solutions for settling not only everyday disputes, but also new issues arising from religious changes in society.

A town book or protocol from the Brașov chancellery has survived from the period between 1558 and 1580.[1] It contains judgments of the Brașov Town Council, a body which acted as a judicial forum in matters concerning the inhabitants of settlements under the town's administration. The recording of protocol coincides with the period during which the Saxon statutory code, the *Statuta iurium municipalium Saxonum in Transylvania* (German title: *Das Eigen-Landrecht der Siebenbürger Sachsen*, 1583),[2] was compiled. It was initialled by Matthias Fronius, who authored the final version of the same Saxon statutory code and also served as Brașov's town clerk from 1555 to 1569.[3] Additionally, Fronius was a member of the Town Council (1570–1572, 1575–1578, 1581) and town steward (1573–1574), playing a decisive role in the town's judicial life until his death in 1588.[4] The protocol's entries therefore offer an excellent basis for comparing normative legal sources with judicial practice. Meanwhile, the

1 The protocol of the Brașov Town Council was published in 2016 under the title: Das Gerichtsbuch des Kronstädter Rates (1558 – 1580) (GKR). DERZSI, ed. *Quellen zur Geschichte der Stadt Kronstadt, Bd. X*. Kronstadt, Heidelberg 2016.

2 FRONIUS, ed. *Das Eigen-Landrecht der Siebenbürger Sachsen*. Kronstadt 1583 (Facsimile edition with an introduction by Adolf Laufs: München 1973). The critical edition of the Saxon law code was published in 1853 by Friedrich Schuler von Libloy. SCHULER VON LIBLOY, ed. *Statuta jurium municipalium Saxonum in Transsilvania. Das Eigenlandrecht der Siebenbürgen Sachsen bearbeitet nach seiner legalen Ausbildung als Grundriß für academische Vorlesungen, erschienen in drei Lieferungen von zusammen 266 Seiten*. Hermannstadt 1853. For sources of the law book, see, without pretension to completeness: SCHULER VON LIBLOY, ed. *Das Statutar-Gesetzbuch der Siebenbürger Deutschen Sachsen – im lateinischen und deutschen Texte mit comparativen Paralellenoten*. Hermannstadt: 1856; SZABÓ. Die Rezeption des Römischen Rechts bei den Siebenbürgen Sachsen. In *Publicationes Universitatis Miskolciensis, Sectio Juridico et Politica*, 1994, vol. IX, p. 189; SUTSCHEK. *Das Deutsch-Römische Recht der Siebenbürger Sachsen (Eigen-Landrecht)*. Stuttgart 2000.

3 DERZSI. *Delict și pedeapsă. Justiție penală în orașele săsești din Transilvania în secolul al XVI-lea*. Cluj-Napoca 2022, p. 75.

4 DERZSI, ed., *Das Gerichtsbuch*, p. I.

records, far from the scene of major political events, provide valuable insights into daily life, property relations, economic activities, family composition, relations with foreigners, and social and religious expectations of the time.

Based on the cases detailed in the town book, data concerning legal norms and practices can be examined from numerous thematic approaches. In the present study, the nature of cases brought before municipal courts was examined, including how individuals lodged complaints, and the practices through which the courts resolved different types of disputes. A concept laid out by Martin Dinges in the early 2000s regarding the "uses of justice" can be thoroughly examined through the cases in the Braşov judgment book in many of its aspects, whether they are of a criminal or civil nature.[5] The manner of turning to the court – the method of submission of complaints formulated by a plaintiff – also influenced the course of the proceedings, while the frequency of certain cases resulted in such standardized procedures, facilitating the unification of the legal system greatly as similar cases were judged in similar ways. At the same time, authorities had countless opportunities to formalise procedures. They compiled legal codes by collecting legal norms and exempting significant cases from the jurisdiction of lower-level courts based on community self-governance structures. Regulatory decrees were also issued to punish deviant behaviour and enforce social discipline, which the courts applied in accordance with the moral principles of the Protestant Church. Through judicial activity, the town council exercised increasing control over both the city and the rural settlements under its jurisdiction.

Braşov and surrounding district: The judicial organization of the town and the Land Barcza

Braşov and its district, the Burzenland, which lies under the protective curve of the Carpathians, has remained the most densely populated area of southern Transylvania since the late Middle Ages. The area was also the most economically developed region. The settlements that underwent urban development later in the area were formed in the early 13th century, when the Kingdom of Hungary called upon German Knights to protect the south-eastern borders. The knights built stone fortresses in this strategically important location and brought Walloon and German settlers for protection and maintenance. Colonisation continued even after the king banished the knights in 1225. Under the auspices of the kingdom,

5 DINGES. Justiznutzungen als soziale Kontrolle in der Frühen Neuzeit. In BLAUERT and SCHERHOFF, ed. *Kriminalitätsgeschichte. Beiträge zur Sozial- und Kulturgeschichte der Vormoderne*. Konstanz 2000, pp. 503-544; DINGES. Te Uses of Justice As a Form of Social Control in Early Modern Europe. In ROODENBURG and SPIERENBURG, ed. *Social Control in Europe: Volume 1, 1500–1800*. Ohio 2004, pp. 159-175.

the settlements began to flourish, primarily Brașov (*Kronstadt* in German), the "city of the crown" (*Corona*). Germans living in Brașov mostly worked in trade and crafts. The town's location along an important trade route through the Carpathians, connecting the Black Sea with Central and Western Europe, made it one of the most important economical centres in the southern part of the kingdom. Brașov acquired all the necessary privileges – the right to hold a market, the right of storage, tax exemptions, the right to elect the town's judge, ecclesiastical privileges, etc., which enabled the town to achieve significant economic and political influence. The urban population was permitted to build walls around the settlement and in 1486, King Matthias granted the site status and privileges of a free royal town.[6] Town officials successfully fought against the local nobility's territorial ambitions and by the end of the fifteenth century, the urban authorities had brought the surrounding countryside under their control. At the same time, the town joined the newly formed union of autonomous organisations of the Saxons in Transylvania, the Saxon University (in Latin, *Universitas Saxonum*; in German, *Sächsische Nationsuniversität*), which was based in Sibiu (*Hermannstadt*). This political, administrative, economic, judicial and religious self-governing body united all the municipalities that had been established by that time, including the Seven Seats led by Sibiu (Orăștie, Sebeș, Miercurea, Sighișoara, Nocrich, Cincu and Rupea), Mediaș and the Two Seats, Brașov and its district, as well as the territory of the Saxons in northern Transylvania, Bistrița and its district.[7] This union of towns and seats represented the Saxons' aspirations as a "political nation" alongside the Hungarians (in Transylvanian counties) and Szeklers (in the eastern borderlands), following the dissolution of the medieval kingdom and the establishment of the Principality of Transylvania within the newly formed country. As early as the beginning of the sixteenth century, the Town Council of Brașov acted as an appeals forum for settlements in the district. The first mention of this dates from 1502, while the first reference to the District Council dates

6 PHILIPPI. Die Autonomie der Teile als Voraussetzung der Autonomie der Universitatis. In KRESSLER, ed. *Gruppenautonomie in Siebenbürgen. 500 Jahre siebenbürgisch-sächsische Nationsuniversität*. Köln, Wien 1990, p. 93-106; TONTSCH. Statutargesetzgebung und Gerichtsbarkeit als Kernbefugnisse der Sächsischen Nationsuniversität. In KRESSLER, ed. *Gruppenautonomie in Siebenbürgen*, pp. 29-43.

7 NUSSBÄCHER. Die Verwaltungseinrichtungen der Siebenbürger Sachsen bis zum Ende des 16. Jahrhunderts. In NUSSBÄCHER. *Aus Urkunden und Chroniken, Bd. 1*. Bukarest 1981, 11-18; MÜLLER. *Die sächsische Nationsuniversität in Siebenbürgen. Ihre verfassung- und verwaltungsrechtliche Entwicklung. 1224–1876. Ein rechtsgeschichtlicher Beitrag zur Geschichte der ältesten organisierten Minderheit der Gegenwart. Beiträge zur Verfassungs- und Verwaltungsgeschichte der Deutschen in Rumänien, im Auftrage des Vereins für siebenbürgische Landeskunde*. Hermannstadt: 1928.

from 1526. The town's officials were responsible for the district's administration and jurisdiction.[8]

In the sixteenth century, Brașov became one of the most important cultural centres in Eastern Europe. Under the leadership of renowned humanist Johannes Honterus (1498–1549), a native, Brașov and all the Saxons adopted the doctrines of the Reformation (Lutheranism).[9] Honterus also established the town's first gymnasium (secondary school) in 1544, which included medical and legal departments to ensure the ongoing education of the local administrative elite.[10] He also founded a printing press in 1539 and a paper mill in 1546.[11] Cultural life was sustained by strong commercial and industrial activity, which rural settlements also became involved in from the second half of the 16th century.[12]

The district comprised fourteen free settlements, including the towns of Brașov, Feldioara, Râșnov, Prejmer and Codlea. These settlements were located on the sites of former Teutonic Knights' castles.[13] In addition to the settlements with free legal status, the town exercised manorial jurisdiction rights – including administration, legislation and ecclesiastical patronage – over a large number of other villages. Three groups of rural estates with mixed Romanian and Hungarian or Szekler populations can be distinguished: the former domains of Castle Bran (*Törzburg*, *Törcsvár*) on the border with Wallachia (nine villages in total); villages belonging to the former Corpus Christi Fraternity transferred to the Parish Church in Brașov; and villages donated to the town during the period of the principality.[14] Furthermore, Brașov exercised direct administrative control over three suburbs that had developed on the outskirts of the town, each with a distinct ethnic composition: *Belgerei* (*Obere Vorstadt*/Șcheii Brașovului)

8 MÜLLER. *Stühle und Distrikte als ls Unterteilung der Siebenbürgisch-Deutschen Nationsuniversität, 1141–1876*, p. 263.

9 WITTSTOCK. *Johannes Honterus der Siebenbürger Humanist und Reformator. Der Mann, Das Werk, Die Zeit*. München 1970, p. 21.

10 NUSSBÄCHER. Die Honterusschule in den ersten Jahrzehnten ihres Bestehens. In NUSSBÄCHER, ed. *Aus Urkunden und Chroniken. Beiträge zur siebenbürgischen Heimatkunde*. Bukarest 1981, p. 121; PHILIPPI. Das sächsische Schulwesen in Siebenbürgen bis zum 17-ten Jahrhundert. In KÖNIG, ed. *Beiträge zur Siebenbürgischen Schulgeschichte*. Köln, Wien 1996, p. 127-139.

11 PHILIPPI. Von Mohacs bis zum großen Brand. In ROTH, ed. *Kronstadt. Eine siebenbürgische Stadtgeschichte*. München 1999, p. 50.

12 For information on the administration of Brașov in a historical context, see: CZIRÁKI. *Autonóm közösség és központi hatalom. Udvar, fejedelem és város viszonya a Bethlen-kori Brassóban*. Budapest 2011.

13 SCHULER VON LIBLOY. *Siebenbürgische Rechtsgeschichte, B. III*. Hermannstadt 1868, p. 194.

14 MÜLLER, Stühle und Distrikte, p. 307.

with Romanian inhabitants, *Altstadt* (*Bartolomeu*, *Óváros*) with Hungarians, and Blumenau with Germans.[15]

The settlements lay relatively close to each other, market towns 10 to 15 km from Brașov; the two most distant points from the city, towards Apața in the north and Bran in the south, are 37 and 30 km away, respectively. The area has a dense settlement structure, with the four market towns situated nearby each other – a uniquely Transylvanian feature. In comparison to other parts of Transylvania, a relatively large proportion of the population lived in urban areas: 72% in 1510, with 47.1% in Brașov and 24.9% in the four market towns. Even compared to the total population of Transylvanian Saxons (25% lived in towns, 16% in market towns and 59% in villages),[16] this ratio was very high. By the end of the fifteenth century, the population of Brașov had reached 10,000, growing to approximately 11,000 by the end of the sixteenth,[17] making it one of the largest towns in Transylvania alongside Cluj (*Kolozsvár*, *Klausenburg*).

In the second half of the sixteenth century, the judicial system in Brașov and the surrounding area was highly stratified and complex. Legal affairs in Brașov and its suburbs were handled by a town judge (*iudex civitatis or iudex superior*).[18] Cases were heard by a town court (*iudicatum*), organised as a collegial body (*Kollegialgericht*), with the judge acting as chairman and assisted by a councillor or former judge. The town court also served as a second instance for residents of nearby villages,[19] and the district's four market towns had their own local courts.[20] To oversee the legal affairs of the estates' villagers, the town appointed stewards from among the councillors (senators), who had the power to review the decisions of village judges.[21] Bran Castle, the fortress that protected the Carpathian crossing, was commanded by two castellans nominated by the Town Council from among former judges and first senators. At the local level, community leaders such as village judges and stewards also exercised some judicial powers. In the Brașov and *Burzenland* areas, they could only hear cases

15 HERMANN. *Das alte Kronstadt. Eine siebenbürgische Stadt- und Landesgeschichte bis 1800*. Köln, Weimar, Wien 2010, pp. 283-298.

16 DRASKÓCZY. Az erdélyi Szászföld demográfiai helyzete a 16. század elején. In *Erdélyi Múzeum*, 1999, vol. 61, no 1-2, pp. 1-31.

17 In 1480, 1971 homeowners and in 1580, 2201. The number of homeowners multiplied by five results approximately the number of residents. PHILIPPI, Von Mohacs bis zum großen Brand, p. 58.

18 MÜLLER, Stühle und Distrikte, p. 133.

19 Such as Sâmpetru, Bod, Hărman and Ghimbav.

20 Furthermore, Râșnov handled the judicial matters of two neighbouring villages (Cristian and Vulcan), while Feldioara handled the legal cases of the inhabitants of Hălchiu, Rotbav and Măieruș. DERZSI, Delict și pedeapsă, pp. 115-118.

21 HERMANN, *Das alte Kronstadt*, 288.

worth up to one florin, whereas the town steward (*Stadthann*) had jurisdiction over cases worth up to ten florins. However, village judges could not rule on criminal or inheritance cases, nor could they question witnesses without the knowledge of the town court or council. Appeals proceeded from the judge to the Town Council, and then to the District Assembly, known as the *Land Barcza*. After that, they went on to the supreme judicial forum of the Transylvanian Saxons – the University of the Sachsons. These judgements could be appealed before the Prince at the Princely Table or in the Prince's Personal Presence Court.[22] In criminal matters, the Town Council adjudicated in extraordinary proceedings. A member of the Town Council acted as oversight magistrate (*referens in criminalibus*), examining cases and delivering interim judgements. The four market towns also had jurisdiction over criminal cases, but all such cases were required to be reported to the Brașov Town Council. Market town authorities were forbidden to reach a final decision without a councillor sent by The Council. There was no right of appeal in criminal cases, and the only recourse for the accused was to request a review of the case or a pardon from the country's ruler.[23]

Judicial protocol of the Town Counsil of Brașov

As a historical source, the judicial protocol of the Brașov Town Council from 1558 to 1580 falls within the category of town books and council records. Town books from Transylvania dating back to the late Middle Ages are representative of the written materials typically produced in municipal chancelleries across Central Europe.[24] Similar to the judgment books (*Urteilsbücher*) of late medieval German towns, these records detail a range of court proceedings. In the case of Brașov, they attest to the activity of the town council as an appellate court for civil matters and a special court for criminal cases. The unique feature of the Brașov judicial book is that it records not only the decisions of the Town Council, but also short summaries of those of the court of appeal of the district council, known as the *Land Barcza*. Consequently, the source provides insight into how rulings were modified in various cases and the reasoning behind such revised

22 DERZSI, Delict și pedeapsă, pp. 184-192.

23 SCHULER VON LIBLOY, Siebenbürgische Rechtsgeschichte, Bd. III, p. 163.

24 Taking into account research findings and publications on town books, Mária Pakucs-Willcocks offers a concise overview of Transylvanian town books from the late Middle Ages and the early modern period. PAKUCS-WILLCOCKS. Representation of the Urban Political Order in a Written Context: The First Protocol Book of Sibiu (1522–1565). In PAKUCS-WILLCOCKS and DERZSI, ed. *Towns between Empires: Good Governance and "Police" in Case Studies from Transylvania, Wallachia, and Moldavia 1500s–1800s*. Amsterdam 2025, pp. 146-149. DOI: 10.5117/9789633869000_CH07.

decisions. The book was compiled in 1558 to document the final judgements of the town and district councils on cases that had, for the most part, already been decided by lower courts. As the brief Latin introduction to the book explains, the aim was to provide an overview of judgements which the parties involved could rely on if they were not satisfied with the ruling of the court. Another objective of the chronicle was to promote consistency in jurisprudence, which would facilitate uniform judicial practices in similar legal proceedings. As stated in the preface, *"so that similar cases of the same nature are not decided with different sentences."*[25]

A contemporary report also survives which describes the usefulness and stated purpose of the Brașov town book. In a letter dated 26 May 1575, two nobles from Hăghig, Thomas and Blasius Nemes, informed the chancellor that they had been searching for information relating to a lawsuit in Brașov on the Prince's orders.[26] In response to their question to the Brașov authorities as to whether the town hall kept any notes, letters or minutes containing information on proceedings before the town court, whether citizens could request documents on their legal proceedings from the town authorities on the basis of the entries therein and whether these documents had legal force, the judge and councillors replied as follows:

> *„They do not remember having lived with such notes in the town in the past. But if the court issued a ruling on a disputed matter that was accepted by both parties to the lawsuit, the judgement was recorded in the town book by the town clerk. If someone wanted a new trial due to the Prince's order, the Council issued a writ containing the decision copied from the town records."*[27]

This demonstrates that the recording of the town book in Brașov was connected with the activities of the town chancellery, which served as a place of authentication (*locus credibilis*).[28] At the request of parties involved in an

25 *Secundo ut causae similes unius argumenti nons disparibus sententiis adiudicentur*. GKR, p. 1.

26 Romanian National Archives Sibiu (RNA Sibiu), fund Brukenthal Collection, box S1-10, no. 321.

27 Three other letters regarding the same case have survived, in which the Prince's men relay the town councils of Cluj, Sighișoara and Mediaș's responses to the question. RNA Sibiu, f. Brukenthal Collection, S1-10, 319, 320, 322.

28 For information on this specific institution of Hungarian law, see: HUNYADI. Administering the Law: Hungary's Loca Credibilia. In RADY, ed. *Custom and Law in Central Europe, Centre for European Legal Studies*. Cambridge. 2003, pp. 25-35; KŐFALVI. Places of authentication (loca credbilia). In *Chronica*, 2002, no. 2, pp. 27-38; FEDELES and BILKEI.

ongoing law dispute, the town notary would issue authenticated copies of the court ruling taken from the town records.

The town clerk named the book *Liber Actuarius* (*Stadtbuch*, town book). The term statt buch is referenced in an entry dated 6 July 1575, in which one of the parties involved in the proceedings requested that the judicial decision be included in the protocol.[29] The Brașov town book primarily contains judicial rulings by the Town Council concerning private law matters involving the town's inhabitants and those living in settlements under its administration.[30] The entries are brief and contain data about the proceedings, including time information, the names of the parties to the case with details of their place of origin, references to procedural evidence and legal representation, the decision and if applicable, additional information on the referral of the matter, i.e. the appellate court's decision. The town clerk also made additional notes when considered necessary, providing further information about court proceedings or the reasoning behind rulings and providing references to legal customs and laws. The entries were marked with short headers indicating the places of origin of the parties in the case. The top centre of the page displayed the respective year lines, again suggesting that the record was kept for practical purposes, allowing the town clerk to more easily select information according to the claims of the involved parties. The entries in the protocol demonstrate an intention to maintain accurate records. Apparently, decisions recorded in the judicial protocol were drafted based on notes made by the town clerk during court proceedings. The 549 entries in the register cover almost the same number of cases. Some of these cases were tried in the lower courts, and the final decisions as well as the outcomes of appeals in some matters were recorded in the protocol. However, it is almost certain that the protocol does not provide a complete account of the town council's judicial activity. Of the judgements handed down by the council in criminal cases tried by extraordinary proceedings, only one death sentence (for illegal trade with foreign countries) and one proscription (for stealing from a temple and suspected witchcraft) are recorded.[31] Numerous capital punishments (hangings and beheadings) and floggings were imposed by the authorities and

Loca credibilia. Hiteleshelyek a középkori Magyarországon. Pécs 2009. For information on the practice in cities, see: FLÓRA. Hivatal vagy hivatás. Városi jegyzők a kora újkori Erdélyben. In DÁNÉ; OBORNI and SIPOS, ed. *Tanulmányok a 90 éves Kiss András tiszteletére*. Debrecen 2012, p. 123.

29 GKR, Doc. no. 476, p. 152.

30 Although the entries are uniform in terms of content, alongside judgments on various lawsuits, town council decisions and orders based on court rulings are also included. Examples encompass decisions relating to the use of ecclesiastical lands, debtors and guarantors, and matters of dispute concerning urban guilds. DERZSI, GKR, p. VII.

31 GKR, Doc. no. 34, p. 12; Doc. no. 149, p. 46.

the execution costs are documented in the town account books, but these were not entered into the protocol. Nor was there any record of a fratricide that took place in Brașov in 1570, which must have been a thoroughly mediatized event in the town, as town councillor Michael Forgats did not forget to mention it in his town chronicle.[32] Therefore, we can conclude once again that private complaints and related judgements were recorded in the protocol, including offences relevant in criminal matters that were the subject of private complaints seeking compensation. In the absence of any other data, it can safely be assumed that the cases documented in the judicial protocol were those in which the parties involved were sufficiently interested in the outcome as to request its recording. This assumption is supported by a case detailed on 6 July 1575, in which one of the parties specifically requested that the court's ruling be entered into the town book. The town clerk made the following comment, *"To provide true, firm and eternal proof of this, the above parties let this document be written into the town book."*[33]

Types and frequency of complaints brought before the Brașov Town Council. Access to justice

Drawing on the points outlined here, the protocol entries provide ample material for analysis. As well as a legal-historical approach, the conflicts presented in the entries can be examined from a variety of other perspectives, such as those related to the ethnic, social, confessional and gender differences within the local community. However, the number of disputes is of no relevance to an analysis seeking to determine the frequency of different case categories. As there are no surviving records of the judicial practices of other Transylvanian towns from that period, it is not feasible to determine whether the number of cases documented in the Brașov court protocol was high or low. Furthermore, the annual average number of recorded cases varies greatly. For example, 75 cases were recorded in 1570, compared to just one in 1580 and none at all in 1579.[34]

Based on the dates of the entries, it can be concluded that the Brașov Town Council held regular court sessions on Mondays and Tuesdays, with breaks during the summer months. Hearings took place at Brașov Town Hall, with a reference being made in this regard to the early evening hours (*vor der Vesper*).[35]

32 Kalender-Aufzeichnungen von Michael Forgats, mit Zusätzen von Valentin Forgats, Christoph Gressing, Valentin Gressing, Asarela Mederus, Marcus Draudt. In *Quellen zur Geschichte der Stadt Brasso. Vierter Band. Chroniken und Tagbücher, 1143–1867*. Brasso 1903, p. 41.

33 *"Und diesem zw einen warn festen und ewigen gezewg haben obgemälte teÿll diese urkundt ins statt buch schreibenn lassen."* GKR, Doc. no. 476, p. 152.

34 DERZSI, GKR, IX.

35 GKR, Doc. no 29, p. 11.

Although the entries cease in 1580 and no similar records have survived, other sources provide information on regular court days. In a diary kept between 1613 and 1617, town councillor Andreas Hegyes wrote in great detail about his daily duties after taking office. His reports on court sessions also mention Mondays and Tuesdays.[36]

Of the 549 entries, 80 (almost 15%) state that the matter was brought before the District Council. The *Land Barcza* forum was held twice a year at regular intervals, once on the Monday after Reminiscere Sunday (the fifth Sunday before Easter, which is usually in February), and again on the Monday after Michaelmas (in October), a few weeks before the set-length meetings of the University (the supreme court of the Transylvanian Saxons), which were held on 23 April and 25 November. The province's own assembly also convened in Brașov Town Hall. This was attended by the province's senior political and judicial leaders, including the Brașov town aldermen and judges from the market towns, as well as the entire Brașov town council.[37] In some cases, the *Land Barcza* handed down its ruling on the same day as the Town Council, and these decisions were reviewed by a larger body only. This meant that the provincial body only reviewed the town council's rulings, without ordering new investigations or re-hearing witnesses.

Based on the protocol records, the ruling of the *Land Barcza* was appealed to the superior court of the Saxon towns and seats, the University of the Saxons, in six cases. In two other cases where the appellant was from a neighbouring jurisdiction, the *Land Barcza* was excluded from the proceedings with the Brasov Town Council's judgement having been appealed directly with the University sitting in Sibiu. In accordance with the rules of procedure, the appeals required written submissions. In such cases, the town clerk issued an appeal letter (*litterae transmissionalis*), which the appellant could use to request that the University hear the case. This procedure was costly, however, as evidenced by the account books of the towns, so it is no coincidence that there were few appeals. The types of lawsuits that could be referred to the University and their value were also subject to restrictions. In 1546, this amount was limited to five florins, whereas the 1583 law book (*Statuta iuris municipalium Saxonum in Transylvania*) stipulated ten florins, with the exception of lawsuits concerning real estate and inheritance, defamation, and similar cases, which could not be assigned a specific value. Based on a decision made in 1578, it was not possible to appeal rulings

36 DERZSI. Egy hivatalnok mindennapjai a 17. század eleji Brassóból. A naplóíró Andreas Hegyes. In FEJER; BOGDÁNDI and JAKÓ, ed. *Hivatalnok értelmiség a kora újkori Erdélyben és a Magyar Királyságban II*. Kolozsvár 2024, p. 46.

37 HERMANN, Das alte Kronstadt, p. 288.

in defamation cases to the University.[38] Taking all of the above into account, we can conclude that the local urban courts were the most accessible option for resolving conflicts for the inhabitants of the town and surrounding market towns and villages.

To classify the cases based on the complaints submitted by the litigants, we can identify the following major groups in which judgments were entered in the register:[39]

- court proceedings relating to inheritance matters, such as inheritance, division of estates, and wills;
- compensation claims for material and moral damages;
- claims relating to breach of contract, loan repayment, deposits or pledges, housing rights and usage rights;
- civil claims in criminally relevant cases (e.g. suspected theft and fraud, adultery, and acts of violence).

Cases cannot always be precisely classified as it is sometimes difficult to determine exactly what type of procedure was involved. A submission by a plaintiff may have included several different types of complaint, and the court had to decide according to procedural norms that were not always clear. Sometimes, the town clerk only recorded the names of those involved and the outcome of the trial, not the matter in dispute. In many cases, however, we can only ascertain the nature of the dispute, with no additional details on the proceedings (for instance, the town clerk might have recorded only that the parties were in dispute over a field or meadow). In some instances, the background to the case is also problematic to understand. At that time, the way in which complaints were formulated was often imprecise. This meant that they did not distinguish between different types of actions, and the charges did not always correspond to the categories set out in legislative texts (as described in the Book IV of the *Statuta iurium municipalium*).[40] For example, if the plaintiff accused their opponent of theft (the unlawful appropriation of another's property), or claimed damages, this was usually only determined during a trial. An interesting type of theft accusation was lawsuits filed for "lost" (*verlorenes*) objects. In such cases, the plaintiff primarily sought compensation for the loss suffered rather than the punishment of the defendant for the offence committed. Such lawsuits were usually initiated based on "suspicion" of theft (*etliges Verdachts halben eines Diebstals halben*) regarding an action assumed to have caused the plaintiff damage, for which they demanded compensation from the defendant. The boundary between theft

38 DERZSI, Delict și pedeapsă, p. 187.

39 DERZSI, GKR, p. XIII.

40 For more information, see: DERZSI, Delict și pedeapsă, pp. 88-106.

and personal injury suits was not clear; both were initiated as compensation proceedings.[41]

Overall, the numerical proportions of cases tried at Brașov Town Council can only be expressed in relative terms. Based on the protocol entries, it can be determined that approximately half of the cases were initiated in relation to inheritance matters, and slightly more than a third involved claims for compensation for material or moral damages, or material damages claimed due to suspicion of crimes committed through negligence or with intention (e.g. theft, homicide or bodily harm). Around one-tenth of the cases concerned contracts, loans, surety and deposit matters. In the remaining cases, only a few feature direct accusations of criminal acts, and also those where the subject of the lawsuit could not be determined. Furthermore, based on the plaintiffs' places of residence, it can be seen how residents from different segments of the district's population tried to assert their interests.[42] This includes the issues they fought over, their goals and the results they sought when making complaints, i.e. the way in which they utilised the justice system.

A look at the places of origin of the plaintiffs reveals that the majority of complaints were filed by residents of one of the four market town jurisdictions, (including residents of villages served by the market towns' lower-level courts). These cases totalled 342 (over 60% of the total). In contrast, residents of Brașov and its three suburbs, as well as residents of the four nearby villages under the jurisdiction of the Town Court, filed a total of 120 cases (just over 20%). Fewer complaints were submitted from urban estates inhabited mostly by people other than Saxons, as well as from settlements outside the district.[43] All this indicates that the option of bringing cases to the Brașov Town Council was most frequently used by residents of the market towns and the rural population of the district. When demographic proportions are also taken into account, we see a striking result that raises numerous questions. The greater representation of the market town and rural population compared to the urban community of Brașov can be

41 Susana Burghartz was the first to highlight the challenges involved in establishing the facts of theft-related complaints, examining the proceedings initiated before the Zurich City Council in the 14th century. Similar cases from Brașov in the second half of the 16th century reflect this situation almost verbatim. BURGARTZ. *Leib, Ehre und Gut. Delinquenz in Zürich Ende des 14. Jahrhunderts*. Zürich 1990, p. 156.

42 According to the information contained in the protocol, a place of origin of the plaintiff could not be established in only 19 cases.

43 Of this last group, we were only able to identify 30 cases: 14 from neighbouring Szekler villages; four from other Saxon jurisdictions; six from the castellan of the Transylvanian prince's fortress in Făgăraș; and two from more distant settlements, one from Cluj and one from Câmpulung Muscel (Langenau), which is located beyond the Carpathians in Wallachia. In four other cases, Transylvanian nobles sued residents of the Brașov district.

partly explained by the fact that, for townspeople, the Council represented an advanced level of dispute resolution, since their cases had already been heard by the town judge or steward (*Stadthann*). Market towns and villages also had their own courts of first instance, but their jurisdiction was much more limited than that of regular urban courts. The *Burzenland Disciplinary, Marriage and Inheritance Regulation*, issued jointly in 1572 by the urban and district secular and ecclesiastical authorities, states that judges of market towns and villages could only adjudicate cases valued up to 1 florin, (whereas the *Stadthann* could handle cases valued up to 10 florins). They could not rule on real estate matters or hear witness testimony in inheritance cases or criminal matters, nor could they pass death sentences without the supervision of the Town Council.[44] The vast majority of cases were not initiated over high-value material goods. Typically, cases involved rights to arable land ranging from half to several hectares, as well as pasture, houses, and courtyards. The value of compensation claims was also not particularly high, and cases involving offences committed through negligence were not usually judged strictly. Most often, compensation was issued for moral damages, low-value goods, pain caused by bodily harm or barber-surgeons' fees for treating wounds. The council rejected a dispute between two women from Hălchiu because they considered the subject matter (compensation for the theft of a piece of butter) to be beyond their remit.[45] A breach of contract case initiated by two Brașov citizens was worth 1,300 florins,[46] which represents the highest value in the protocol for an issue initiated due to a breach of contract.

Examining the frequency of different types of cases in relation to urban, market town and village settings in the district, we find that matters relating to inheritance and real estate ownership were most prevalent among market town and village residents (45% and 29% respectively), whereas only 15% of cases involving Brașov citizens were of this nature.[47] However, disputes over contracts, loans, liens or sureties were much more common among town dwellers – nearly half of these cases were brought by Brașov citizens, around a third by residents of market towns and villages, and the rest by people from outside the district. These correlations can naturally be explained in several ways, starting with the limited jurisdiction of market towns and villages in such matters, as mentioned above, or with occupational differences. At the same time, we must

44 ARMGART, ed. *Die evangelischen Kirchenordnungen des XVI. Jahrhunderts. Vierundzwanzigster Band. Siebenbürgen. Das Fürstentum Siebenbürgen. Das Rechtsgebiet und die Kirche der Siebenbürgen Sachsen*. Tübingen 2012, pp. 326, 160-161.

45 GKR, Doc. no. 517, p. 171.

46 GKR, Doc. no. 153, p. 47.

47 In the remaining similar cases, the proportion was distributed among those from villages owned by the town and those from outside the district.

also note that the rules were perhaps most uniform in matters of inheritance and usufruct. Regulatory provisions relating to inheritance, property, wills, collateral succession, the right of the youngest son to inherit the family home, and the right of redemption had been enacted by the University in the first half of the sixteenth century (1524, 1525, 1548),[48] and this part of the Saxon law book was applied from 1560 onwards.[49] Therefore, it can be assumed that the judgements delivered in these cases were more predictable for the population, and that the rules provided greater legal certainty. However, given the relatively large number of cases of this type, we assume that there may also have been a connection to the town council's policy of redacting authentic documents. As parties may request written evidence of court rulings, the notary could issue relevant documents based on the records upon subsequent request, most likely for a fee, which then served to prove ownership or usage rights of properties in their possession, or to prove their case in any other matter. Since repeated trials were possible (the principle of res iudicata had not yet been adopted in territorial law), the importance of written evidence increased amid the spread of written litigation. For example, on 3 October 1558, the Brașov Council ruled in favour of a plaintiff who presented a debt bond written in *wallachisch* (Romanian).[50] Thus, the town council also acted as a place of authentication; the judgment requested by the parties was recorded in the town book, and a copy of the judgment could be requested from this book if necessary. The validity of such letters was not questioned within the principality. For example, in a case concerning the ownership of a property in Râșnov that was heard on 6 May 1577, the clerk noted that *"the plaintiff had requested a sentence letter, which explains the matter in detail."*[51] In another case heard by the council on 4 February 1577, a man from Cristian also requested a "sentens czedell" from the council in a lawsuit against his stepmother over the paternal inheritance. He received the letter.[52]

There is an additional, interesting phenomenon that sheds light on the fact that the community valued the town council's judicial activity for its role in issuing authentications. As the ideas of the Reformation gained ground, new situations arose that could not be answered by customary law or previous legal practice.

48 DERZSI, Delict și pedeapsă, p. 71.

49 DERZSI and PAKUCS-WILLCOCKS, ed. *Zum Eigenlandrecht der Siebenbürger Sachsen. Edition und Studien zu Quellen und Vorarbeiten auf der Grundlage der Sammlung von Thomas Bomelius (1560–1563)*. Hermannstadt 2024, pp. 9-30.

50 GKR, Doc. no. 12, p. 5.

51 *"Die attracta hatt ein sentenz prieff aus genommen in welchem die sach weitleuffiger ist begriffen."* GKR, Doc. no. 537, p. 181.

52 *"Aber was sie fur ein Urteil entfangen hatt gemalter Actor ein Sentenz Czeddel begert und ausgenommen."*. GKR, Doc. no. 528, p. 176.

One such case was the need to clarify the rules for transferring or inheriting usage rights to church lands distributed among community members. After numerous cases were brought before the court in which judges attempted to adjudicate in accordance with existing inheritance rules, two precedent-setting decisions were made: in 1569, the Town Council decided that usage rights to *Kirchen Land* would be inherited by descendants (*descendente linea*) rather than relatives (*colateralis linea*); and in 1571, they ruled that *Kirchen Land* is inalienable.[53] The number of lawsuits initiated over the right to use *Kirchen Land* increased dramatically in the following year and a half (mid-1571 to mid-1572). No further cases of this kind can be found after this period.

Another comprehensive group of cases recorded in the town book consists of lawsuits filed for compensation. Legal proceedings initiated due to compensation demands cover a wide range of issues, and it is particularly challenging to precisely define the facts in these cases. Compensation was sought for a variety of forms of material damage, moral injury, false accusation, bodily harm, and suspicion of offences such as theft, homicide, and adultery. What these cases have in common is that establishing the damage and determining the defendant's responsibility for the injury suffered was in the plaintiff's interest. Due to the injury suffered, as far as can be determined from the brief records, the plaintiffs did not initiate separate proceedings to establish their opponent's penal responsibility or to seek punishment. Nevertheless, if facts came to light during the proceedings that were punishable by law, the court could independently order criminal proceedings relating to the lawsuit or impose punishments in addition to awarding compensation. This was most commonly the case for offences such as blasphemy, bloodshed, disturbing public order, inducing abortion, quarrelling and adultery. In certain cases, such as those initiated on suspicion of theft, proceedings were concluded without a judgment because the parties reached an amicable settlement through court mediation. In general, it appears that it was more advantageous for plaintiffs to initiate civil proceedings for compensation for property damage or personal injury than to seek punishment of the defendant from the court (it should be noted here that in cases of manslaughter committed through negligence, no plaintiff sought punishment of the defendant). The cause of the conflict was usually hidden; cases only came before the council when a dispute had escalated completely. However, accusing an opponent of committing a crime did not necessarily give the plaintiff an advantage, as court decisions were unpredictable. On 4 June 1576, Hegedeos, the steward of Valentin Goldschmitt, a goldsmith from Brașov, filed a complaint against Gergely, his master's young servant.[54] He accused Gergely of sneaking into his courtyard at night and stealing

53 GKR, Doc. no. 354, p. 105.

54 GKR, Doc. no. 509, p. 167.

something, causing him damage, as someone had previously stolen a rifle from him. The young man firmly denied the charges, however, claiming that he had indeed entered the courtyard, but to sleep with Hegedeos's wife, *"like a poor guy who does such things for money."*[55] Although the wife denied the young man's allegations, the Council decided to expel all three persons from the town, probably based on witness testimony; the young man and the woman for adultery, and the husband for concealing the act and pimping. This case also illustrates that complaints were not always based on genuine disputes, and that proceedings could pose a risk even to the plaintiff.

Lawsuits can also highlight the underlying issues in disputes, particularly when individuals accused of a crime turn to the courts to avoid social exclusion, restore public trust, and protect their reputation. On 10 October 1569, the Council of Brașov ruled in favour of Hans Klutschen from Prejmer, who had sued Merten Schuster for calling him a thief and a bad dog, and saying publicly that he should have been hanged ten years ago.[56] As this was a case of defamation, the burden of proof lay with the defendant, who not only failed to prove the slanderous allegations, but also revealed past deeds that he had previously concealed – namely that he himself was a thief. In light of this new evidence, Merten Schuster was sentenced to death.

Finally, we should also mention the similarities in the way lawsuits were initiated due to breach of contract, loans, deposits and mortgages, which indicates that people in the given period used the justice system as a tool to achieve their goals. In these cases, plaintiffs tried to force defendants to repay loans with the help of the court. A favourable decision from the Council guaranteed that the defendant would repay the loan. It is often observable in similar trials that the plaintiff was of a higher social rank than the defendant, as their interests were many times represented by a lawyer (*procurator*) or someone with legal experience. Those who did not come from the region are not considered here because in this case, a procurator was employed to overcome legal peculiarities and linguistic difficulties, and defendants generally did not have legal representation. Sometimes, even members of the town council represented foreigners during litigation proceedings. The success of this strategy is evident from the fact that the court ruled in favour of the applicant in the majority of cases.

The majority of plaintiffs turned to the court in the hope of reaching a satisfactory solution in long-running cases. This is supported by the fact that those who appealed to the district assembly, the *Land Barcza*, often failed to appear at the hearing. Of the six cases in which the parties turned to the Saxons'

55 *"hett auch mit ihr zw thun gehabt, umbs gelt, wie ein arm gesell, der solches annimpt umbs gelt."*

56 GKR, Doc. no. 245, p. 75.

highest court, the University, only two were finalised as in the others the appeal letter was never completed. Examining the reasoning given in the judgements, it is notable that the Brașov Town Council closely followed the legal provisions, a finding that is perhaps less surprising when we remember that Matthias Fronius, author of the final text of the Saxon law book, was a town clerk and a member of the town council during the period in which the town book was kept. Although the entries refer to specific legal provisions in only one case,[57] the recorded norms have been confirmed and fulfilled in court practice. Judgements were not particularly severe, and the court attempted to settle matters in a satisfactory way for the disputing parties, as is expected of the justice system, by mediating a compromise. In line with Protestant ethics, the court primarily imposed fines for violations of good morals, (including licentiousness, as well as blasphemy and fighting, which were considered consequences of scandalous, unrestrained and disobedient behaviour).[58] In these cases, it seems that the town court gradually became a means of controlling undesirable behaviour in society.

The Church did not refrain from supporting this latter role of the court and public authorities generally in disciplining society. Narratives of the proper manner of legal usage (*Rechtsbräuche*) were also incorporated into contemporary sermons, which presumably counted as an effective means of shaping public opinion. In sermons recorded between 1554 and 1578, Damasus Dürr, a minister in Apoldul de Jos,[59] formulates the task of the court as follows:

> *„In all well-ordered governments, an equal custom is maintained in defence, judgement, accusation and condemnation, whereby one party confronts the other and gives way before the judges, explaining why they are defending, whether the matter concerns honour, goods or criminal mat-*

57 Jörg Gyrde, a Brașov citizen, sued Jacob Buser to prove that he was the father of his daughter Catharina's child. On 20 January 1561, the court ruled that Buser must either marry Gyrde's daughter or pay 24 florins in child support, in accordance with the *Reformation Inhalt*, a reference to: *Kirchenordnung aller Deutschen in Siebenbürgen* (1550), which regulated the organization of the Protestant Church and the implementation of the Reformation according to the Lutheran model. GKR, Doc. no. 82, p. 27. For more Information, see: DERZSI. Unzucht und Ehebruch vor Gericht. Sexualdelikte bei den Siebenbürger Sachsen in der zweiten Hälfte des 16. Jahrhunderts. In WIEN, ed. *Common Man, Society and Religion in the 16th Century / Gemeiner Mann, Gesellschaft und Religion im 16. Jahrhundert*. Göttingen 2021, pp. 275-296. DOI: 10.13109/9783666571008.275.

58 DERZSI, Delict și pedeapsă, p. 297.

59 For an analysis of Damasus Dürr's sermons in terms of the relative positions of the Church to the idea of order and authorities, see: WIEN. Supervision of "Authority" and "Community" by the Church as a warden of order: The Positioning of Damasus Dürr between demand and reality. In WIEN, ed. *Common Man, Society and Religion in the 16th century / Gemeiner Mann, Gesellschaft und Religion im 16. Jahrhundert*. Göttingen 2021, pp. 363-381. DOI: 10.13109/9783666571008.363.

ters. […] *That is not enough; after the indictment, the burden of proof lies with the accuser, who must provide sufficient and credible witnesses to support the charge. In this case, the evidence is based entirely on the statements of two or three people. If persons closely related to the accused are called as witnesses, they may not participate in the case and may not be heard. In the interests of justice, they must leave the courtroom. Judges who love God and His justice do not rush at the accused like pigs at oats; they do not shout at them, but hold them in custody for three days, in accordance with the venerable laws of the province, until sufficient evidence has been gathered to determine whether they deserve the death penalty. If the judge hears the matter, the witnesses, and the evidence, he shall act on the defendant's behalf; and if the defendant is innocent, he shall be set free. But if a man intends to commit murder or robbery, he shall be handed over to the hangman and set on the torture bench. If a thief does not give up his criminal ways, he shall be hanged. If a lecher does not give up fornication and adultery, the hangman shall soon put him on the pillory, which will soon extinguish his soul."*[60]

Conclusions

As evidenced by the Brașov judicial records, the Town Council acted as formal court and adjudicating conflicts involving both urban and rural populations in the second half of the sixteenth century. As people rarely took their cases to higher courts, it is presumed that inhabitants of the city and district alike expected their disputes to be resolved satisfactorily by the urban courts and the town council. Regarding the place of origin of the plaintiffs, it can be established that most lawsuits were filed by residents of the district's market towns and rural settlements. Brașov citizens were somewhat underrepresented in terms of lodged complaints, particularly when demographic conditions were also taken into account. Similarly, differences appear in the types of cases brought before the court by urban and rural people. While the rural population primarily sought solutions in real estate matters and inheritance issues, citizens of Brașov mainly approached the court with complaints related to contracts, loans, deposits, and mortgages. The reason for this can be explained not only by occupational differences, but also by the fact that the jurisdiction of the district's market towns and villages in real estate and inheritance matters was limited precisely in these years, whereas the urban population's own judges had greater jurisdiction. However, examining the complaints submitted by the rural population, another

60 AMLACHER. *Damasus Dürr. Ein evangelischer Pfarrer und Dechant des Unterwälder Kapitels aus dem Jahrhundert der Reformation*. Hermannstadt 1883, p. 35.

phenomenon stands out. The large number of complaints submitted by the rural population in real estate and inheritance matters can also be attributed to the fact that written documents regarding the court judgment could be secured for a later date, with which ownership of a property could be proven. In this capacity, the town council's role as a place of authentication was attractive to the rural population. From then on, the town council's facility for resolving disputes was used even in matters where there was no dispute resolution in the local community, such as the question of usage rights to church lands distributed to community members after the Reformation. In these cases, a large number of lawsuits resulted in the harmonisation of court decisions, with court rulings acquiring the force of law. The courts judged in accordance with legal norms, and even if their reasoning rarely referenced specific laws, it was in line with the procedural rules set out in the Saxon statutory code, which was finalised at this time. It is not surprising that there are countless overlaps between the laws applied in the Brașov town court and those formulated in the statutory code, given that both legal sources can be traced back to the same town clerk and later councillor, Matthias Fronius. Despite the increasingly standardised procedure, signs of professionalism among the court members, and precise regulations set out in the statutory code, a large proportion of the population still resorted to older models of dispute resolution. In cases involving theft or assault, the courts were only involved when the usual informal dispute resolution strategies no longer offered a satisfactory solution. Complaints of theft were mostly filed over lost objects, with plaintiffs asking their opponents to clear themselves of suspicion. In assault and homicide cases, plaintiffs opted for civil proceedings to seek compensation for offences committed against them and to recover damages incurred. In contractual matters, the court was mainly used to force the other party to fulfil their obligations. People most often went to court when their good reputation was at stake; after someone in the community had accused them of a misdemeanour or criminal offence. Municipal courts continued to act as mediators. Penalties were imposed when abuses of property or particularly cruel crimes exceeded society's tolerance threshold. However, the moral norms of the Protestant Church were also enforced through the legal system to suppress deviant behaviour.

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